

MINUTES
HOUSE BUSINESS COMMITTEE

DATE: Thursday, March 01, 2012
TIME: 1:30 PM or Upon Adjournment
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. Henderson
GUESTS: Jim Trent and Lisa M. Brown, State Farm Insurance; Phil Barber, The American Insurance Association; MiChell Bird and Jeanne Jackson-Heim, Real Estate Commission; John Eaton, Idaho Association of Realtors

Chairman Black called the meeting to order at 2:32 p.m.

S 1268: **Lyn Darrington**, representing State Farm Insurance, presented **S 1268**, which addresses statutory caps for auto insurance deductibles. Ms. Darrington gave some historical background, saying this law was first passed in 1969. She noted that Idaho is the only state in the union with a law like this. Idaho is a non-cancellation state, which means insurance companies cannot cancel insurance coverage even for customers who present multiple comprehensive or collision damage claims each year; there are some exceptions such as for customers with DUI charges. Originally the law prohibited an insurer from requiring a deductible of more than \$100 as a condition of continuing coverage. Given the non-cancellation provisions, Idaho limits the insurer's ability to suggest that customers move to higher deductibles. This section provides an insurer with the ability to ensure that a customer will pay at least the first dollars of loss out of his or her own pocket. It allows an insurer to condition the renewal of a policy to the customer's acceptance of a higher deductible, but the required deductible cannot be higher than the statutory cap unless the customer accepts a higher amount.

Ms. Darrington said the \$100 cap was increased to \$150 in 1991; this legislation will increase the \$150 cap for comprehensive coverage to \$250 and will increase the \$250 cap for collision to \$500. She stated these amounts are consistent with the increase in the Consumer Price Index over the past 20 years. Ms. Darrington said raising the caps will allow insurance companies to more accurately price the cost of insurance, which results in lower rates for policy holders. If a company cannot end its relationship with an insured, other policy holders are required to subsidize the claims cost from those high-utilization customers.

Pointing out that Idaho is the only state in the union with this kind of law, **Ms. Darrington** said her client would like to see the non-cancellation policy disappear. Since most customers have higher deductible policies, this law applies only to those individuals who have a \$150 comprehensive or a \$300 collision policy. This is a very small pool. Ms. Darrington said she is not aware of any opposition to this legislation. She also noted that The American Insurance Association is supportive, as are Allstate Insurance, Farm Bureau Insurance, and American Family Insurance.

Responding to committee questions, **Ms. Darrington** said there is no maximum allowable premium price for insurance coverage. This legislation does not speak to premiums but only to deductible amounts. Premiums can be affected by factors such as credit scoring, infractions and tickets, and underwriting. She stated that,

unlike health insurance, auto insurance premiums can be raised on an individual rather than an entire class of individuals.

MOTION: **Rep. Patrick** made a motion to send **S 1268** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Rep. Thompson** will sponsor the bill on the floor.

S 1225: **Jeanne Jackson-Heim**, Executive Director of the Real Estate Commission, presented **S 1225**. She said this bill increases the statutory cap for the real estate license exam fee from \$100 to \$150; the present exam fee is \$85. Ms. Jackson-Heim explained that the Commission contracts with an outside company to provide examinations; their existing contract expires in November. The Commission is concerned that the next bids receives for exam services could exceed the \$100 cap, leaving the Commission with no qualified exam administrator. She said the Commission does not receive any portion of the exam fee; applicants pay the fees directly to the provider. Applicants are not required to take an exam once they are licensed, so this is not an ongoing expense for licensees.

Responding to questions, **Ms. Jackson-Heim** said the exam fees have steadily increased since she has been at the Commission, beginning at \$65 and rising to \$85 now. She said there are only three or four qualified exam providers; if none of those can provide an exam for less than \$100, the Commission will be left without a qualified exam provider. She said she does not think the lower cap would provide a negotiating tool to receive lower bids. Ms. Jackson-Heim said the providers also provide testing facilities, staff to administer the exams, and electronic fingerprinting at exam facilities. She said if the reputable companies will not provide an exam for less than the cap, the Commission may end up with a less-than-reputable company to provide fee. The Commission is not equipped to develop and administer the exams in-house.

Ms. Jackson-Heim was asked to provide further information about the historical rate of exam fees. She said she does not know how long the \$100 cap has been in statute, but thinks it has been at that level for at least eight or nine years. She said exam providers have an incentive to keep their costs low because they are bidding against other providers. She stated she is loathe to return every two or three years to ask for an increase in the cap, so the Commission decided to ask for the \$150 cap. She testified there are three or four major players in the provider pool and said other providers might be more inclined to submit a bid if the cap were higher.

Ms. Jackson-Heim was asked whether the realtors support raising the cap, and she responded that they do. She said the Commission asked for a four-year bid last time, and the exam fee was set at \$75 for the first two years and \$85 for the second two years. The current contract expires in November 2012. Ms. Jackson-Heim said there are 50 to 60 new applicants for licensure every month; she estimates there may be as many as 1,200 exam sittings per year, since some applicants do not pass the first time and must re-take the exam. Asked whether exam providers have to meet some kind of national standard, Ms. Jackson-Heim said the Commission requires at a minimum that the exam be certified by a licensing body, but all laws vary from state to state, as do exam providers.

John Eaton, Government Affairs Director for the Idaho Association of Realtors, testified **in support of S 1225**. Saying he thinks it is vital to the continuance of a good real estate environment in the state, Mr. Eaton said these tests are important to generating quality real estate agents in Idaho. The Association board voted to support this bill, as well as the remaining three bills from the Commission. He said they are concerned about not having a quality licensing entity that can test for under the \$100 level. He stated it would cost the Commission many more times that amount to provide the test in-house, and the additional expense would result in an

increased license fee. Mr. Eaton said his association has 6,000 members, down from 9,000 members just a few years ago. This is a reflection of the downturn in the real estate market.

Rep. Collins was recognized to answer a question about whether examination fees for insurance producers also are capped; he responded that they are.

MOTION:

Rep. DeMordaunt made a motion to send **S 1225** to the floor with a **DO PASS** recommendation. He noted that his preference would be for this cap amount to be lifted in order to allow competitive bidding to determine the amount. In that way, the best price would be reached and the Commission would not have to return to the Legislature to raise the cap every few years. **Rep. Barbieri** argued in opposition to the motion, saying he would prefer to leave the cap at \$100 and have the Commission request next year that it be abolished. **Rep. Collins** suggested the reason agencies have to come back to get the caps increased is because the Legislature thinks it needs to micromanage. **Rep. Crane** said he will not support the motion because he sees this as creating a barrier to entry for real estate licensees. There is no incentive to keep exam fees low; instead, this bill represents a government-mandated 50% increase.

**ROLL CALL
VOTE:**

A roll call vote was requested on the motion. **Motion passed by a vote of 11 AYE and 5 NAY, with 1 absent and excused. Voting in favor of the motion: Reps. Collins, Chadderdon, Patrick, Bayer, Thompson, DeMordaunt, Guthrie, Smith (30), Rusche, Cronin and Black. Voting in opposition to the motion: Reps. Bilbao, Crane, Palmer, Barbieri, and Batt. Rep. Henderson was absent and excused. Rep. DeMordaunt** will sponsor the bill on the floor.

S 1226:

Jeanne Jackson-Heim, Executive Director of the Real Estate Commission, presented **S 1226**, which increases the statutory cap for the required errors and omissions (E&O) insurance premiums from \$200 to \$250 per year. Ms. Jackson-Heim explained that real estate licensees are required to carry E&O insurance and the Commission contracts with a company to provide a group policy. The Commission is in the last year of a three-year contract with the present insurance provider; the premium currently is \$186 per year. She said the insurance company must cover everyone in the group and no one can be charged a disparate premium fee. Since the Commission will be going to bid in the near future, the Commission would like to raise the cap to \$250. Again, the Commission does not receive any portion of the premiums paid by licensees.

Responding to committee questions, **Ms. Jackson-Heim** said about 25% of their licensees buy E&O insurance on their own rather than participating in the group policy. Individual coverage must meet the same minimum requirements and be reasonably equivalent to the group coverage. **Chairman Black** related that during his insurance career he wrote E&O policies, but at some point the realtors came together and developed the existing policy requirements. As a result, the rates stabilized, leading most licensees to purchase their E&O insurance through the group. **Ms. Jackson-Heim** explained that companies providing the insurance must have an AM Best rating of B+ or higher, must be qualified to write this type of insurance, and cannot cancel a policy for any licensee other than for nonpayment of premium. In addition, the policy must cover all activities contemplated for a licensee. The policy offers \$100,000 liability coverage with an aggregate of \$300,000. The deductible must not exceed \$3,500 per year. The premium for this coverage has been \$186 per year for the past three years.

Ms. Jackson-Heim was asked whether she anticipated a significant increase in claims because of the increasing problems in the real estate market, including foreclosures, malfeasance on the part of developers, and other problems. She said she has claims information for the past 11 years; the five most frequent claims

are negligence, fraud, breach of fiduciary duty, breach of contract, and earnest or escrow money disputes.

John Eaton, Government Affairs Director for the Idaho Association of Realtors, was recognized to respond to a question about repealing the caps and letting free-market forces decide the rates. Mr. Eaton said his Board had discussed this option, but the Board preferred having the cap in place because it does create a downward pressure on insurance providers. He also noted that if the \$200 cap is exceeded, the requirement to carry E&O insurance goes away. He expressed willingness to work with legislators on this issue and said he would take the discussion back to his Board for further consideration.

Answering further questions, **Ms. Jackson-Heim** said the last time the Commission asked for bids on insurance there were three companies who submitted bids. She said it is a fairly specialized market, with companies specializing in writing insurance for states that have mandatory E&O programs.

MOTION: **Rep. Rusche** made a motion to send **S 1226** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Rep. Rusche** will sponsor the bill on the floor.

S 1227: **Michelle Bird**, Director of Education and Licensing at the Real Estate Commission, presented **S 1227**. Ms. Bird said S 1227 deals with continuing education requirements for real estate licensees. She said Idaho Code permits some courses taken in other jurisdictions or for other professions to satisfy Idaho's continuing education requirement. This legislation adds language to clarify that in order for those courses to be accepted for real estate credit, they must be somewhat equivalent to Idaho-certified courses by meeting the same minimum requirements as a course certified by the Commission.

Responding to a committee question, **Ms. Bird** said the law gives people who take courses in other states or who are accredited for other professions to submit their continuing education courses to the Commission for consideration. If the courses meet the Commission's certification standards, they can be accepted as CE credits in Idaho.

MOTION: **Rep. Smith** made a motion to send **S 1227** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Rep. Smith** will sponsor the bill on the floor.

S 1228: **Jeanne Jackson-Heim**, Executive Director of the Real Estate Commission, presented **S 1228**, which deletes two obsolete references left over from previous law changes. Ms. Jackson-Heim said in the first instance the section of law pertaining to applicants with license revocations was moved to its own section. In the second instance, the reference to subagents was overlooked when the brokerage representation act was passed more than ten years ago.

MOTION: **Rep. Guthrie** made a motion to send **S 1228** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Rep. Collins** will sponsor the bill on the floor.

ADJOURN: There being no further business to come before the committee, the meeting was adjourned at 3:28 p.m.

Representative Max C. Black
Chairman

MaryLou Molitor
Secretary