

INTERIM JOINT COMMITTEE ON BANKING AND INSURANCE

Minutes of the 4th Meeting of the 2022 Interim

October 18, 2022

Call to Order and Roll Call

The 4th meeting of the Interim Joint Committee on Banking and Insurance was held on Tuesday, October 18, 2022, at 10:00 AM, in Room 149 of the Capitol Annex. Senator Jared Carpenter, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Jared Carpenter, Co-Chair; Representative Bart Rowland, Co-Chair; Senators Ralph Alvarado, Donald Douglas, Rick Girdler, Jason Howell, Morgan McGarvey, and John Schickel; Representatives Danny Bentley, Joseph M. Fischer, Patrick Flannery, Deanna Frazier Gordon, Jim Gooch Jr., Angie Hatton, Norma Kirk-McCormick, Adam Koenig, Derek Lewis, Matt Lockett, Shawn McPherson, Michael Meredith, Michael Sarge Pollock, Rachel Roberts, Tom Smith, and Cherlynn Stevenson.

Guests: Justin Malcolm Burse, Deputy Commissioner, Department of Financial Institutions; Sharon Clark, Commissioner, Department of Insurance; Tara Purvis, President and CEO, Big I Kentucky; Wes Bissett, Senior Counsel, Government Affairs for IIABA; Mark Treesh, Executive Director, Insurance Institute of Kentucky; and Chris Nolan, Government Affairs Consultant, Insurance Institute of Kentucky.

LRC Staff: Jessica Sharpe, Breanna Patterson, and Elizabeth Hardy.

Approval of September 20, 2022, Minutes

Representative Lockett moved to approve the September 20, 2022, minutes, Senator Douglas seconded the motion, and the minutes were approved by unanimous voice vote.

Department of Financial Institutions Update

Deputy Commissioner Justin Malcolm Burse, Department of Financial Institutions, discussed the economy, departmental updates, a cryptocurrency case study, and a potential reorganization of the department.

Inflation affects industries regulated in each division of the department. Deputy Commissioner Burse discussed the US Treasury yield and its use in predicting economic conditions. Community bankers do not have a positive outlook for the banking community based on the community bank sentiment index of 84, the lowest rank ever for the index.

The number of state-chartered banks has decreased because of bank mergers. For the first time in department history, the number of banks with assets over \$1 billion exceeds the number of banks with assets under \$100 million. Overall, the department is regulating more complex and bigger institutions. Deputy Commissioner Burse provided information relating to bank loan volume, net interest margin, adjustable rate loan interest rates, and overall bank performance. Additionally, information was provided on credit union net worth ratio, net interest margin, and return on average assets.

Deputy Commissioner Burse provided updates on licensing in the non-depository division. There has been an increase in money transmitter licensees and a decrease in deferred deposit licensees. While there has been a large increase in mortgage loan originators, there are indicators that these licensees will be reduced by approximately 25 percent in 2023. Interest rates are the highest since 2007 and median home prices throughout the nation are declining. In the securities division, there has been growth for broker dealers and investment advisors.

Deputy Commissioner Burse discussed regulatory action the department took against Celsius, a company involved with cryptocurrency. The department identified certain cryptocurrency deposits with the company as securities, which are required to either be registered or have an exemption from registration. Due to the regulatory action taken, the department saved roughly \$15 million in Kentucky investor funds on the Celsius platform.

Lastly, the department wants to undergo a reorganization during the next legislative session. The reorganization would rename the non-depository division and set up a new division that focuses solely on information technology and cybersecurity.

In response to Senator Howell, Deputy Commissioner Burse explained that the reduction in state-chartered banks is due to several factors, including regulation and succession. Additionally, many banks had extra capital in 2020 and 2021 and were looking for merge partners. Senator Carpenter commented that the environment for smaller banks has been difficult and that the issue should be monitored.

Representative Meredith commented on the federal regulatory burden on smaller banks and noted that the median price decrease for new houses sold is likely less in Kentucky than nationally. Deputy Commissioner Burse stated that he would gather Kentucky-specific information. Senator Carpenter commented that Kentucky did not see as dramatic of a home price increase as the national level, so the current market slow down for prices should not be as dramatic.

Representative Meredith commented on the status of fixed rates and also stated that the decrease in mortgage loan originator licensing is to be expected because people are not refinancing anymore.

In response to Representative Smith, Deputy Commissioner Burse stated that he believes cryptocurrency is here to stay, but the question for regulators is where it belongs. He discussed cryptocurrency regulation in the areas of money transmission, banking, and securities. The department wants to ensure that cryptocurrency and related products are in an appropriate regulatory environment and on an even playing field.

Department of Insurance Update

Commissioner Sharon Clark, Department of Insurance, provided updates on the department and the Kentucky insurance market. The department issued a significant number of new certificates of authority for insurers, many of which are insurtech, resulting in a significant workload increase for the property and casualty division. The department does not want to stand in the way of innovators, but does want to ensure data privacy for insureds, which the new data privacy bill passed during the 2022 session will support.

Commissioner Clark discussed the insurance market, stating that health insurance rates increased, but the increases are lower in Kentucky than nationally. This is the seventeenth year in a row the workers' compensation rates decreased. Surface coal mining rates decreased, but underground coal mining rates increased. For insurance professionals, such as brokers and adjusters, licenses have increased 29 percent in the last two and half years, indicating that people want to do business in Kentucky.

Insurance fraud continues to be an issue, costing businesses and consumers \$308.6 billion a year, which is \$400 to \$700 for the average family. The department investigates insurance fraud and assists local jurisdictions with prosecution. Most cases end with a guilty plea, probation, and restitution. The trending types of fraud are associated with catastrophes, chiropractic complaints, roofing complaints of manmade damage, slip and fall, and workers' compensation. Last year, the department investigated 8,970 complaints and recovered over \$13 million.

Commissioner Clark discussed the department's storm response efforts. The department continues to make site visits and perform data research relating to the December 2021 Western Kentucky tornadoes. From the 12,443 claims made, the department only received 44 complaints, showing that insurance companies and agents really stepped up. The department has also been involved in the comprehensive automobile/motor vehicle claims resulting from the flooding in Eastern Kentucky. In addition to these big storms, many smaller storms have impacted Kentucky, which is resulting in rate increase filings.

Lastly, Commissioner Clark provided updates on the department's implementation of SB 140, HB 91, HB 370, and HB 474, passed during the 2022 Regular Session.

In response to Representative Rowland, Commissioner Clark stated that insurance fraud is currently an issue of enforcement and prosecution, but that criminals are innovative and fraud continues to be on a large scale, despite a decrease in numbers.

In response to Representative Hatton, Commissioner Clark explained that the National Association of Insurance Commissioners is working with the federal government on the National Flood Insurance Program. She noted that much of the area impacted in Eastern Kentucky was not considered to be in a flood plain. She also explained that she does not have the exact number of claims from the Eastern Kentucky floods because most insurance companies allow up to a year to file a claim.

Senator Carpenter commented that mortgage lenders generally require insurance on property in a flood plain.

Senator Girdler commented that he believes personal injury protection (PIP) is one of the biggest reasons for fraud and that most surrounding states have insurance that is less expensive. In response to Senator Girdler, Commissioner Clark explained that the department sees fraud involving staged automobile accidents in Jefferson County. Additionally, she explained the department's role in reviewing rate increase filings and that some rates may be increasing due to inflation.

Discussion of NCOIL Issues from Agent Perspective

Tara Purvis, President and CEO, Big I Kentucky, provided information about the work of Big I, the oldest and largest independent insurance agents' association in Kentucky, which includes education and advocacy. Big I supported the data security and rebate reform legislation from the 2022 session. It does not have a legislative agenda for the 2023 Regular Session, but future issues they would like to address are apprenticeship incentives and PIP reform.

Wes Bissett, Senior Counsel, Government Affairs for IIABA, highlighted and urged support of two pending National Council of Insurance Legislators (NCOIL) Model Acts. First, the Delivery Network Company Insurance Act, sponsored by Representative Rowland, would address a coverage gap by establishing insurance requirements for delivery network companies such as DoorDash, GrubHub, and UberEats. Second, the Insurance Underwriting Transparency Act, would bring transparency to the increasingly complex personal lines insurance underwriting and rating process.

Representative Rowland expressed gratitude to be part of insurance innovation legislation and thanked Mr. Bissett.

Insurance Institute of Kentucky Legislative Priorities

Chris Nolan and Mark Treesh discussed the Insurance Institute of Kentucky's (IIK) upcoming legislative agenda. IIK's number one priority is distracted driving. It's a safety

issue, and IIK supports the hands free legislation previously discussed before the committee, which constituents support. With respect to the proposed NCOIL Insurance Underwriting Transparency Act, IIK believes the legislation is not necessary for several reasons, but could support the model act if certain amendments were made. IIK also strongly opposes the third-party civil litigation funding legislation introduced last session and discussed during the interim. The legislation provides inadequate transparency and control over a problematic industry and discourages the settlement of lawsuits. Lastly, the IIK supports the proposed NCOIL Delivery Network Company Insurance Act and model legislation that would allow autonomous vehicles on Kentucky roadways, which could dramatically improve safety.

Senator Alvarado requested data to help inform tort reform efforts. In response to Senator Alvarado's suggestion about distracted driving, Mr. Treesh explained that there are applications that prevent cellphone use while driving, but there are potential issues with cellphone jamming. Mr. Nolan referenced legislation passed last session that allows insurers to incentivize the use of technology.

In response to Representative Smith, Mr. Treesh stated that their organization does not deal with health insurance.

There being no further business, the meeting was adjourned.