

# INTERIM JOINT COMMITTEE ON BANKING AND INSURANCE

## Minutes of the 2nd Meeting of the 2023 Interim

October 17, 2023

### Call to Order and Roll Call

The second meeting of the Interim Joint Committee on Banking and Insurance was held on October 17, 2023, at 9:30 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 Michael Meredith Co-Chair; Senators Donald Douglas, Rick Girdler, Jason Howell, Gerald A. Neal, John Schickel, Johnnie Turner, and David Yates; Representatives Robert Duvall, Jim Gooch Jr., Jacob Justice, Matt Lockett, Michael Sarge Pollock, Rachel Roarx, and Tom Smith.

Guests: Chris Nolan, Government Affairs, Insurance Institute of Kentucky; Lindsey McCutchan, Senior Director of State Government Relations, Nationwide Insurance; Kyle R. Hagerty, Vice President, Government Affairs & Compliance, Kentucky Credit Union League; Karen Harbin, President & CEO, Commonwealth Credit Union; and Mike Biagi, Partner, The Rotunda Group.

LRC Staff: Jessica Sharpe, Elizabeth Hardy, and Mariah Derringer-Lackey.

### Approval of August 01, 2023 Minutes

Representative Pollock moved to approve the August 1, 2023, minutes. Senator Douglas seconded the motion, and the minutes were approved by unanimous voice vote.

### Insurance Institute of Kentucky's legislative agenda

Mr. Nolan discussed the Insurance Institute of Kentucky's (IIK) legislative agenda. The first topic was legislation aimed at curbing auto glass fraud. Kentucky is a target because it is a non-deductible state for auto glass claims. Mr. McCutchan discussed legislation to require hands-free cell phone usage while driving. This is a highway safety measure and many surrounding states have hands-free laws. They also support eliminating gaps in insurance coverage for delivery network drivers and the National Conference of Insurance Legislators' (NCOIL's) Paid Family Leave Insurance Model Act, which authorizes a new line of insurance to provide paid family leave to employees. IIK does not support the effort to legalize litigation loans. Another topic was fortified "smart homes," which will help insurance companies to mitigate losses from extreme weather. Mr. Nolan next discussed 2022 legislation relating to settlements involving minors. IIK is working with stakeholders to address an issue involving banks being reluctant to set up blocked accounts for minors without a court order. Lastly, they requested an amendment to the recently-enacted medical cannabis legislation to add property and casualty insurance policies to the exemption that is provided for workers' compensation policies.

In response to Chairman Carpenter's question regarding the delivery network company legislation, Mr. Nolan stated that one of the issues last session was the fine tuning of definitions for when insurance coverage starts and stops. Regarding fortified smart homes, Senator Carpenter stated that a lot of the building code has changed dramatically to promote more

sound structures, which also contributes to price increases. Mr. McCutchen stated that NCOIL is looking at revisions to a model law that address some of the cost concerns with fortified smart homes and suggested that a tax rebate or grant program could be options. In response to Senator Carpenter's question regarding IIK's request for an amendment to the medical cannabis legislation, Mr. Nolan stated that he believes the thought process is that medical cannabis has not been approved by the federal Food and Drug Administration (FDA), but he will follow up.

In response to Senator Howell's question regarding the delivery network company legislation, Mr. Nolan stated that the legislation does not require the development of a platform or application. He explained that the legislation does not apply to employees of a business, who would be covered by the employer's insurance. Senator Howell stated that he is concerned about how small delivery companies will cover the insurance gap if they do not have an application. In response to Senator Howell's questions regarding litigation funding, Mr. McCutchan stated that most funding organizations have a rigorous case evaluation system and that he assumes, but cannot say for certain, that there are online litigation funding companies. Mr. Nolan stated that there is less concern about frivolous lawsuits and more concern about discouraging settlement. Senator Howell added that online consumer lending was a concern last session and requested that Mr. Nolan follow up on that topic with him at a later time.

Senator Girdler commented that drivers receiving a 1099 tax form would still be covered under the business policy. Many personal auto policies exclude commercial use, which results in a big issue for insurance companies trying to determine when use is personal and when it is commercial. In response to Senator Girdler's question about people in Florida committing auto glass fraud moving to Kentucky, Mr. Nolan explained that this is not the same group of people who did the same after Florida passed personal injury protection reform, but there is a similar effect with people exploiting assignments of benefits, which is now spilling over into Kentucky after additional reform legislation in Florida. He also stated that he believes there are more protections around property insurance in Kentucky.

Senator Yates stated that the General Assembly could create a rebuttable presumption as a starting point for determining coverage for delivery network drivers. Mr. Nolan stated that a clear delineation is needed for when the personal policy stops providing coverage and the commercial policy starts providing coverage. Regarding litigation funding, Senator Yates commented that he is concerned about the predatory nature of the loans and consumer protection. In response to his question about who are the borrowers, Mr. Nolan answered that it is not the attorney but the plaintiff in the case. Regarding fortified smart homes, Senator Yates agreed that a tax rebate or incentive could address cost concerns. Regarding settlements involving minors, Senator Yates stated that even with small settlements and powers of attorneys, banks worry about being brought into litigation or being subject to a fiduciary duty. Mr. Nolan responded that they are trying to collaborate with banks to figure out how to amend the statute for better understanding. Regarding medical cannabis, Senator Yates stated that the Administrative Regulations Subcommittee has set up meetings with the Cannabis Council to look at best practices all over the country. In the event medical cannabis becomes a prescribed medication, Senator Yates confirmed that it was not the intent to lay groundwork for it to not be covered, as it would be a better alternative to drugs like Xanax and Klonopin.

In response to Representative Gooch, Senator Yates explained that minor settlements approved by the court cannot be relitigated once that person is no longer a minor.

Senator Turner commented on the problems with not having a court order to release minor funds. Mr. Nolan stated that they are trying to work through the issue of a bank requiring a court order to release settlement funds when the case is settled without a court order. Senator Turner further stated that the medical cannabis legislation provides for research to continue until 2025. The General Assembly did not legalize cannabis and has the right to amend the medical cannabis statutes as research continues.

In response to Representative Lockett, Mr. Nolan explained that banks are reluctant to open minor settlement accounts because of liability issues as well as a possible education issue. He did not know whether using a Uniform Gift to Minors account would achieve the same result.

In response to Senator Neal, Mr. McCutchan stated that the basis for the medical cannabis exemption request is to avoid the creation of potentially unsafe situations resulting from the use of cannabis and potential liability. Mr. Nolan added that because cannabis is not prescribed by a physician, insurance companies should not have to pay for a choice to utilize a non-traditional remedy.

Senator Douglas explained that the FDA has not approved the use medical cannabis for any medical conditions and insurance companies are not required to pay for things that are not FDA-approved. Mr. Nolan added that the medical cannabis legislation passed during the 2023 session does not require workers' compensation insurance policies to cover medical cannabis use.

#### **Update on Kentucky credit unions and their role in the current economy**

Mr. Hagerty introduced Kentucky Credit Union League's (KCUL's) new president and CEO and discussed how credit unions, which are not-for-profit, member-owned financial cooperatives, are healthy, safe, and rewarding financial partners for both their member-owners and the communities at large. Credit unions are not at risk for the types of failures that occurred in the banking industry. Over 90 percent of credit union deposits systemwide are fully insured. In 2021, credit unions delivered \$1.06 billion in total positive economic impact for Kentucky and generated over \$97 million in financial benefits that were directly returned to members. Credit unions have been working to serve more rural communities. He also discussed the steps credit unions took during the pandemic and more recently to help their members, including supporting and funding financial literacy education.

Ms. Harbin stated that Commonwealth Credit Union (CCU) was established in 1951 and was opened with the purpose of serving state employees but has since expanded its field of membership like most credit unions. CCU has about \$2.2 billion in assets, 350 employees, 17 branches across Kentucky, and a volunteer board of directors. Credit unions serve about 138 million consumers nationally, but make up less than 10 percent of the market share. The majority of credit unions are small institutions with limited resources. Ms. Harbin discussed adding an underserved community to CCU's membership, helping their members during recent emergencies, helpful products and services that CCU offers, and CCU's participation in financial education and financial literacy.

In response to Chairman Carpenter, Ms. Harbin explained that higher interest rates have depressed CCU's profit margin and deposits and they have to reprice deposits more than they do loans. CCU's high capital helps in withstanding the impact. Chairman Carpenter commented that the cost of living has increased and the market has slowed.

In response to Representative Duvall, Ms. Harbin stated that the Financial Empowerment Commission deployed CCU's portal in up to 25 high schools. Additionally, financially trained employees go to the high schools to assist teachers, participate in community groups, and visit middle and elementary schools.

Senator Schickel commented on the important role that credit unions play in our communities and was thankful for the role they played in his life.

In response to Representative Smith, Mr. Hagerty stated that cryptocurrency is prominent in discussions within credit unions. Representative Smith stated that the General Assembly should look into regulating cryptocurrency automated teller machines (ATMs). Mr. Hagerty stated that credit unions are aware of the cashflows going in and out of cryptocurrency coin bases, but in terms of credit unions being the depositories for cryptocurrency or treating cryptocurrency as an asset for loans, there will need to be a more robust framework. Ms. Harbin explained that CCU is researching cryptocurrency but is waiting for government regulation before taking action. She stated that some funds are leaving her credit union and going into cryptocurrency. Representative Smith stated that he would like to hear ideas from KCUL prior to session as this is a rapidly evolving issue.

Representative Meredith agreed that there needs to be some type of regulation of cryptocurrency ATMs. He also commented that regulators generally want to look at cash flows as a basis for lending and not assets or liabilities. Most financial institutions are probably not taking variable, moving target assets, like cryptocurrency, as collateral for loans, but are focusing more on hard assets, like property and vehicles.

### **Adjournment**

Chairman Carpenter announced the next Interim Joint Committee on Banking and Insurance meeting will be held on November 1, 2023. There being no further business before the committee, the meeting adjourned at 10:46 a.m.