

# **Financial Institutions Committee**

Senator David Farnsworth, Chairman



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# FINANCIAL INSTITUTIONS COMMITTEE

## LEGISLATION ENACTED

technical correction; deposits; fiduciary funds (NOW: home-based business; county regulation) (S.B. 1163) – Chapter 150

Prohibits a county ordinance from restricting or regulating the owner of a licensed home-based business who does the following: 1) makes residential property improvements to add doors, shelving or display racks for use by the home-based business; 2) displays a temporary commercial sign on the residential property, provided that the sign is not more than 24 inches by 24 inches in size; and 3) sells or offers any goods for sale. Specifies that a county is not precluded from imposing reasonable operating requirements on a home-based business or a residential property used by the home-based business.

health care insurance; utilization review (S.B. 1166) – Chapter 151

Specifies that a healthcare insurer who utilizes the services of an outside utilization review agent is responsible for the administration of all patient claims processed by that agent on the insurer's behalf.

teledentistry; dental hygienists; dental assistants (S.B. 1282) – Chapter 196

SEE THE HEALTH & HUMAN SERVICES COMMITTEE.

prescription drug coverage; medication synchronization (S.B. 1288) – Chapter 159

SEE THE HEALTH & HUMAN SERVICES COMMITTEE.

banking permit; branch office; fees (S.B. 1334) – Chapter 163

Decreases the nonrefundable application fees required by the Arizona Department of Financial Institutions as follows: 1) the banking permit application fee, from \$10,000 to \$5,000; and 2) the banking branch office fee, from \$1,500 to \$750.

banking permits; application process (S.B. 1336) – Chapter 45

Requires the Superintendent of the Arizona Department of Financial Institutions to establish both organizational and final application processes for new banking permits. Specifies what information must be included in an organizational application for a new banking permit, including: 1) the historical description of the organizing group; 2) the proposed type of regulatory filing for the new bank; and 3) the business plan summary. Allows the final application for a new banking permit to begin at any time during the organizational phase. Stipulates that all required capital for the new bank must be raised during the final application phase.

## **FINANCIAL INSTITUTIONS COMMITTEE (Cont'd)**

### state-chartered financial institutions; growth (S.B. 1337) – Chapter 164

Stipulates that the growth of Arizona state-chartered financial institutions be a priority of the Superintendent of the Arizona Department of Financial Institutions (Superintendent). Requires that the Superintendent notify on an annual basis the Governor, the President of the Senate, and the Speaker of the House of Representatives if the number of state-chartered banks or credit unions has decreased.

### savings and loan association permits (S.B. 1338) – Chapter 165

Decreases the nonrefundable fee needed to apply to the Arizona Department of Financial Institutions (DFI) for a savings and loan association permit from \$10,000 to \$5,000. Modifies the definition of *insurance corporation* as it relates to savings and loan associations to include any other equivalent deposit insurer approved by the Superintendent of DFI.

### foreign country money judgments; enforcement (S.B. 1447) – Chapter 170

Codifies the Uniform Foreign-Country Money Judgments Recognition Act (Act) within current state law relating to courts and civil proceedings. Allows for the recognition of final foreign-country judgments that grant or deny the recovery of money. Prohibits the recognition of judgments that are: 1) judgments for taxes; 2) judgments for divorce, support or maintenance or rendered in connection with domestic relations; 3) fines or other penalties; or 4) originate from a foreign country that has not adopted or enacted a reciprocal law similar to the Act.

Outlines instances when a court must recognize a foreign-country money judgment and when such recognition is discretionary. Specifies that the party seeking recognition of a foreign-country money judgment has the burden of establishing that the Act applies to the judgment. Establishes procedures for seeking recognition of a foreign-country money judgment in an Arizona court. Specifies that the party contesting the recognition of a foreign-country money judgment has the burden of establishing that a ground for non-recognition exists.

### trustee's sale; foreclosure; notice; recording (S.B. 1448) – Chapter 190

Requires a notice of trustee's sale to include a statement in its first paragraph specifying that, unless an injunction or other court order is obtained before 5 p.m. Mountain Standard Time on the last business day before the sale occurs, the sale will be final. Specifies that a failure to properly record any purported transfer of an interest or any portion of an interest in or lien or encumbrance against real property before exercising a power of sale on that property creates a rebuttable presumption that the purported transfer is invalid. Specifies that the provisions of the bill apply to all trustees' sales occurring after the effective date of the bill.

### public monies; investment; pooled collateral (S.B. 1449) – Chapter 89

Removes certain forms of collateral that could be used by depositories, while also requiring that all substitutions and withdrawals of eligible collateral first be approved by the

## FINANCIAL INSTITUTIONS COMMITTEE (Cont'd)

Administrator of the Pooled Collateral Program. Stipulates that if a political subdivision's total amount of monies available for deposit is less than the maximum coverage amount of the Federal Deposit Insurance Corporation (FDIC), the subdivision must award the deposit of the funds to an eligible depository in accordance with a subdivision ordinance or resolution. Specifies that deposits less than the maximum FDIC coverage amount are not subject to collateral requirements.

Specifies that a *public depositor* does not include a charter school, tribal entity, or federal agency. Stipulates that monies that have been collateralized in accordance with U.S. Department of Housing and Urban Development regulations are not to be considered a *public deposit*. Defines *public monies* as monies belonging to or received or held by officers of public depositors in their official capacity.

### investment of trust monies (S.B. 1451) – Chapter 171

Removes references to certain obsolete practices, including bond and note pricing methods, by the State Treasurer and adds language to reflect current practices. Reduces the asset requirement for a state servicing bank from \$200,000,000 to \$100,000,000. Eliminates the March through April timeframe in which the State Treasurer and the State Board of Investment may put the state servicing bank contract out to bid. Authorizes the use of state treasury investment earnings for the purchase of software to assist with the analysis, tracking and trading of securities.

### loan originators; advance fee loans (H.B. 2097) – Chapter 97

Repeals the Loan Originator Examination Committee. Requires advance-fee loan brokers registered through the Arizona Department of Financial Institutions to apply for registration renewal no later than June 30 of each year. Specifies that an advance-fee loan broker registration that is not renewed by June 30 of each year is suspended and expires July 31.

### ~~technical correction; insurance; existing actions~~ (NOW: transportation network companies) (H.B. 2135) – Chapter 235

***Transportation Network Companies*** – Defines a *Transportation Network Company* (TNC) as an entity that utilizes software or network services to connect passengers to transportation network services provided by the company's drivers. A TNC is not a taxicab association or limousine service. The following are not considered TNCs: 1) a nonprofit agency or public body that coordinates, operates, promotes or sponsors public transportation; 2) any program intended to meet national ambient air-quality standards under the State Implementation Plan; 3) a rental car company; or 4) a rental car agent.

Declares the regulation of TNCs a matter of statewide concern, preempting regulation by political subdivisions including county and municipal governments; however, public airport operators are permitted to set additional more restrictive requirements than those in statute for the conduct of business at a public airport. The Arizona Department of Weights and Measures (DWM) is charged with issuing permits to TNCs that apply to operate in this state and the

## FINANCIAL INSTITUTIONS COMMITTEE (Cont'd)

Director of DWM may establish a fee for the permitting process. TNC vehicles are required to display trade dress identifying their association with a particular TNC and must submit a description of this trade dress to DWM as a condition of permitting. All vehicles used by TNC drivers must meet the same emissions and safety standards that are applied to private vehicles and must have an annual brake and tire inspection performed by a qualified third party. A TNC is not considered to control or manage vehicles used by its drivers.

***Transportation Network Services*** – *Transportation Network Services* constitute the transportation of a customer between chosen points arranged through the use of a TNC's digital network or software application with a service period that begins when a driver accepts a trip request and ends when the passenger leaves the vehicle or the trip is cancelled. The provision of transportation network services by a permitted TNC is exempt from transaction privilege or similar taxation. Disclosure of a TNC's fare calculation method must be displayed on the company website or within the network or application used to connect drivers and customers. A description of rates applied, estimated fare and an electronic receipt are also required. A TNC driver is restricted to accepting trip requests through the TNC's network or software application and DWM may impose a civil penalty of up to \$1,500 for TNC drivers who solicit or accept street hails without the proper insurance for doing so.

***Financial Responsibility*** – Outlines financial responsibility requirements in accordance with the activities prior to and during the provision of transportation network services. A liability policy in the amounts of \$25,000 for the bodily injury or death of a single person, \$50,000 for two or more people and \$20,000 for injury to others and damage to property is required for the period of time that a TNC driver is logged into an application and is available to provide transportation network services. Before February 1, 2016, this coverage must be provided by the TNC and must be carried in addition to a motor vehicle liability policy that is valid in this state. Effective February 1, 2016, motor vehicle policies are required to explicitly cover transportation network services.

Permits insurance companies to develop specific policies providing coverage for the provision of transportation network services. An insurance company may also issue a transportation network service endorsement to an existing personal liability policy; this endorsement is not considered to be a part of basic coverage. TNC drivers are permitted to maintain an appropriate individual policy if one exists or a TNC may provide the required coverage. Alternatively, either party may secure a commercial motor vehicle insurance policy that provides appropriate coverage.

Requires taxis, livery vehicles and limousines to maintain liability policies in the minimum amounts of \$25,000 for the bodily injury or death of a single person, \$50,000 for two or more people and \$20,000 for injury to others and damage to property for the period of time their drivers are available to provide transportation. After a TNC driver, taxi, livery vehicle or limousine accepts a ride request, a primary vehicle liability policy with coverage of at least \$250,000 per incident and at least \$250,000 in uninsured motorist coverage is required. This coverage may be maintained by the driver, the company or any combination of the two.

## FINANCIAL INSTITUTIONS COMMITTEE (Cont'd)

Transportation of a customer by a rental car agency or company is not considered provision of transportation network services provided that: 1) transportation takes place along a predetermined route; 2) transportation is arranged by the company but provided by another person; and 3) money exchanged between the transportation provider and recipient does not exceed the cost of providing transportation.

***Pre-Employment Screening of Drivers*** – Requires TNCs to conduct a pre-employment background check of any person who applies to be a driver and to obtain and review an applicant's driving history. The pre-employment background check must include a multijurisdictional criminal records locator, a commercial nationwide database and a national sex offender registry database. A TNC is prohibited from hiring an applicant who: 1) has three or more moving violations in the last three years; 2) has a major violation of the Arizona Motor Vehicle Code in the last three years; 3) has been convicted of certain crimes including driving under the influence within the last seven years; 4) is listed in the national sex offender registry; 5) does not have a valid driver's license and proof of insurance; or 6) is under 19 years of age.

***Zero-Tolerance Drug Policy*** – Requires TNCs, taxi, livery vehicle and limousine companies to implement zero-tolerance drug policies for drivers and to outline methods for passengers to file complaints of policy violations. An immediate investigation is required upon receipt of a complaint related to the drug policy. A taxi, livery vehicle or limousine company is required to immediately suspend the driver's access to the vehicle and a TNC is required to immediately suspend the driver's access to the application for the duration of the investigation. A permanent suspension must follow if the investigation confirms a violation. Drug policy enforcement records must be maintained for a minimum of two years.

Eliminates annual random drug testing for taxi, livery vehicle and limousine companies.

public agency pooling; unemployment insurance (H.B. 2168) – Chapter 101

Allows public agency pools that participate in the unemployment insurance program administered by the Arizona Department of Economic Security to offer services, including the option to make payments in lieu of contributions. Stipulates that a pool is deemed an agent of the pool participants as employers as it pertains to statute regarding labor and employment security.

loan originator licensing (H.B. 2169) – Chapter 102

Requires an applicant for a mortgage loan originator license to first take and pass the State Uniform Test that has been deemed acceptable by the Nationwide Mortgage Licensing System and Registry (NMLS). Requires 4 hours of study regarding the laws of this state to be included as part of the already mandatory 20 hours of course study for loan originators, and that 1 hour of study regarding the laws of this state be included as part of the mandatory 8 continuing education hours for loan originators. Stipulates that the Superintendent of Financial Institutions sets the fee for each examination, consistent with the requirements for NMLS.

~~security freezes; credit reports; minors.~~ (NOW: protected person; reports; security freezes) (H.B. 2220) – Chapter 280

## FINANCIAL INSTITUTIONS COMMITTEE (Cont'd)

Effective January 1, 2016, allows a security freeze to be placed on a protected person's record or credit report, provided that certain requirements are met. Requires a consumer reporting agency to: 1) place a security freeze on the protected person's record within 30 days of receiving a security freeze request; and 2) remove the freeze within 30 days of receiving a removal request. Authorizes the consumer reporting agency to charge a \$5 fee for each placement or removal of a security freeze on the protected person's record or credit report.

Defines *protected person* as an individual who: 1) is under 16 years of age at the time a request for the placement of a security freeze is made; or 2) is an incapacitated person or a protected person for whom a guardian or conservator has been appointed.

Arizona job finance bonds (NOW: industrial development authority; projects) (H.B. 2323) – Chapter 114

Removes from statute the stipulation that commercial enterprises, including facilities for office, recreational, hotel and motel service uses must be located in a designated area. Modifies the definition of *project* to include any facilities used for manufacturing. Requires an Industrial Development Authority (IDA) to notify the appropriate governing body if any lawsuit is filed against the IDA or if any formal investigation is initiated by the Securities and Exchange Commission.

insurance compliance audit privilege (H.B. 2335) – Chapter 55

Removes the requirements that an insurer: 1) notify the Director of the Arizona Department of Insurance (Director) before an insurance compliance audit is initiated and when it is completed; and 2) make all audit documents available to the Director. Allows a person who conducts or participates in the preparation of the audit, and who has observed physical events, to testify regarding those events. Specifies that such a person may not be compelled to testify or produce documents related to any privileged part of the audit or any audit document. Increases the period of time that an insurer has to file a court petition to determine whether the audit is privileged information from 30 days to 60 days.

insurance; surplus lines; home state (H.B. 2342) – Chapter 117

Requires a voluntary organization of surplus-lines brokers that contracts with the Arizona Department of Insurance to be registered as a nonprofit corporation. Allows licensed surplus brokers who are in good standing with the state to gain membership with an organization as long as all required dues are paid. States that an organization may collect stamping fees from the following: 1) members; 2) licensed brokers who are not members; and 3) former brokers who effectuated while licensed. Requires an organization to hold an annual meeting of its members and specifies that a quorum consists of two percent of its members. Allows all members to participate in the annual meeting via electronic forms of communication.

limited line insurance; examination exemption (H.B. 2350) – Chapter 56

## **FINANCIAL INSTITUTIONS COMMITTEE (Cont'd)**

Creates an exemption for applicants for an insurance producer license who have authority for limited line insurance.

~~credit for reinsurance~~ (NOW: credit for reinsurance; reduction; liability) (H.B. 2352) – Chapter 119

Adds provisions, based on National Association of Insurance Commissioners model language, relating to circumstances in which credit for reinsurance is allowed. Allows a domestic-ceding insurer credit for reinsurance as either an asset or a reduction from liability on account of reinsurance ceded, provided certain requirements, as outlined, are met. Specifies that credit is allowed when the reinsurance is ceded to an assuming insurer that: 1) is licensed to transact insurance or reinsurance in Arizona; 2) is accredited by the Director of the Arizona Department of Insurance (Director) as a reinsurer; 3) is domiciled in a state that employs standards regarding credit for reinsurance substantially similar to those applicable under the provisions of the bill; 4) is a U.S. branch or an alien assuming insurer that enters through a state that employs standards regarding credit for reinsurance substantially similar to those applicable under the provisions of the bill; 5) maintains a trust fund in a qualified U.S. financial institution for the payment of valid claims of its U.S. ceding insurers, their assigns and successors of interest; or 6) has been certified by the Director as a reinsurer and secures its obligations in accordance with state law.

~~securities registration; exemption; website operators~~. (H.B. 2591) – Chapter 185

Exempts from current law the offering or sale of securities, provided that certain requirements are met. Requires that the issuer of securities be a business that is organized under the laws of this state and authorized to do business within this state. Specifies that all transactions be made through a web-portal and that all funds be held by an escrow agent authorized to do business in this state. Requires all offerings and sales of securities to be regulated and monitored by the Arizona Corporation Commission and subject to all other applicable regulations specified in the federal Securities Act of 1933.

Prohibits the aggregate amount of all securities offered by an issuer who has not provided a financial audit to prospective purchasers from exceeding \$1,000,000 within a 12-month period. Authorizes an issuer who has provided the necessary financial audit to raise up to \$2,500,000 within a 12-month period. Specifies that each issuer is limited to accepting no more than \$10,000 from each purchaser, unless the purchaser is an accredited investor.

### **LEGISLATION VETOED**

~~securities registration; exemption; website operators~~ (NOW: banks; insuring organization) (S.B. 1450) – VETOED

Allows state-chartered banks to insure their deposits with an insuring organization. Defines *insuring organization* as the Federal Deposit Insurance Corporation, the National Credit Union Administration or its successor or any other equivalent deposit insurer approved by the Superintendent of the Department of Financial Institutions.

## **FINANCIAL INSTITUTIONS COMMITTEE (Cont'd)**

The Governor indicates a concern in his veto message that the language of S.B. 1450 in its current form is not consistent with existing federal law.

### escrow agents; legal tender (H.B. 2173) – VETOED

Recognizes the following as legal tender in this state: 1) legal tender authorized by Congress; 2) specie coin issued at any time by the U.S. Government; and 3) any other specie that a court of competent jurisdiction rules to be within the scope of state authority to make a legal tender. Specifies that a person may not compel another person to either pay or accept as payment any specie legal tender, unless provided by contract.

Specifies that legal tender is money and is not subject to taxation or regulation as property other than money. Requires any tax or other public charge due as a result of a transaction involving specie legal tender to be paid in the same specie legal tender or in an equivalent amount of non-specie legal tender valued pursuant to the most recent daily exchange rate actively used in commerce by an independent precious metal association for the transaction date.

Requires the Arizona Attorney General to enforce the provisions of this bill, and if necessary, intervene in any legal action to preserve and protect the state's monetary authority as expressly reserved in Article 1, Section 10 of the U.S. Constitution.

The Governor indicates in his veto message that he does not believe the policy of H.B. 2173 to be appropriate at this time.