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## SOUTH CAROLINA STATE BOARD OF FINANCIAL INSTITUTIONS

### Legislative and Regulatory Committee MINUTES

**Wednesday, March 17, 2021**  
**10:00 A.M.**  
**Via WebEx**

The Legislative and Regulatory Committee of the State Board of Financial Institutions met on March 17, 2021.

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

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

The **March 17, 2021 Agenda** was approved by General Consent.

The **January 28, 2021 Committee Meeting Minutes** approval was postponed to a future Committee meeting.

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

**Deputy Commissioner Amy Gelhaus** provided a summary of some of the bills introduced that could affect the Consumer Finance division.

Since the last Committee meeting Bill 532 was introduced by Senator Davis. This adds Chapter 31 to Title 37 and is regarding earned income access. The bill states that income access services, payments or fees for services are not a loan. This is been referred to the Banking and Insurance Committee.

Bill 636 was introduced by Senator Cromer, adding a subsection for no refund of fees on manufactured loans if the loan is not considered a high cost loan.

Bill 637 was introduced by Senator Cromer changing Title 37, bringing a section of code into conformity with Dodd-Frank. The proposal also changes who is considered an exempt person regarding manufactured homes. It has been referred to the Banking and Insurance Committee.

Commissioner Bodvake stated that there have been conversations with Carri Lybarker of the Department of Consumer Affairs (DCA) regarding Bill 637.

Bill 3676 and Bill 3678 were introduced by Representative Hart. Bill 3676 establishes a minimum of a 20-day grace period on mortgage payments. Bill 3678 proposes that at least 30% of a mortgage payment shall be applied to the principal. Both have been referred to the Banking and Insurance Committee.

Bill 3686 introduced by Representative Govan added a new section to Title 59 named the Student Bill of Rights Act.

Mr. Ham asked Ms. Galhaus to revisit the bill that Senator Davis introduced and asked her to repeat her comments which she did. Commissioner Bodvake stated that it appears the purpose of introducing this is to provide a complaints and appeal process and have DCA's regulation oversight.

**Commissioner Green** highlighted bills that could have a direct impact on the industry and the Agency. The division is currently tracking 45 different bills for various reasons.

The Earned Income Access Bill is a new product that allows a paycheck advance through employers. The Consumer Financial Protection Bureau (CFPB) has allowed one or two companies to test this type product through a sandbox process. The proposed bill does not appear to impact the division directly, but the industry could conceivably also get into this line of business.

The Exploitation of Vulnerable Adults Bill (Senate Bill 425) was introduced by Senator Alexander and received a favorable committee report out of the Family and Veterans Services Committee but has been held up on the floor by Senator Gambrell. The bill allows financial institutions to decline a transaction if they suspect that someone is taking advantage of a vulnerable person.

Senate Bill 467 is the Banking and Credit Union Modernization Act. This passed the Senate unanimously and has been referred to the House Committee. This creates a pathway for an out of state bank to move to South Carolina. Recently a large Georgia state-chartered bank (\$18b) announced plans to relocate their headquarters to South Carolina.

Senate Bill 612 introduced by Senator Davis, is regarding credit union and bank transactions. This has been an issue discussed with this (Legislative & Regulatory) Committee numerous times. The Board issued an advisory opinion regarding banks selling to credit unions last year. The advisory opinion was issued in response to a request from a state-chartered bank asking whether such a transaction was permissible. This bill is a response to that advisory opinion by amending Title 34, Chapter 3 to allow a bank or trust company to merge or sell assets and liabilities to another bank or trust company or a SC headquartered credit union. Some states have allowed this type of transaction to occur and it's generally a purchase and acquisition type

transaction. This bill also appears to allow a merger type transaction. The commissioner then discussed areas of concern with the bill that the banking division will need to address if the bill passes. He noted that if a credit union were to acquire a bank that had trust powers the division would have to determine how to make sure those accounts were treated appropriately since credit unions' trust powers are more limited than banks. South Carolina state-chartered credit unions are likely not the ones to be acquiring banks in South Carolina. This transaction type generally occurs when a large credit union acquires a smaller bank and South Carolina state-chartered credit unions are relatively small in comparison to banks; however, there are larger federal credit unions that may pursue acquiring state-chartered banks. During the division's review of the issues related to credit union and bank transactions, it was discovered that there are sometimes assets that can't be transferred to credit unions. The division has also been reviewing 'memberization' which can be an issue if a credit union acquired a bank and if all the depositors and loan customers would fit within the field of membership of that credit union. He added that ensuring SC citizens retain their deposit insurance coverage through this transaction is important.

The division wants to be involved in the conversations with the legislators as they decide on how to proceed to ensure awareness of items that impact the agency and industries.

Committee Chairman Ham asked if a federally chartered credit union could acquire a federally chartered bank with a domicile in South Carolina. Commissioner Green stated that the statute that currently prevents these type transactions only applies to state-chartered banks and state-chartered credit unions. The Office of the Comptroller of Currency (OCC) has permitted national banks to be sold to credit unions. The NCUA has permitted credit unions to acquire banks. Last year the NCUA issued a notice of proposed new rulemaking about these type transactions. The comment period for the proposed rule has expired but it has not been finalized. Therefore, there is not much guidance from the NCUA on this only that it requires the approval of the regional director.

Mr. Eubanks stated that the state's law is worded differently than the federal law on the issue and that each state's language is different. The way the state treats this question is not really a question of parity but of interpreting the language in our state statute.

Mr. Byrd stated that as a Board if we want to grow our members in the state, we will need to be able to add larger institutions on the credit union side that could help grow the base. What other states are doing needs to be considered to compete on a federal level.

Mr. Ham asked if Senator Davis contacted the Commissioner's office as they begin drafting this legislation. Commissioner Green said that he had not heard from Senator Davis or his staff. He said that he reaches out and tries to keep in contact with staffers for the division's major committees. The Commissioner stated that he has shared areas of concern and consideration when decisions are made.

Representative Sandifer, Chairman of the House Labor, Commerce and Industry (LCI) Committee introduced House Bill 3760 which relates to remote participation in shareholder

meetings. South Carolina is one of only two states that do not specifically allow for remote shareholder meetings. This has been an issue of interest during the pandemic for the industry, and particularly for credit unions. The Attorney General's Office issued an opinion that addresses nonprofits, and states that if they addressed it in their articles and bylaws, could hold member meetings. There has not been a directly similar opinion regarding for profits such as banks. The statutes for nonprofits and for profits appear to be similar. One State bank has requested an opinion from the Attorney General's Office, but the division has not seen a response to this yet.

***Chairman Ham stated that the next committee meeting is scheduled for Thursday, May 27, 2021.***

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