

FINANCIAL INSTITUTIONS COMMITTEE

Report Prepared for the May 6, 2011 Council Meeting

1. Next Scheduled Meeting of the Committee

The next meeting is being scheduled.

2. Council Approval

None.

3. Membership

The Committee has approximately 75 members. A detailed agenda for each meeting is sent to each member of the Committee.

We regularly request that Committee members identify women or minority attorneys who might be interested in joining the Committee.

4. Accomplishments Toward Committee Objectives

The primary Committee objective is to provide to members information on statutory, regulatory and judicial developments that affect financial institutions. This objective is accomplished primarily by periodic Committee meetings.

The most recent meeting was held on March 30, 2011 at the offices of The State Bar in Lansing. Twelve members were in attendance.

5. Following are highlights of the report of Hon. Kenneth M. Ross, Commissioner of the Office of Financial and Insurance Regulation:

- Personnel changes:
 - Steve Hilfinger is the new Director of the Department of Licensing and Regulatory Affairs ("DLRA").
 - Diane Bissell will be the new head of the Securities Bureau
 - Peggy Bryson, Roger Little and John Schoonmaker have retired
 - Randy Gregg is the new General Counsel of DLRA
- The banking industry in Michigan is holding its own in a difficult period. The rate of increase in problem loans has slowed.
- Legislation

- OFIR may seek legislation in the mortgage area. For example, it may seek to combine the statutes governing first and second mortgage loans and their regulation.
 - OFIR may also seek to amend the statutes that govern receiverships. The statutory language does not work well, and the fee structure is not right.
 - The Commissioner distributed a six-page Table of Statutes that lists all of the Michigan statutes that OFIR implements directly or refers to as it implements other laws.
6. Dick Lavolette, General Counsel and Director of Legal and Regulatory Affairs of the Michigan Bankers Association, described the MBA's position on a number of recently-enacted statutes and proposed legislation.
- He distributed to the attendees the MBA's 2009-2010 Legislative Report, which described legislation reviewed and monitored by the MBA and its committees.
 - Dick discussed the implications of reapportionment. He noted that Michigan currently has 15 Congressional seats, of which 10 are Republican and 5 are Democrat. Michigan will likely lose one of these seats.
 - Dick also discussed the tax bills pending in the Michigan Legislature and their implications for Michigan banks.
 - Dick pointed out that the mortgage moratorium bill sunsets this coming summer. There are two options for dealing with this:
 - Extend it for a couple of years and end the exemption for parcels having three or more acres. (MBA favors this option.)
 - Eliminate the redemption period, but have full-blown hearings on mortgage foreclosures.
 - MBA is following a bill that would amend the Revised Judicature Act to increase the jurisdiction of the small claims court from \$3,000 to \$10,000.
7. Mike Defors, Director of Regulatory and Legal Affairs of the Michigan Credit Union League and Veronica Madsen, General Counsel of the League, distributed and discussed a "State and Federal Legislative Issues Update." They also reported on the extensive servicing requirements that are being promoted by all 50 attorneys general, as part of the settlement of a lawsuit against the top five mortgage servicers.
8. Jim Breay reported on highlights of the new amendments to Article 9 of the Uniform Commercial Code that have been officially recommended by the American Law Institute and the National Conference of Commissioners on Uniform State laws. He noted that the

amendments have not been adopted in Michigan or in any other state. When adopted, they will be effective July 1, 2013.

The amendments contain two alternatives with regard to perfection of a security interest where the debtor is an individual. Under Alternative A, the only name to use is the name shown on an unexpired driver's license. Under Alternative B, the secured party may use any of the following:

- The individual name of the debtor.
- The surname and first personal name of the debtor.
- The name shown on an unexpired driver's license.

He noted that the American Bankers Association has endorsed Alternative A.

9. Jim Breay also reported on an apparently unintended and undesirable effect of the Dodd-Frank Act on the validity of balloon loans under the Michigan Consumer Mortgage Protection Act, effective July 1, 2011. He distributed a memorandum explaining the situation. Dick Lavolette reported that the Michigan Bankers Association is seeking an amendment to the Consumer Mortgage Protection Act to fix the problem.
10. Rodney Martin reported on developments in fair lending enforcement, including increased enforcement by the Department of Justice and provisions of Dodd-Frank that will lead to increased enforcement. He distributed a memorandum on the topic.
11. Jim Breay distributed a pending litigation report from the Office of the General Counsel of the American Bankers Association entitled "ABA's Status of Important Banking Cases." He also distributed a report from the ABA on the status of selected uniform laws that are of interest to the banking industry and that are in various stages of development.

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