

MINUTES  
**HOUSE BUSINESS COMMITTEE**

**DATE:** Thursday, February 09, 2012

**TIME:** 1:30 P.M.

**PLACE:** Room EW41

**MEMBERS:** Chairman Black, Vice Chairman Henderson, Representative(s) Collins, Bilbao, Chadderdon, Crane, Patrick, Bayer, Palmer, Thompson, Barbieri, DeMordaunt, Guthrie, Batt, Smith(30), Rusche, Cronin

**ABSENT/  
EXCUSED:** Rep. Cronin

**GUESTS:** Justin Lee, National Elevator Industry, Inc.; Steve Keys, Division of Building Safety; Cindy Hedge, Idaho AFL-CIO; John Eaton, Idaho Association of Realtors; Pam Eaton, Idaho Retailers Association and Idaho Lodging & Restaurant Association; Miguel Legarreta, Ada County Association of Realtors

**Chairman Black** called the meeting to order at 1:35 p.m.

**MOTION:** **Rep. Bilbao** made a motion to approve the minutes of February 7. **Motion carried by voice vote.**

**S 20932:** **Rep. Pete Nielsen** presented **RS 20932**. He explained that current law requires a taxing district to deposit its funds at a financial institution within the boundaries of the district. Sometimes small districts, such as a recreational district, build up enough funds that the total exceeds the \$250,000 amount that will be guaranteed by FDIC insurance. This legislation will allow a district in that situation to deposit funds in any institution within its county. Further, if the county is limited in its choice of financial institutions, the district can deposit funds in an institution within the state of Idaho.

**MOTION:** **Rep. DeMordaunt** made a motion to print **RS 20932**. **Motion carried by voice vote.**

**Brett DeLange**, Chief of the Consumer Protection Division, Attorney General's Office, presented information on the \$25 billion National Mortgage Foreclosure Settlement announced earlier today. This settlement, which follows an 18-month investigation, involves five large banks, Bank of America, Ally, J.P. Morgan Chase, Wells Fargo and Citibank. Together these five banks service half of all mortgages in the United States.

**Mr. DeLange** said Idaho has been dealing with the mortgage crisis for a number of years. He said the most frequent complaints lodged with the AG's office since he started working there in 1990 involved telemarketers. This, however, changed in 2009, when for the first time mortgage complaints took over the number one spot. These complaints first started because of the practice of "robo-signing" which involves an affidavit being signed but not properly witnessed. Soon, those investigations grew to involve other complaints as well, usually from people who were having great difficulty saving their homes because they were given conflicting, inadequate, or inaccurate information by the lending institutions. Mr. DeLange said consumers can generally make good, informed decisions if they are given the facts.

The multi-state settlement consists of two parts, namely: 1) It will dramatically change how mortgage foreclosures are handled in the United States and Idaho because important new standards will be in place. Consumers will get timely and accurate information and will know their best options. 2) The settlement provides significant financial benefits. Idaho will receive \$113,000,000, providing financial compensation to both homeowners and the state. Eligible borrowers will receive

\$74,000,000 in loan modifications and other direct relief. **Mr. DeLange** said there are about 5,000 Idaho families who have lost their homes because they were foreclosed upon inappropriately; each of them will receive a check for about \$2,000. An estimated \$15,000,000 will allow underwater borrowers to refinance to lower interest rates. Mr. DeLange said the State of Idaho will receive \$13,000,000, which will arrive in the current fiscal year. The Legislature will decide how this money will be spent.

**Mr. DeLange** said financial benefits will not be available to every homeowner in Idaho, but only those whose mortgages are owned by one of the five banks. The settlement does not prevent homeowners or investors from pursuing individual, institutional or class action civil cases and does not grant the banks immunity from criminal prosecution. He provided the committee with copies of the Attorney General's news release, a summary of the settlement terms, and a chart illustrating the amounts being paid out under the settlement. He said the AG's website will have information available online to assist borrowers in determining whether they are eligible for relief, and said his department has retained a housing specialist to help Idaho's citizens navigate through the process. He credited the banks for their attempt to solve some of the problems underlying the mortgage crisis.

Responding to committee questions, **Mr. DeLange** said homeowners who are upside down on their mortgages may have an opportunity to get an interest rate reduction. He said the Attorney General is still in communication with other lenders besides these five banks. Asked about the Mortgage Electronic Registration System (MERS) issue, Mr. DeLange said the use of MERS often makes it difficult for homeowners to learn who the actual note holder is. He said although the banks wanted this issue dismissed, the states decided not to do so. Therefore, further challenges or further action on the MERS issue is not precluded.

During further committee discussion and questions, **Mr. DeLange** said an estimated 20% of mortgage loans in Idaho are owned by the five banks involved in the settlement. He said the settlement does not affect the banks' requirement to pay back any bailout dollars they may have received. He also noted that no taxpayer funds are being used to fund the settlement. He confirmed that most foreclosure problems dealt with by his office are deeds of trust, because the majority of mortgages are actually deeds of trust.

In conclusion, **Mr. DeLange** said his office is ready to make suggestions to the Legislature on possible ways to use the settlement money to aid Idahoans during these difficult economic times. He stated there are good financial counseling programs that work well, and some of them are losing federal funding so they could benefit from state funds.

**Chairman Black** thanked Mr. DeLange for the informational presentation. He also noted the additional handouts provided by Mike Larsen, Department of Finance, who is available to answer any further questions from the committee.

**RS 21207:** **Ed Lodge**, representing CenturyLink, stated with regard to **RS 21207**, scheduled for an introduction hearing on today's agenda, that he was exploring the possibility of meeting with the Idaho Association of Cities and representatives of the cable television industry to work out compromise legislation. Therefore, he asked that **RS 21207**, or its replacement, be scheduled for the committee's next meeting. Hearing no objection, **Chairman Black** agreed to reschedule the hearing on Mr. Lodge's legislation.

**H 469:** **Rep. Guthrie** presented **H 469**. He testified that when the Elevator Safety Code Act was passed in 2004, it may have been an oversight to leave out grandfathering provisions for older elevators. As a result, building owners face expensive upgrades in order to bring their elevators up to the standards contained in the safety code.

Rep. Guthrie mentioned that he had worked with Steve Keys, Division of Building Safety, in developing this legislation.

**Rep. Guthrie** briefly reviewed the provisions of **H 469**, which specifies that elevators will be required to meet the safety standards applicable when the car was commissioned. He noted that the exemptions listed in the bill are not all-inclusive; for instance, no exemption is made for non-privately-owned businesses. If the building is undergoing extensive remodeling to meet requirements of the Americans with Disabilities Act, it is not exempt. Rep. Guthrie noted this legislation could help with economic development in older downtown areas where buildings often have older elevators that would be too expensive to upgrade.

**Austin Lee**, representing the National Elevator Industry, Inc., testified in **opposition to H 469**. He said that, although on the surface the bill appears to save building owners a lot of money, 90% of all elevators in the state of Idaho have already been certified by the state. Of the remaining 10%, only a small number of them would fall under the criteria of this bill. Mr. Lee said the majority of all elevators already have the fire service operation, which sends the elevator to the first floor and renders it inoperable. Without this safety feature, the elevator occupants could go to any floor and be endangered by fire on that floor. Mr. Lee also said the \$5,000 limitation will not affect very many elevators.

Asked how much it would cost to retrofit an elevator with the fire service operation, **Mr. Lee** said it depends upon a number of factors. If installed in a 1940s-era elevator, the cost would be about \$25,000; if in a more modern elevator, the cost would be about half of that. He said he is fairly certain that all downtown elevators already have the fire service operation. Mr. Lee said in the case of a fire on the first floor, the fire service operation would send the elevator up to the second or third floor and would allow passengers to get out. Elevators in taller buildings are required to have Phase 2 safety equipment, which allows fire personnel to use the elevator to evacuate the building.

In response to further questions from the committee, **Mr. Lee** said this is the first he has heard of a state trying to adopt this kind of legislation. He said it is his opinion that if the bill passes, building owners should be required to put signs up telling them about the lack of safety features. Asked how often such a fire safety feature may have been called upon to function in Idaho in the last five years, Mr. Lee said he does not have those figures. He noted a recent incident of a death in Chicago on January 9, 2012, which was directly related to the elevator not having fire service operation. It was pointed out that this bill does not preclude a building owner from installing this safety equipment if they so choose. Mr. Lee agreed but said it also does not require signage alerting passengers if the building owner chooses not to install it. Mr. Lee reiterated that 90% of elevators already have been certified and already have the safety feature. He said of the remaining 10%, only a small number would be affected by this bill, based on their height and the year of installation.

**John Eaton**, Government Affairs Director for the Idaho Association of Realtors, testified in **support of H 469**. He said he had reviewed the legislation and discussed it with the Association's members. Mr. Eaton noted that some members expressed real excitement about this bill, since often economic development projects are stalled because the expense of upgrading buildings with old elevators makes it difficult to attract investment in the properties.

Asked whether there was any concern on the part of landlords in terms of either insurance or resale, due to having conveyances that are not up to code, **Mr. Eaton** said as they exist now, the elevators are meeting current code; H 469 will allow them to continue doing so.

**Pam Eaton**, President of the Idaho Retailers Association and the Idaho Restaurant and Lodging Association, testified that both groups support **H 469**. She agreed that this bill will provide economic support for businesses and said there are just a few older buildings that are not already up to code.

**Rep. Guthrie** was asked whether there are other entities besides the Merrill & Merrill law firm that will be affected by this bill. He said there are several other buildings that would fall within the exemption. He said he did contact them and they are supportive of the legislation.

**Rep. Guthrie** was recognized to close his testimony on **H 469**. With regard to Mr. Lee's comments about the fire service operation returning the elevator to the first or second floors, Rep. Guthrie pointed out that those floors could still be on fire. He noted that federally-owned buildings are already exempted; the federal standards may be more or less than Idaho's standards. Schools will not receive this exemption; it is intended only for private entities. Rep. Guthrie repeated his thought that older elevators should be grandfathered, which would recognize the difficulty and expense of retrofitting older elevators in older buildings.

**MOTION:** **Rep. Palmer** made a motion to send **H 469** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Rep. Rusche** requested that he be recorded as voting **NAY**. **Rep. Guthrie** will sponsor the bill on the floor.

**H 407:** **Steve Keys**, Deputy Director of the Division of Building Safety, presented **H 407**. Mr. Keys said this legislation recognizes the reorganization of the operating structure within the Division of Building Safety. First, it replaces language designating a bureau chief as the executive director of the Idaho Building Code Board, stipulating instead that the Division will designate a non-classified employee to serve in that role. Also, the reference to bureau chiefs is changed to regional managers.

**MOTION:** **Rep. Rusche** made a motion to send **H 407** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Rep. Rusche** will sponsor the bill on the floor.

**H 408:** **Steve Keys**, Deputy Director of the Division of Building Safety, presented **H 408**. He said this bill adds a statutory provision requiring the members of the Idaho Electrical Board to elect a vice-chairman in addition to the previously required chairman. The intent is that the vice-chairman will be able to act as chairman when the chairman is not able to attend a meeting.

**MOTION:** **Rep. Chadderdon** made a motion to send **H 408** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Rep. Chadderdon** will sponsor the bill on the floor.

**H 409:** **Steve Keys**, Deputy Director of the Division of Building Safety, presented **H 409**. He said this legislation changes the basis of remuneration for attendance at meetings of the Building Code Board and the Public Works Contractor License Board. It changes the remuneration from a \$50 per day salary to a \$50 per day honorarium. This addresses an issue where PERSI participation has restricted board members' ability to participate in individual retirement programs and has resulted in unintended tax liability for some board members when their contributions to retirement accounts were disallowed.

Asked how many remaining boards are faced with this same issue, **Mr. Keys** said the Plumbing Board still pays its members a salary, but they have opted not to change their method of remuneration.

**MOTION:** **Rep. Smith** made a motion to send **H 409** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Rep. Smith** will sponsor the bill on the floor.

**ADJOURN:** There being no further business to come before the committee, the meeting was adjourned at 2:35 p.m.

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Representative Max C. Black  
Chairman

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MaryLou Molitor  
Secretary