ARIZONA HOUSE OF REPRESENTATIVES
Fifty-first Legislature – Second Regular Session

COMMITTEE ON FINANCIAL INSTITUTIONS

Minutes of Meeting
Monday, February 17, 2013
House Hearing Room 5 -- 2:00 p.m.

Chairman Brophy McGee called the meeting to order at 2:40 p.m. and the secretary called the roll.

Members Present

Mr. Clinco	Ms. Hernández	Mr. Livingston, Vice-Chairman
Mr. Dial	Mr. Mitchell	Mrs. Brophy McGee, Chairman
Mrs. Gabaldón	Mr. Smith	

Members Absent

None

Committee Action

HB2264 – DPA S/E (8-0-0-0) On Rereferral	HB2653 – DP (8-0-0-0)
HB2524 – DISCUSSION ONLY	HB2633 – DP (7-0-1-0)
HB2526 – DPA (6-2-0-0)	

CONSIDERATION OF BILLS

HB2264 – Arizona job finance bonds – DO PASS AMENDED S/E (On Rereferral)
S/E: Arizona jobs bonds; finance

Vice-Chairman Livingston moved that HB2264 do pass.

Vice-Chairman Livingston moved that the Brophy McGee six-page strike-everything amendment dated 02/13/14 be adopted (Attachment 1).

Paul Benny, Majority Research Analyst, explained that the Committee heard and adopted a strike-everything amendment on this same subject on February 3, 2014. The Brophy McGee six-page strike-everything amendment dated 02/13/14 to HB2264 (Attachment 1) outlines technical changes and clarifications made to the previously adopted strike-everything amendment. The language is basically the same with the exception of the removal of the provision relating to jurisdictions (Attachment 2).

Marc Osborn, representing Phoenix Industrial Development Authority (IDA), stated support of the strike-everything amendment to HB2264 which addresses technical issues and offered to answer questions.

Courtney Gilstrap LeVinus, Maricopa County Industrial Development Authority (IDA), neutral on the strike-everything amendment to HB2264, advised that the IDA Board still has one concern about the jobs creation portion of the bill; it would like to see a more robust jobs creation requirement for the IDAs if they elect to go into this type of bonding mechanism.

Vice-Chairman Livingston announced the names of those who signed up in support of the strike-everything amendment to HB2264 but did not speak:
Rob Dalager, Lobbyist, Greater Phoenix Economic Council
Brett Jones, Vice President of Operation, Arizona Construction Association
Mike Bielecki, representing self

Question was called on the motion that the Brophy McGee six-page strike-everything amendment dated 02/13/14 be adopted (Attachment 1). The motion carried.

Vice-Chairman Livingston moved that HB2264 as amended do pass. The motion carried by a roll call vote of 8-0-0-0 (Attachment 3).

HB2524 – housing trust fund; unclaimed property – DISCUSSION ONLY

Paul Benny, Majority Research Analyst, related that HB2524 requires 55 percent of the proceeds from the sale of abandoned property be deposited in the Housing Trust Fund (Attachment 4). He explained that the Housing Trust Fund was established in 2001 consisting of monies from the sale of unclaimed property and any investment earnings. Monies in the Housing Trust Fund are to be used for developing projects and programs connected with providing housing opportunities for low- and moderate-income households and for housing affordability.

Chairman Brophy McGee advised that Housing Trust Fund monies were cut by the Legislature during the economic downturn. She announced that HB2542 will be for discussion purposes only; no vote will be taken on this proposal, and the scheduled presentations will be given as part of this discussion.

Representative Lela Alston, sponsor, stated that homelessness is an important issue for the State of Arizona. Serious cuts to programs were made during tough economic times. There are a number of economic benefits and human benefits to providing low-income housing for individuals who need it the most. HB2524 restores the Homeless Trust Fund to where it was before the cuts. She revealed that she attended a victory celebration this past Saturday observing the end of homelessness for veterans in this state. She called on Joan Serviss with the Arizona Coalition to End Homelessness to make a presentation.

Joan Serviss, Executive Director, Arizona Coalition to End Homelessness, gave a powerpoint presentation (Attachment 5). She advised that the Coalition is an organization that works to end homelessness through education and advocacy, and has joined with the Arizona Housing Alliance in its efforts to restore the Housing Trust Fund to meet the housing needs of Arizonans.

The Housing Trust Fund is important because it allows the most vulnerable population to help pay for their homes and still have enough money left over to buy basics, such as groceries, gas and childcare. When people live in stable homes, children achieve more in school, families are stronger and seniors and people with disabilities live with dignity.

Steve Capobres, Vice President of Business Development, Catholic Charities, testified that he represents the committee that was formed to help restore the Trust Fund. He continued the powerpoint presentation (Attachment 5). The Fund was created in 1988 with funding from 35 percent of unclaimed property sales proceeds. Benefits of the Fund include the following:

- Creates jobs and a stronger economy
- Provides homes for homeless veterans, seniors and disabled individuals
- Repairs dilapidated homes
- Provides assistance for housing on Arizona's tribal lands
- Provides housing relief for families displaced by fires

Bill Spreitzer, President and Owner, Westcap Investments, Inc., advised that Westcap has developed 22 affordable rental properties in northern Arizona for seniors earning less than 60 percent of the median income. Its primary source of financing is the Low-Income Housing Tax Credit Program, administered by the Arizona Department of Housing. This program has encouraged the private sector to build and invest in affordable housing. One way that Arizona has historically helped leverage the Tax Credit Program is through the Housing Trust Fund, allowing tax credits to be used for more developments which, in turn, create more jobs and more economic activity.

In response to Mr. Smith, Mr. Spreitzer explained that the Low-Income Housing Tax Credit is the primary source of funding, coupled with conventional financing and, in some cases, with financing provided by local governments. The Housing Trust Fund provides gap financing.

Diana Yazzie-Devine, President and CEO, Native American Connections (NAC), stated that NAC serves families who earn from $5,000 to $40,000 a year. NAC leverages the Low-Income Housing Tax Credit with the Housing Trust Fund to assist families so they do not pay more than 30 percent of their income for rent. It allows families to have affordable and permanent housing. These families have jobs and contribute to the economy. She maintained that it makes communities and families stronger.

Nicole Harvey, representing self, said she has been diagnosed as mentally ill. In the past two and one-half years, she has moved 12 times. Because of a suicide attempt, she lost custody of her ten-month-old son. Having stable housing allows her the opportunity to try to get her son back, look for work, stabilize her mental health and achieve other goals.

Dexter McInstad, representing self, advised that he is a veteran of the U.S. Navy. He shared his story of alcohol addiction which led to homelessness. Getting back into housing has enabled him to better himself.

Andrew Gordon, President, Arizona MultiBank Community Development Corporation, advised that Arizona MultiBank is a community development financial institution certified by the U.S.

Department of the Treasury. It was created to serve underserved markets, affordable housing projects and nonprofit organizations throughout the state. In 2002, the Arizona Department of Housing awarded MultiBank a $1 million grant of Housing Trust Fund money for affordable housing projects throughout Arizona which was matched by the U.S. Department of the Treasury. Since that time, MultiBank has made $13 million in loans to affordable housing projects. He answered questions about abandoned property, liquidation and statute of limitations, how organizations apply for the funds and whether there are programs to help rehabilitate individuals with drug or alcohol addictions.

Andrew Loubert, President, Community Reinvestment Solutions, related that he works with many for-profit and nonprofit housing providers around the country. He said that HB2524 is a jobs-creation bill. When homes or rental properties are built, jobs are created. The Housing Trust Fund allows for initiative, whereas federal monies are limited and bureaucratically-controlled. The Housing Trust Fund is unique: it is a neutral source of funding, allows innovation in housing without increasing taxes, is more user-friendly and creates an increase in home ownership.

Vice-Chairman Livingston announced the names of those who signed up in support of HB2524 but did not speak:
Ron Johnson, Lobbyist, Arizona Catholic Conference
Ryan Harper, Lobbyist, Central Arizona Shelter Services; La Frontera, Inc.
Craig Tribken, representing self

In closing remarks, Representative Alston stated that the Housing Trust Fund has saved neighborhoods by redeveloping blighted property. It has created housing for those with low or moderate incomes and has helped with economic recovery. In answer to Mr. Smith's question about abandoned property, she advised that there are safeguards in place for unclaimed property. It takes several years before the Department of Revenue can liquidate unclaimed property.

HB2653 – mortgages; trust deeds; deficiency actions – DO PASS

Vice-Chairman Livingston moved that HB2653 do pass.

Jordan Willette, Majority Research Intern, stated that HB2653 exempts certain types of real property or trust property from the "anti-deficiency statutes" (Attachment 6).

Wendy Briggs, representing Arizona Bankers Association, in support of HB2653, advised that Arizona is one of 12 states that have an anti-deficiency statute which prevents a bank from pursuing a borrower if there is a shortfall after the home is sold in a foreclosure. Current law says that as long as a home is being utilized as a single-family residence and is on two and one-half acres or less, this law applies. The statute has been applied to other uses, such as individuals purchasing multiple rental homes that are being utilized, "spec" building, etc., and there is no ability for the lender to recover on any shortfall. This proposal is a compromise that puts additional parameters on the anti-deficiency law when it is used in a more business context and only applies to mortgages entered into after December 31, 2014.

Mr. Mitchell commented that it may hamper future growth by putting restrictions on builders. He brought up "double dipping" where banks went after homeowners for the deficiency while getting bail-out money. Ms. Briggs reiterated that this legislation tries to make sure that anti-deficiency protections are available to borrowers and homeowners. She said she believes this is an appropriate compromise.

Tom Farley, Lobbyist, Arizona Association of REALTORS®, testified in support of HB2653. He stated that this legislation is a two-year compromise between the Association and the bankers, and is necessary to protect homeowners in Arizona. He opined that it is good public policy and clarifies when the anti-deficiency law applies and when it does not.

Paul Hickman, Arizona Bankers Association, in favor of HB2653, echoed the comments previously made. He again stated that this legislation is a product of negotiations relating to when it applies and who it protects. He noted that the protection for the homeowner/borrower is not changed by this legislation and said this is a reasonable, moderate and narrow reform.

Vice-Chairman Livingston announced the names of those who signed up in support of HB2653 but did not speak:
Lynne Herndon, representing self
Scott Cohen, representing self

Question was called on the motion that HB2653 do pass. The motion carried by a roll call vote of 8-0-0-0 (Attachment 7).

HB2526 – consumer lender loans – DO PASS AMENDED

Vice-Chairman Livingston moved that HB2526 do pass.

Vice-Chairman Livingston moved that the Brophy McGee two-page amendment dated 02/13/14 be adopted (Attachment 8).

Paul Benny, Majority Research Analyst, explained that HB2526 modifies the finance charge structure of consumer lending loans and increases the loan origination fee cap (Attachment 9).

Representative "T. J." Shope, sponsor, advised that this legislation increases the maximum small loan amounts. He pointed out that this sets the maximum allowable cap that may be charged and is not an amount that a business will necessarily charge.

Mr. Benny related that the Brophy McGee two-page amendment dated 02/13/14 restores the prohibition on paying a fee, commission or bonus or giving anything of value to a merchant, dealer, consumer or other person (Attachment 8). It adds two provisions: prohibits a licensee from increasing the established rate on a loan issued prior to the effective date of this act when modifying or restructuring the loan and also prohibits a licensee from holding a person responsible for any loan amount that was incurred as a result of theft or fraud. It requires the licensee to correct any derogatory credit information reported to a consumer reporting agency.

Kelsey Lundy, representing Springleaf Financial Services, in favor of HB2526, advised that the statutes have not been amended since 1984. Although this legislation increases the cost to the consumer, it helps businesses stay viable and profitable in the marketplace. She reviewed the provisions of the bill:

- On a loan, 36 percent on the first $3,000 and the remainder at 24 percent
- The loan origination fee will increase from $75 to $150
- Allows small giveaways to consumers not currently allowed in statute

The amendment addresses concerns raised at the stakeholder meeting:

- Removes the ability to do a referral payment of up to $100
- When a borrower refinances, the loan amount, terms and rates will remain the same; if an existing borrower wants to borrow more money, that would be a new loan and terms will fall under the legislation being proposed
- If a borrower had a loan taken out in the borrower's name, either by fraud or identity theft, that borrower is not responsible for the loan and the lender must notify the rating agencies in order to correct any negative information that was reported

Ms. Lundy answered questions on referrals, impact to consumers, fees that can be charged, competition in the marketplace, number of loans below the maximum interest rate, underwriting practices and refinancing loans.

Cynthia Zwick, Executive Director, Arizona Community Action Association, testified against HB2526. She advised that the Association works to provide access and opportunities for vulnerable Arizonans to become or remain self-sufficient. The concern about this bill is that the Center for Enterprise Development in Washington, D.C., recently issued their 2014 report indicating that 45.7 percent of Arizonans are in a persistent state of financial insecurity. Changes being made in this legislation open the door to reborrowing at higher interest rates and fees. During the stakeholder meeting, a number of questions were asked of Springleaf representatives relating to consumer protection issues; however, no specific answers were provided and have yet to be provided. Because too few answers were given about how lenders manage these issues, she advised that the Association opposes this legislation.

Kelly Griffith, representing Southwest Center for Economic Integrity, a nonprofit organization that focuses on consumer-type issues, spoke in opposition to HB2526. The bill increases interest rates on higher loan amounts, lacks transparency and consistent underwriting standards. Increasing interest rates and origination fees in the small loan lending market increases the incentive for lenders to engage in reckless underwriting practices. With the greater profit incentives, small loan lenders will become more aggressive in marketing these high-cost loans to consumers. The concern is that the number of consumers entering into these loan agreements will be at a higher risk of default and will need to refinance the original loan over and over again. It is bad for working families, bad for young people trying to get these loans, bad for other small businesses in the community and, ultimately, bad for the local economy. The Center is also concerned about small loan lending companies selling insurance products as part of the loan package. She opined that these products are questionable in value to the consumer, significantly increase the cost of the loan and make it even harder for the borrower to repay the loan. A handout of a Springleaf loan contract was distributed which illustrates how expensive the products are, the stacking of insurance premiums as part of the loan and a higher interest rate than 36 percent (Attachment 10).

Mr. Mitchell brought up the issue of reckless borrowing. Ms. Griffith contended that personal responsibility is very important.

Ms. Lundy addressed the issue of information that was not made available at the stakeholder meeting and said the company does not track that information, so it is not readily available. Additionally, there are differences in lending models among small consumer lending companies. On the insurance issue, she advised that insurance is an option offered to borrowers and is regulated by the Arizona Department of Insurance.

Mrs. Gabaldón asked what the average loan origination fee is nationwide and the number of small consumer loans granted last year.

Louis Dettorre, Legislative Liaison, Department of Financial Institutions (DFI), neutral on HB2526, related that DFI does not track that information; it licenses consumer lenders and tracks the number of licensees. The Department is a regulatory body, tasked with examining consumer lenders as well as 17 other licensees.

Vice-Chairman Livingston announced the names of those who signed up in support of HB2526 but did not speak:
Phil Hitz, representing self

Vice-Chairman Livingston announced the names of those who signed up in opposition to HB2526 but did not speak:
Virginia Brant, Lobbyist, AARP
Ellen Katz, representing self

Question was called on the motion that the Brophy McGee two-page amendment dated 02/13/14 be adopted (Attachment 8). The motion carried.

Mrs. Gabaldón moved that the Gabaldón four-page amendment dated 02/14/14 at 1:02 p.m. be adopted (Attachment 11).

Mrs. Gabaldón explained that the amendment requires that all insurance premiums be considered a finance charge for the purpose of complying with the maximum finance charges calculation for the loan (Attachment 11).

Representative Shope said he has not seen any of the amendments. On that basis, he has to oppose them.

Question was called on the motion that the Gabaldón four-page amendment dated 02/14/14 at 1:02 p.m. be adopted (Attachment 11). The motion failed.

Mrs. Gabaldón moved that the Gabaldón four-page amendment dated 02/14/14 at 1:11 p.m. be adopted (Attachment 12).

Mrs. Gabaldón explained that the amendment prohibits insurance premiums from being included in the amount financed for consumer loans (Attachment 12).

Question was called on the motion that the Gabaldón four-page amendment dated 02/14/14 at 1:11 p.m. be adopted (Attachment 12). The motion failed.

Mrs. Gabaldón moved that the Gabaldón two-line amendment dated 02/14/14 at 1:14 p.m. be adopted (Attachment 13).

Mrs. Gabaldón explained that the amendment eliminates the provision increasing the cap for loan origination fees to $150 and keeps the cap at $75 (Attachment 13).

Question was called on the motion that the Gabaldón two-line amendment dated 02/14/14 at 1:14 p.m. be adopted (Attachment 13). The motion failed.

Vice-Chairman Livingston moved that HB2526 as amended do pass. The motion carried by a roll call vote of 6-2-0-0 (Attachment 14).

<u>HB2633 – personal property exemptions; motor vehicle – DO PASS</u>

Vice-Chairman Livingston moved that HB2633 do pass.

<u>Jordan Willette, Majority Research Intern</u>, advised that statute outlines the specific types of personal property that are exempt from judicial remedy for the collection of unsecured debt. HB2633 requires a motor vehicle used by a debtor or debtor's dependent who is physically disabled to be equipped to accommodate the disability in order to apply for the $12,000 equity exemption from judicial remedy (Attachment 15).

<u>Representative Michelle Ugenti, sponsor</u>, explained that HB2633 adds an additional threshold to current statute.

Vice-Chairman Livingston asked whether this allows a disabled individual who goes through bankruptcy to keep a vehicle at a higher value. Representative Ugenti stated that there are certain exemptions under law when a person goes through bankruptcy. This issue deals with the disabled person's car exemption; it clarifies that there is a relationship between the physical disability and the exemption the person is getting on the vehicle equipped to accommodate the disability.

Mrs. Gabaldón asked whether *equipment* is defined. Representative Ugenti answered that the term is not defined in the bill; it is broad to give the bankruptcy trustee discretion.

<u>Marc Osborn, representing Arizona Bankruptcy Trustees Association</u>, spoke in favor of HB2633. He related that the bankruptcy trustees are appointed by the U.S. Department of Justice to administer a bankruptcy. The bankruptcy trustee has the discretion to allow a disabled person to keep a vehicle if the vehicle meets the threshold. This proposal addresses the situation where a person files for a disability placard and claims that his $12,000 motorcycle is an exempt asset. HB2633 attempts to limit such abuses.

Mrs. Gabaldón asked whether a lot of fraud is occurring. Mr. Osborn replied that it is enough that his client asked for this legislation. He reminded Members that these are unsecured debts, and whatever dollars are provided in exemptions are dollars that do not go towards paying off legitimate debts these individuals have.

Ellen Katz, William E. Morris Institute for Justice, opposed to HB2633, said that persons with disabilities need cars that can accommodate them without putting additional equipment on them. She gave examples of disabled individuals who have no additional equipment installed in their vehicle: some may need to carry oxygen while others may be unable to wait for buses in the heat of the summer. This legislation excludes people from getting the exception. It is narrowly crafted and makes it harder for persons with disabilities to claim the exemption. She urged Members to vote against this proposal.

Vice-Chairman Livingston asked whether a disabled person will still qualify for the first $6,000 exemption. Ms. Katz replied in the affirmative.

Representative Ugenti claimed that this bill helps a person who has a disability to justify the need for equipping a vehicle so the bankruptcy trustee can make a determination whether to grant the higher exemption.

Mr. Dial expressed concern that a trustee could take away a person's mode of transportation, resulting in the person having difficulties going to work, and the person may then have to rely on the state for assistance. Representative Ugenti reiterated that this is about establishing a nexus between the disability and the equipment. She opined that the relationship is not a hard burden to prove.

Chairman Brophy McGee commented that this legislation precludes someone from applying for a disability to get the exemption. Representative Ugenti agreed. She said the person may be using the disability to get the higher exemption.

> **Question was called on the motion that HB2633 do pass. The motion carried by a roll call vote of 7-0-1-0 (Attachment 16).**

Without objection, the meeting adjourned at 5:35 p.m.

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Joanne Bell, Committee Secretary
March 4, 2014

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