

ARIZONA HOUSE OF REPRESENTATIVES
Forty-ninth Legislature – Second Regular Session

COMMITTEE ON BANKING AND INSURANCE

Minutes of Meeting
Monday, February 8, 2010
House Hearing Room 5 -- 2:00 p.m.

Chairman McLain called the meeting to order at 2:33 p.m. and attendance was noted by the secretary.

Members Present

Mr. Ash	Mr. Meza	Mr. Quelland, Vice-Chairman
Mr. Bradley	Mr. Seel	Mrs. McLain, Chairman
Mr. Campbell CL	Mr. Tobin	

Members Absent

None

Committee Action

HB2308 – DPA (8-0-0-0)	HB2616 – DPA S/E (8-0-0-0)
HB2465 – DPA (6-2-0-0)	HB2618 – DP (8-0-0-0)
HB2586 – DP (8-0-0-0)	

CONSIDERATION OF BILLS:

HB 2308 – insurance information; transfer of business – DO PASS AMENDED

Vice-Chairman Quelland moved that HB2308 do pass.

Rene Guillen, Majority Research Analyst, stated that HB2308 adds a transfer of business to the definition of insurance transactions (Attachment 1). In addition, the bill defines *transfer of business* and makes technical changes.

Vice-Chairman Quelland moved that the McLain four-page amendment dated 1/27/10 to HB2308 be adopted (Attachment 2).

Mr. Guillen explained that the amendment makes a clarifying change and adds a legislative intent clause to the bill (Attachment 2).

Lanny Hair, Executive Vice President, Independent Insurance Agents & Brokers of Arizona, in support of HB2308, stated that the objective of the bill is to correct language that was omitted in

the National Association of Insurance Commissioners (NAIC) model to the Arizona statutes in 2001. This legislation clarifies that an agent can change a group of clients from one company to another company without the express permission of each individual policyholder. He said that it is critically important for agents to be able to “shop” policies to ensure that the policyholders get the best coverage. He said that HB2308 is a housekeeping bill that clarifies the intent of the NAIC model.

Vice-Chairman Quelland announced the names of those who signed up as neutral on HB2308 but did not speak:

Karlene Wenz, Legislative Liaison, Department of Insurance (DOI)

Vice-Chairman Quelland announced the names of those who signed up in support of HB2308 but did not speak:

Kerry Hayden, Government Affairs Representative, Farmers Insurance Group of Companies

Norman Moore, representing State Farm Insurance

Gregory Harris, Lobbyist, Progressive Insurance

Scott Wede, Executive Director, representing self

Ellen Poole, Executive Director, SW Region Government Relations, USAA

Wendy Briggs, Lobbyist, American Insurance Association

Vice-Chairman Quelland announced the names of those who signed up in opposition to HB2308 but did not speak:

Bryan Ginter, representing self

Question was called on the motion that the McLain four-page amendment dated 1/27/10 to HB2308 be adopted (Attachment 2). The amendment carried.

Vice-Chairman Quelland moved that HB2308 as amended do pass. The motion carried by a roll call vote of 8-0-0-0 (Attachment 3).

HB 2618 – trustees; release and reconveyance deed – DO PASS

Vice-Chairman Quelland moved that HB2618 do pass.

Rene Guillen, Majority Research Analyst, related that HB2618 allows a title insurer to issue certain deeds if the amount is valued under \$1 million and other requirements are met (Attachment 4).

Larry Phelps, State Counsel, Lawyers Title Insurance Corporation & Land Title Association of Arizona, testified in support of HB2618. The only change this legislation makes to statute is to raise the amount from \$500,000 to \$1 million. It will allow title companies to serve their customers more effectively by releasing liens of record that have been paid in full. In reply to Mr. Seel, Mr. Phelps said that this will help escrows close more quickly.

Vice-Chairman Quelland announced the names of those who signed up in support of HB2618 but did not speak:

Bryan Ginter, representing self

Question was called on the motion that HB2618 do pass. The motion carried by a roll call vote of 8-0-0-0 (Attachment 5).

HB2616 – credit unions; branches; ATMs – DO PASS AMENDED S/E
S/E: credit unions; banks; branches; ATMs

Vice-Chairman Quelland moved that HB2616 do pass.

Vice-Chairman Quelland moved that the McLain three-page strike-everything amendment dated 2/4/10 to HB2616 be adopted (Attachment 6).

Rene Guillen, Majority Research Analyst, explained that the strike-everything amendment allows credit unions and banks to place free-standing ATMs without approval from the Department of Financial Institutions (DFI). It requires credit unions and banks to notify DFI and pay the necessary fees for at least 30 days prior to installing the ATM (Attachment 7). In addition, the strike-everything amendment eliminates the quarterly reports compiled by DFI about credit card rates.

Vice-Chairman Quelland moved that the McLain five-page amendment dated 2/5/10 to the three-page strike-everything amendment be adopted (Attachment 8).

Mr. Guillen advised that the five-page amendment to the three-page strike-everything amendment eliminates the fees previously mentioned that would have to be paid by banks and credit unions in order to install a free-standing ATM (Attachment 8). Currently credit unions pay \$250 per ATM and banks pay \$500.

Susie Stevens, Lobbyist, Arizona Credit Union League, testified in favor of the strike-everything amendment as well as the amendment. The proposed legislation provides sufficient notice to consumers on changes to credit cards, allows credit unions and banks to place free-standing ATMs without approval from DFI and removes fees.

Mr. Seel wondered whether placing more ATMs is a good indicator of the economy. Ms. Stevens said she hopes it is. The initial intent of the legislation was to streamline the process as to what regulations were necessary.

Mr. Ash asked whether the fees that are being waived were paid to the Department of Insurance. Ms. Stevens said she believes they went to the General Fund. The reason for removing them is because banks and credit unions will not have to go through any kind of approval process. She said she was told there have been about five instances over the last five years where credit unions applied for approval, so there will not be a big impact to the General Fund.

Jay Kaprosy, Senior Government Relations Advisor, Arizona Bankers Association, expressed support for the strike-everything amendment and the amendment to the striker. He said this is an opportunity to reduce unnecessary regulation and provide parity between credit unions and banks in relation to application for free-standing ATMs. It is not a function that has been used extensively, so it will have little or no fiscal impact to the state.

Vice-Chairman Quelland announced the names of those who signed up in support of HB2616 but did not speak:

Stacey Langford, Vice President, Member Services, Arizona Bankers Association

Bryan Ginter, representing self

Austin De Bey, Vice President/Government Affairs, Arizona Credit Union League

Question was called on the motion that the McLain five-page amendment dated 2/5/10 to the three-page strike-everything amendment be adopted (Attachment 8). The motion carried.

Vice-Chairman Quelland moved that the McLain three-page strike-everything amendment dated 2/4/10 as amended be adopted (Attachment 6). The motion carried.

Vice-Chairman Quelland moved that HB2616 as amended do pass. The motion carried by a roll call vote of 8-0-0-0 (Attachment 9).

HB2586 – execution and attachment; exemptions – DO PASS

Vice-Chairman Quelland moved that HB2586 do pass.

Heidi Nitz, Majority Intern, related that HB2586 allows debtors to exempt up to \$4,000 worth of household items from the debt collection process, and increases the debtor exemption amounts for personal items or business equipment (Attachment 10). The bill additionally exempts income tax refunds and monies received for personal injury claims.

Representative Andy Biggs, sponsor, made himself available to answer questions. He noted that these exemptions, which affect federal bankruptcy law that are governed by state law, have not been updated or changed in the last 15 to 20 years.

Mr. Ash asked whether this is the same bill that was considered last year which changed the exemptions without having specific items designated by statute. Representative Biggs said this is a different bill. This bill refers to home furnishings instead of specifying itemization. Mr. Ash said his concern is whether there is a mechanism to evaluate or verify the dollar value. Representative Biggs pointed out there is a penalty for perjury because the amount is avowed when the bankruptcy papers are signed. If there is a question as to the value, the trustee and creditors can require that an evaluation be made.

Ms. Nitz advised that this bill is similar to HB2263 from 2009 which did not go through the Senate last year.

Vice-Chairman Quelland announced the names of those who signed up in support of HB2586 but did not speak:

Bryan Ginter, representing self

Question was called on the motion that HB2586 do pass. The motion carried by a roll call vote of 8-0-0-0 (Attachment 11).

HB2465 – limited liability; physicians; examinations – DO PASS AMENDED

Vice-Chairman Quelland moved that HB2465 do pass.

Heidi Nitz, Majority Intern, said that HB2465 states that licensed physicians are not liable for failure to diagnose, treat, or communicate any medical conditions to the examined individual when the examination is requested by a third party (Attachment 12).

Vice-Chairman Quelland moved that the McLain two-line amendment dated 1/29/10 to HB2465 be adopted (Attachment 13).

Ms. Nitz explained that the two-line amendment includes self-insurance programs as policies under which claims for reimbursement for medical expenses or damages can be claimed (Attachment 13).

James Stabler, Chief Counsel, SCF Arizona, in support of HB2465, explained that the workers' compensation law allows the insurance carrier or self-insured employer to require an injured worker to submit to a medical examination by a doctor of the carrier's or employer's choosing. If the injured worker refuses or fails to appear for the examination, the law allows the carrier or employer to suspend the workers' compensation benefits. An independent medical examination (IME) can be requested by SCF. The cost of an IME is an expense associated with the claim. It is paid for by the carrier and subsequently the cost is passed on to the policyholder, the small business people of Arizona. The Arizona Court of Appeals, District 1, affirmed the principle, which has been the law in Arizona from the time the Constitution was enacted, that one cannot sue the doctor for medical malpractice. When that decision was appealed about a year and a half ago in Division 1 of the Court of Appeals, the Supreme Court refused to review the case, so there still is confusion about the law. SCF supports this legislation as a means to preserve the system the way it has been and to encourage doctors to participate in the workers' compensation process without being concerned about litigation.

Mike Colletto, Executive Director, Community Horizons, testified in opposition to HB2465. He maintained that an IME doctor is responsible for an examination that is within the scope of what he is asked to review. He gave the example of an IME doctor being asked to examine a patient's neck and said that doctor should be responsible for the neck. Additionally, if the patient has a melanoma hanging off his neck, the doctor has the obligation to inform the patient of that tumor. He said he believes that is reasonable and fair and within the doctor's ethical guidelines. In conclusion, he advised that Community Horizons is opposed to this legislation which gives blanket immunity to doctors and he questioned the constitutionality of that. He said he was hoping for an amendment to the bill to address the two issues he raised.

Chairman McLain advised that a Floor amendment is being worked on.

Jeff Gray, Legislative Liaison, Arizona Self Insurers Association (ASIA), testified in support of HB2465. He related that stakeholders are looking at an amendment that might address some of the concerns raised; however, they want to ensure that any solution does not create a new cause of action against a physician for additional liability.

Vice-Chairman Quelland announced the names of those who signed up in support of HB2465 but did not speak:

David Landrith, Vice President of Policy & Political Affairs, Arizona Medical Association
Barbara Fanning, Legislative Liaison, Arizona Hospital and Healthcare Association
Farrell Quinlan, representing self
Lanny Hair, Executive Vice President, Independent Insurance Agents & Brokers of Arizona
Pete Wertheim, Chief Legislative Liaison, IASIS Healthcare
Amanda Weaver, Executive Director, Arizona Osteopathic Medical Association
Allison Bell, Arizona Chamber of Commerce & Industry
Tom Dorn, Lobbyist, East Valley Chambers of Commerce Alliance
Lori Lustig, Tucson Metropolitan Chamber of Commerce
Mike Vespoli, Director of Community Affairs, Vespoli Consulting Group
Norman Moore, representing State Farm Insurance
Michelle Bolton, Vice President of Public Affairs, Greater Phoenix Chamber of Commerce
Michael Preston Green, Attorney, The Boeing Company
Don Hughes, Lobbyist, Property and Casualty Insurance Association of America
Teresa Lopez, Government Relations Representative, SRP
Eric Emmert, East Valley Chambers of Commerce Alliance
Richard Bitner, Legislative Counsel, Arizona State Association of Physician Assistants & Arizona College of Emergency Physicians
Wendy Briggs, Lobbyist, American Insurance Association
Marcus Osborn, Manager of Government and Public Affairs, Arizona Manufacturers Council

Vice-Chairman Quelland announced the names of those who signed up in opposition to HB2465 but did not speak:

Chuck Foy, Executive Director, Arizona Correctional Peace Officers Association
Seth Apfel, Volunteer, representing self
Bryan Ginter, representing self
Luis Ebratt, President, AZPOA and Arizona Conference of Police and Sheriffs
Janice Goldstein, Arizona Trial Lawyers Association
Greg Hynes, AFL-CIO
Robert Hommel, Attorney, representing self
Debra Runbeck, representing self

Question was called on the motion that the McLain two-line amendment dated 1/29/10 to HB2465 be adopted (Attachment 13). The motion carried.

Vice-Chairman Quelland moved that HB2465 as amended do pass. The motion carried by a roll call vote of 6-2-0-0 (Attachment 14).

Without objection, the meeting adjourned at 3:25 p.m.

Joanne Bell, Committee Secretary
February 12, 2010

(Original minutes, attachments and audio on file in the Chief Clerk's Office; video archives available at <http://www.azleg.gov>)