

MINUTES

JOINT LEGISLATIVE STUDY COMMISSION

ON

THE MODERNIZATION OF NORTH CAROLINA BANKING LAWS

Tuesday, March 27, 2012

The Joint Legislative Study Commission on the Modernization of North Carolina Banking Laws met on Tuesday, March 27, 2012 at 10:00 a.m., Room 544 Legislative Office Building, Raleigh, North Carolina.

In attendance were Senator Brown (Chairman) and Representative Brubaker (Chairman); Senators Apodaca and Blake; Representatives Daughtry, Jordan and McComas; Mr. Christopher Kukla, Mr. Gray Reed, Mr. Charles Whitehead, Jr., and Ms. Andrea Young. Ryan Blackledge (Bill Drafting Staff), Drupti Chauhan (Research Staff), Karen Cochran-Brown (Research Staff) and Greg Roney (Research Staff) were present. Committee Assistants Darryl Black and Cindy Coley were present.

Senator Brown, Chairman, called the meeting to order and recognized House Sergeant-At-Arms Staff Reggie Seals, Larry Elliot and Doug Harris and Senate Sergeant-At-Arms Staff Ronald Spann, Robert Young and Donna Blake.

Chairman Brown called for the adoption of the minutes from the March 6, 2012 meeting. Sen. Blake seconded motion that was approved unanimously.

Six documents were included in committee member notebooks and distributed for review related to the presentation:

Exhibit 1 - Explanation of Mortgage Assessment Bill

Exhibit 2 - Mortgage assessments bill 3-20-12

Exhibit 3 - Banking Commission Memo 03_16_2011

Exhibit 4 - Follow up questions from 3-6-12 meeting for NCGA

Exhibit 5 - Art 9A Summary

Exhibit 6 - Art 10A Summary

Presentation

Mr. L. McNeil Chestnut, Special Deputy Attorney General and Senior Counsel to the Commissioner of Banks, began the presentation by discussing the mortgage assessment proposal. Mr. Chestnut referred to Exhibit 1 and stated that the monitoring of the mortgage industry by the Banking Commission is fee supported. Fees have not recently increased and since 2002 with the Mortgage Lending Act, monitoring costs have exceeded fees received. Furthermore, the loss of four banks and the RBC merger have reduced assessments \$1 million. Current mortgage supervision exceeds the costs of license regulation by \$1.5 million each year. He feels that each industry should pay for its cost of regulation. Mr. Chestnut then referred to Exhibit 2 and the proposed fee scheduled. He stated that this will result in a reduction for 85% of mortgage companies and an increase for 15% of mostly larger companies that work on a nationwide basis. The Banking Commission has reached out the eight largest mortgage companies and the Mortgage Bankers Association has not objected. For example, over 1,000 enforcement orders are on website that had a cost associated with it either through a settlement or trial. Furthermore, the number of full-time employees has been reduced from 30 to 22, telecommuting encouraged and information technology-related efficiencies leveraged wherever possible. Major mortgage companies have been notified.

Mr. Whitehead wanted to know what the average decrease for the 85% of companies would be. Mr. Chestnut was unsure about the exact amount of decrease but said there is a schedule available based on loan volume. He further added that 15% of larger companies would experience a fairly large increase which is fair since they require the most work. The proposed assessment would be less than those in Virginia and George. Mr. Chestnut then stated that a few years ago, the Safe Mortgage Lending Act resulted in an increased regulation of that industry and added that the National Mortgage Licensing system has been working well.

Sen. Blake requested clarification on the proposed \$2,000 minimal assessment. Mr. Chesnutt stated that the proposed mortgage assessment has little to do with banks and is focused on the regulatory side of mortgage business and would stop the ongoing subsidization of the mortgage business. He further clarified that banks have a separate assessment that is not being impacted. Mr. George Teague, representing the Mortgage Bankers Association, further added that the mortgage industry recognizes the importance of regulation and have been working with the Banking Commission to make a few helpful changes. He stated that there are some fairly dramatic changes for some companies- companies that have been notified.

Mr. Chesnutt then discussed the recommendation to reduce the number of Banking Commission commissioners from 21 to 15 members, through attrition if possible. He then reviewed Exhibit 3 with regards to further recommendations that appear to be consistent with the intent of this commission.

Mr. Paul Stock, Legal Specialist, Office of North Carolina Commissioner of Banks discussed follow-up items from the March 6, 2012 meeting. His presentation reviewed Exhibit 4.

Mr. Ray Grace, Commissioner of Banks, then discussed Article 9A – Supervisory Liquidation; Voluntary Dissolution and Liquidation. He started the presentation by providing a brief history including a handful of supervisory and voluntary liquidations. Commissioner Grace stated that there were no supervisory liquidations from 1943 that involved the Bank of Black Mountain until 1992 with the Wilmington-based Bank of Hanover. He then reviewed to Exhibit 5.

Rep. Jordan requested that a comparison between § 53-19. When Commissioner of Banks may take charge and equivalent language in proposed law (§ 53-9-301. Receivership.) be made. Commissioner Grace stated that it may be difficult to perform an exact comparison due to language differences and that he would get back with an answer by the next meeting.

Chairman Brown briefly recognized former Banking Commissioner Joseph Smith.

Commissioner Grace then discussed Article 10A – Bank Holding Companies. He referred to Exhibit 6 during this presentation.

Chairman Brown commented that the provision that increases the civil money penalty from a flat \$1,000 to \$20,000 per day for holding companies violating a cease and desist order should receive some attention.

Chairman Brown then requested if there was any further discussion. Sen. Harris Blake requested if there has been any feedback from the banks regarding the revised changes. Mr. Gray Reed stated that there has been much work behind the scenes between the industry and the Banking Commission addressing potential concerns. Mr. Charles Whitehead believed that the additional clarification will help versus the use of arbitrary terms. Mr. Chesnutt then stated they have also meeting with the Bar Association to discuss clarifying changes.

Chairman Brown asked if there were any further discussion items. None were offered. Chairman Brown stated that the next meeting will be held on April 12th at 1 p.m. with the last meeting tentatively scheduled for April 26th at 10 a.m.

There being no further business, the meeting adjourned at 11 a.m.

Sen. Harry Brown, Chairman

Rep. Harold Brubaker, Chairman

ATTEST:

Darryl Black, Committee Assistant