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SOUTH CAROLINA STATE BOARD OF FINANCIAL INSTITUTIONS

Legislative and Regulatory Committee MINUTES

Wednesday, December 16, 2020
1:00 P.M.
Via WebEx

The Legislative and Regulatory Committee of the State Board of Financial Institutions met on December 16, 2020.

Members present (via WebEx): Messrs. Ham and Stuart.

Mr. Byrd could not attend the meeting.

Staff in attendance: Commissioner Ron Bodvake, Commissioner Rick Green, Deputy Commissioner Kathy Bickham, Deputy Commissioner Amy Gelhaus, Deputy General Counsel Bill Condon, Deputy General Counsel Shawn Eubanks, and Board Administrator Alicia Sharpe.

The December 16, 2020 Agenda was approved by General Consent.

The **October 5, 2020 Committee Meeting Minutes** were approved by General Consent.

There were no member **recusals or conflicts of interest** disclosed or identified.

Commissioner Bodvake introduced Amy Gelhaus, Deputy Commissioner, who provided a brief summary of some of the pending bills. There are six pre-filed bills. Rep. Huggins is proposing to raise the maximum dollar limit for filing a claim in Magistrate's Court from \$7,500 to \$15,000. Senator Campsen and Hembree are both proposing to raise the magistrate limit from \$7,500 to \$10,000. Senator Malloy is proposing to make changes affecting deferred presentment lenders and supervised lenders by capping the APR at 36 % and establishing that certain actions constitute an unfair trade practice. This would make it illegal for a customer to accept a check from a deferred presentment lender. The proposal for supervised lenders includes adding an unfair trade practice to make short term loans under 120 days, changing SC Code (definition of a short-term loan). The bill would also cap the interest rate on specific loan amounts and create a database to track the transactions similar to the database that tracks deferred presentment loans that is used by Veritec.

Commissioner Bodvake added that these are the same bills prefiled 2 years ago. We are now beginning the first year of a 2-year legislative session. Some SC Legislators are trying to outlaw deferred presentment lenders, and we will see how much the Senate will push to outlaw these lenders. We'll continue to track all the bills as they go through the process.

Chairman Ham asked if we've taken a position on any of the bills. Commissioner Bodvake said that the office could take a stance either way and are taking a neutral position on the payday lenders at this time.

Commissioner Green reviewed the 2021 pre-filed Legislation that may affect the Banking Division. The Banking Division highlighted seven bills; none of which are new to us and were tracked last year. Financial Literacy is an opportunity to participate in an industry/agency interest. This bill would require that high schools require some form of financial literacy as part of their curriculum. The House bill adds bank accounts to the curriculum. Many of these bills did not make it out of Committee last session.

Medical marijuana is a potential new line of business for banks and credit unions to provide services if approved in SC; however, there are a lot of federal considerations for financial institutions because marijuana remains illegal by federal law.

The use of credit reports in hiring is another bill we are watching.

A bill titled *The Banking & Credit Union Modernization Act* was filed in 2020 and, if enacted, would have impacted us considerably last year. This bill has not been prefiled, but we anticipate this will happen early in the new session.

Chapter 27 of Title 34 of the South Carolina Code is the old statute that addresses Cooperative Credit Unions. In 1996 the Legislature passed a bill that repealed Ch. 27 and replaced it with Ch 26. Deputy General Counsel Shawn Eubanks confirmed that Ch 27 was repealed by Act 371 in 1996 but was not removed from the SC code. In a later act, parts of Ch 27 were removed. The Legislature took action to affirm the SC code as written, and this included the remaining portions of Ch. 27, making it part of the law at this moment. To correct this mistake will require an Act of the Legislature. We expect the Legislative Council will take the lead on this correction. We've discussed if there are parts of Ch 27 we'd like to keep; however, since the Banking Division has been regulating credit unions under Ch 26 for over two decades without an expressed need for Ch 27, we believe that Ch 27 just needs to be repealed in its entirety.

Chairman Ham asked which portions of the remaining Ch. 27 contradict Ch. 26. Mr. Eubanks stated that there has not been a formal section by section comparison. The important parts and the business license exemption are consistent between the two chapters. Commissioner Green stated that there is not much in Ch. 27 that is not already included in Ch 26. Ch 27 includes a fee required for Credit Unions (\$10) whenever they file their annual call report and a late fine of \$5/day. This Chapter 27 was repealed 24 years ago, and we have not been enforcing this for 24 years. The intent of the legislature was to repeal Ch 27.

Chairman Ham asked if we see any issues in the interim.

Commissioner Green stated that other than the confusion of a repealed chapter not being removed from the SC Code of Laws, there has not been a problem.

Mr. Stuart asked if there were any additional opportunities in Ch 27 that was not in Ch 26 that someone may be utilizing today. Commissioner Green said that there was nothing that he was aware of and that he would take a closer look at Ch. 27.

Prior to today's committee meeting, Mr. Byrd indicated that he would like to have some discussion on this topic. Chairman Ham stated that the topic of repealing Ch 27 will be added to the agenda of the next meeting, if necessary, to accommodate Mr. Byrd.

Chairman Ham revisited the previous discussion regarding cannabis banking. He stated that the majority of the states have legalized some form of cannabis use, but the federal government still does not recognize this. Banks are insured by the Federal Deposit Insurance Corporation. Bank trade associations have been pushing for a safe harbor for banks who knowingly or unknowingly bank businesses involved in cannabis commerce where legal by state law.

Executive Session

The Committee voted unanimously to enter executive session.

Prior to entering executive session, Mr. Eubanks stated that the Committee entered Executive Session to discuss pending litigation and to receive legal advice.

The Committee returned to open session. No votes were taken in executive session other than a vote to exit executive session.

Chairman Ham stated that the next committee meeting is scheduled for Thursday, January 28, 2021.

There being no objection, the meeting was adjourned by acclamation.