

ARIZONA HOUSE OF REPRESENTATIVES  
Fiftieth Legislature – First Regular Session

**COMMITTEE ON BANKING AND INSURANCE**

Minutes of Meeting  
Monday, January 24, 2011  
House Hearing Room 2 -- 2:00 p.m.

Chairman McLain called the meeting to order at 2:25 p.m. and attendance was noted by the secretary.

**Members Present**

Ms. McCune Davis  
Mr. Miranda R  
Mr. Seel

Mr. Smith D  
Mr. Williams

Mr. Dial, Vice-Chairman  
Mrs. McLain, Chairman

**Members Absent**

None

**Committee Action**

HB2004 – DP (7-0-0-0)  
HB2093 – DP (7-0-0-0)  
HB2110 – DP (7-0-0-0)

**INTRODUCTIONS:**

Chairman McLain asked Members to introduce themselves.

Chairman McLain introduced staff:

Joanne Bell, Committee Secretary  
Brooke Olguin, Majority Research Analyst  
Jennifer Londono, Majority Intern  
Liz Navran, Staff Attorney and Policy Advisor for the Democratic Caucus  
Geoffrey Vetter, Democratic Intern  
William Fry, Page  
Ryan Ouimette, Page

**ADOPTION OF COMMITTEE RULES:**

Brooke Olguin, Majority Research Analyst, advised that each Committee has to adopt a set of rules in accordance with the standard set of House Rules (Attachment 1). She pointed out that Rule 7 states that substantive amendments shall be printed and delivered to each Committee

Member's office by noon the day before the Committee at which it will be offered and, for this Committee, that will be Friday at noon.

**Vice-Chairman Dial moved that the Committee on Banking and Insurance adopt the Committee Rules as printed and distributed (Attachment 1). The motion carried by voice vote.**

**COMMITTEE OF REFERENCE APPOINTMENTS:**

Chairman McLain appointed the following Members to the Committee of Reference:

Representative McLain, Chair  
Representative Dial  
Representative Smith D  
Representative McCune Davis  
Representative Miranda R

**PRESENTATIONS:**

**Department of Financial Institutions (DFI)**

Lauren Kingry, Superintendent, Department of Financial Institutions (DFI), reviewed a handout on the Department (Attachment 2). He related that DFI deals with 18 industry license types and 6,766 licensees within that industry group. Agency activities include licensure, license renewals, examination, supervision and investigation. Revenue is generated from licensing fees, examination fees and assessments and civil money penalties. The Department regulates 22 banks and credit unions in the state, 4,799 real estate related enterprises and 1,923 money handlers. Mr. Kingry advised that the Department received approximately \$2.9 million from the General Fund and about \$2.4 million from non-appropriated funds in fiscal year 2010.

Ms. McCune Davis queried whether DFI has authority over auto title lenders. Mr. Kingry replied in the affirmative. He related that would come under the Money Handlers section, either Sales Finance or the Advance Fee Loan Broker.

In response to Mr. Seel's request for examples of fees, Mr. Kingry replied that some are from complaints relating to inappropriate contact by collection agencies, penalties due to late renewals, incorrect input, etc.

Mr. Seel asked whether there have been consumer complaints, such as complaints about loan practices, etc. Mr. Kingry replied in the affirmative. He explained that many times the complaints come from out of state and are often due to miscommunication.

Ms. McCune Davis asked what the agency's biggest challenge is. Mr. Kingry answered that timely use of its examination staff as well as timely entry into the financial institutions and enterprises that need the Department's help are issues that are challenging because of budget and staff reductions.

Ms. McCune Davis asked Mr. Kingry to describe the financial condition of the state's entities regulated by the Department. Mr. Kingry said that he is encouraged by some of the year-end

numbers because some institutions have experienced modest gains but others are struggling and are at risk. He said he believes that as long as the economy continues to be stagnant, these institutions will remain at risk.

Ms. McCune Davis asked whether DFI is able to assist consumers who raise issues about not having quick responses from financial institutions when their mortgage or property is in jeopardy. Mr. Kingry related that the Department has a Consumer Affairs Division that is very active. He noted that the Attorney General's Office has been very responsive to those complaints.

Mr. Seel queried whether the Department has any unfilled full-time employee (FTE) positions. Mr. Kingry responded that the position of Banking Manager is vacant. He advised that this is a critical position and there is a need to fill it.

### **Department of Insurance (DOI)**

Christina Urias, Director, Department of Insurance (DOI), stated that the Department's job is to enforce Title 20. Responsibilities include making sure the insurance companies, the producers and other licensees doing business in the state follow state law, protect consumers and encourage the economic development of the insurance industry in the state. Currently, there are 163,000 licensed producers and approximately 1,800 insurance companies licensed in Arizona. DOI's primary responsibility is to ensure the financial solvency of the companies doing business in Arizona. To accomplish that, the Department performs quarterly analyses of their financial statements as well as on-site financial examinations of the domestic companies and has the authority to take action against a company if a red flag is raised. The Department also has a Consumer Affairs Division which receives about 40,000 complaints and inquiries from consumers per year. DOI responds to all complaints but because of budget cuts, responses are taking longer than in the past.

Chairman McLain asked whether there has been an increase in consumer complaints. Ms. Urias advised that they have remained steady. When there are complaints against companies, the Department has the authority to investigate and force the companies into compliance. The Department also works closely with the Attorney General's Office (AG). Companies are required to report suspicion of fraudulent activities by consumers. The Department investigates those instances and turns them over to the AG's Office.

Ms. Urias advised that the Department turns over approximately \$435 million to the state in insurance premium tax revenues and receives \$5.6 million from the General Fund. The Department is accredited by the National Association of Insurance Commissioners (NAIC) and complies with their model laws in terms of how Arizona's statutes are written to retain accreditation by NAIC.

In response to Mr. Seel's query, Ms. Urias said she believes there are 54 licensed health insurance companies in the state.

Mr. Seel inquired whether the Department has vacant FTEs. Ms. Urias said she does not have a specific number and will provide that information.

Ms. McCune Davis queried the time required to address consumer complaints. Ms. Urias replied that response time averages 30 to 45 days, depending on the complexity of the issue.

### **CONSIDERATION OF BILLS:**

#### **HB2004 – commercial mortgage brokers; license conversion – DO PASS**

**Vice-Chairman Dial moved that HB2004 do pass.**

Jennifer Londono, Majority Intern, explained that HB2004 allows a mortgage broker license holder to convert the license to a commercial mortgage broker license upon approval of the Superintendent of the Arizona Department of Financial Institutions (DFI) and exempts DFI from the rule-making statute (Attachment 3).

Representative John Kavanagh, sponsor, advised that a similar bill passed out of the House but did not make it through the Senate last year. This bill allows a conversion to a commercial mortgage broker license. He said the agency has no objection to the proposal; they still control the operation.

Ms. McCune Davis asked whether a fee will be attached to this request for conversion to cover the cost. Representative Kavanagh replied that would be up to the discretion of the agency.

Gretchen Conger, Legislative Liaison, Department of Financial Institutions (DFI), advised that upon renewal, those wishing to convert would pay the renewal fee which is already stipulated in statute.

In response to Ms. McCune Davis, Ms. Conger explained that currently, if someone has a commercial mortgage broker license, that person can only do commercial mortgage broker loans. With a mortgage broker license, a person can do both residential and commercial loans.

Mr. Seel commented that it sounds like there are no new fees. Ms. Conger agreed.

In response to Mr. Miranda, Ms. Conger advised that the ability to convert a mortgage banker to a mortgage broker license is in statute; this legislation allows a mortgage broker license to be converted to a commercial mortgage broker license.

Representative Kavanagh explained that the way the Rules were set up, they had to be both. This legislation allows them to be one, not both.

**Question was called on the motion that HB2004 do pass. The motion carried by a roll call vote of 7-0-0-0 (Attachment 4).**

#### **HB2093 – property exemptions; 401(k) retirement accounts – DO PASS**

**Vice-Chairman Dial moved that HB2093 do pass.**

Brooke Olguin, Majority Research Analyst, stated that HB2093 adds a 401(k) retirement plan to the list of those exempt from any and all creditor claims (Attachment 5).

Representative Matt Heinz, sponsor, said this bill, which codifies federal statute, passed the House last year but was held up in the Senate. He advised that 401(k)s were not included in the list of exempted, protected assets and this legislation corrects that oversight.

Mr. Seel questioned the number of other states that exempt 401(k)s. Representative Heinz replied that he believes they all do.

Wendy Briggs, representing Arizona Bankers Association, spoke in opposition to HB2093. As a matter of policy, bankers are always concerned when the types and amounts of property are increased that are exempt from attachment when someone files for bankruptcy, because creditors have fewer assets to go after when someone cannot pay.

Chairman McLain asked whether the Bankers Association was opposed to this bill last year. Ms. Briggs replied in the affirmative; however, she noted that both 401(k)s and homestead exemptions were included in last year's bill. She related that she will correct the record to reflect that the Association is neutral on the bill.

Mr. Seel asked about other states that do this. Ms. Briggs answered that she has not done research on what other states do.

**Question was called on the motion that HB2093 do pass. The motion carried by a roll call vote of 7-0-0-0 (Attachment 6).**

### **HB2110 – insurance; risk retention groups – DO PASS**

**Vice-Chairman Dial moved that HB2110 do pass.**

Brooke Olguin, Majority Research Analyst, advised that HB2110 clarifies which insurers may be exempt from filing annual financial reports with the Department of Insurance (DOI) and outlines accreditation requirements (Attachment 7).

Karlene Wenz, Legislative Liaison, Department of Insurance (DOI), explained the reasons for the Department's bill and asked for Members' support. She said the National Association of Insurance Commissioners (NAIC) has asked all state Departments of Insurance to put into statute a regulation relating to risk retention groups. The regulation will help the departments watch the solvency of the groups, thus ensuring that when there is a claim by an Arizona consumer against one of these domestic risk retention groups, those claims will get paid.

**Question was called on the motion that HB2110 do pass. The motion carried by a roll call vote of 7-0-0-0 (Attachment 8).**

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

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Joanne Bell, Committee Secretary  
January 26, 2011

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