

The Joint Legislative Study Commission on the Modernization of North Carolina Banking Laws

Follow-up Items from the December 19, 2011 Meeting

Mr. Darryl Black of Chairman Brown's office provided us a helpful list of follow up questions to address with the Commission. Responses to some of these questions are in our handout to you entitled "OCOB Proposed Substantive Corrections, January 20, 2011." The remaining inquiries are addressed below.

Have any successful private equity investments recently occurred? (Chairman Brown)

Private equity groups have invested \$768 million in North Carolina state-chartered banks over the past three years. Please see attachment for additional details.

TARP (Rep. Blake)

How many North Carolina state-chartered banks still have to repay TARP funds? The attached document provides details regarding the status of TARP funds.

Methods to encourage banks to expedite the foreclosure process by either writing them off or allowing consumer resolution should be explored. (Sen. Blake)

The Obama administration and participating state regulators, have entered a consent agreement with the 14 largest loan servicers concerning certain foreclosure procedural misconduct. In addition, a large number of state attorneys general (including Attorney General Cooper) are in the process of negotiating a settlement with the five largest bank servicers regarding alleged violations of consumers' rights in their foreclosure practices. Additional changes to foreclosure practices are being pursued at the federal level. Currently, the Commissioner of Banks has the authority to extend the allowable filing date for any foreclosure proceeding on a primary residence one time for a period of up to 30 days and, in certain circumstances, additional time under legislation originally adopted by the General Assembly in 2008. This provides additional time for the homeowner to pursue a resolution with the mortgage servicer. The state also has two separate programs to help North Carolina residents faced with foreclosure. With all of this activity, foreclosures are still taking place at a terribly high level. However, it does not appear that additional steps at the state level are appropriate at this time.

Outreach Regarding Input from Interested Parties to the Banking Law Rewrite

The current list of parties from whom input has been solicited is as follows:

1. N.C. Department of State Treasurer
2. N.C. Department of Commerce
3. Center for Responsible Lending
4. N.C. Justice Center
5. N.C. Bankers Association

6. N.C. Manufactured Housing Association
7. N.C. Association of Realtors
8. N.C. Department of Justice
9. N.C. Bar Association
10. N.C. Homebuilders Association
11. N.C. Association of Mortgage Professionals
12. Mortgage Bankers Association of the Carolinas
13. State Banking Commission (which includes public members and bankers)
14. BB&T
15. First-Citizens Bank & Trust

Other banking commissions (Chairman Brubaker)

At the last meeting of the Study Commission, the question was raised about the number of members of banking or financial services commissions in other states. To answer this question, OCOB has reviewed the Survey of State Chartered Banking published by the Conference of State Bank Supervisors and has reviewed the websites of agencies that appeared to have a commission form of organization. On the basis of this investigation, it appears that three states have commission oversight. They are:

Florida. A Financial Services Commission, made up of the Governor, Chief Financial Officer, Attorney General and Commissioner of Agriculture oversees the Departments of Financial Services and Insurance. The Department of Financial Services regulates banking, finance and securities. It is headed by a Commissioner of Financial Services who is appointed by the Financial Services Commission and serves at its pleasure.

Texas. The Finance Commission of Texas oversees the Texas Department of Banking, Department of Savings and Mortgage and Office of Consumer Credit. The Commission comprises nine members appointed by the Governor and confirmed by the Senate. The Texas Commissioner of Banks is appointed by the Finance Commission and serves at its pleasure.

Virginia. The Virginia Corporations Commission regulates financial institutions, business organizations (including UCC), and utilities. The Commission has three members elected by the General Assembly for terms of six years. The Bureau of Financial Institutions is a division of the Corporations Commission and is headed by a Commissioner of Financial Institutions who is appointed by the Corporations Commission and serves at its pleasure.

N.C. State Banking Commission composition (Chairman Brubaker, Rep. Jordan)

Rep. Jordan noted that the number of State Banking Commission members that can be appointed by the Governor is 19, with 11 of those appointees being public members and 5 practical bankers, does not equal 19. It appears that the Nov. 9, 2011 draft of the proposed bill removed the requirement that 2 members be Savings & Loan CEOs, but did not redefine how they should be replaced. Also, there is one appointee that is not defined in either the existing law or the proposed bill

http://www.ncleg.net/EnactedLegislation/Statutes/HTML/BySection/Chapter_53/GS_53-

[92.html](#)). However, Chairman Brubaker mentioned that he would like the number of members to be 15, which was the original number of members prior to the consolidation of the Banking Commission with the Savings and Loan Division in 2001. Legislation accomplishing the merger of the Banking Commission and the Savings and Loan Division in 2001, which reflects the prior Banking Commission composition, has been sent to the NCGA Research Division Staff.