

ONE HUNDRED THIRD LEGISLATURE - FIRST SESSION - 2013
COMMITTEE STATEMENT
LB337

Hearing Date: Monday February 04, 2013
Committee On: Banking, Commerce and Insurance
Introducer: Schumacher
One Liner: Change provisions relating to the Nebraska Insurers Supervision, Rehabilitation, and Liquidation Act

Roll Call Vote - Final Committee Action:

Advanced to General File with amendment(s)

Vote Results:

Aye: 8 Senators Campbell, Carlson, Christensen, Crawford, Gloor, Howard, Pirsch, Schumacher

Nay:

Absent:

Present Not Voting:

Proponents:

Senator Paul Schumacher
Sonia Betsworth
Tad Kramar
Robert Lange

Representing:

Introducer
Federal Home Loan Bank of Topeka
Federal Home Loan Bank of Topeka
Ameritas Life Insurance Corp.

Opponents:

Bob Hallstrom

Representing:

NE Bankers Association

Neutral:

Bruce Ramge
Galen Ullstrom

Representing:

NE Department of Insurance
Mutual of Omaha

Summary of purpose and/or changes:

LB337 (Schumacher) would amend the Nebraska Insurers Supervision, Rehabilitation, and Liquidation Act with regard to the status in a rehabilitation or liquidation of an insurance company of a pledge, security, credit, collateral, loan, advance, or reimbursement or guarantee agreement or arrangement to which a Federal Home Loan Bank is a party.

Federal Home Loan Banks provide low-interest financing to insurance companies as well as member banks and credit unions. The bill would specify the priority that Federal Home Loan Bank advances and collateral have under the Nebraska Insurer Supervision, Rehabilitation, and Liquidation Act and would provide that a Federal Home Loan Bank's position with regard to an insurance company's collateral is parallel to the position the Federal Home Loan Bank has regarding collateral pledged by a bank or credit union. The bill would provide that security interests granted to the Federal Home Loan Bank are entitled to priority over the claims and rights of any party except the claims and rights of other secured parties entitled to priority by reason of actual perfected security interests and that the Federal Home Loan Bank's interests are valid and enforceable at any stage of a rehabilitation or liquidation proceeding.

The bill would amend sections 44-4805 (regarding application by a receiver for injunctions and orders) and section 44-4815 (regarding the effect of rehabilitation) to provide that a Federal Home Loan Bank shall not be stayed, enjoined, or prohibited from exercising or enforcing any right or cause of action under any pledge, security, credit, collateral, loan,

advance, or reimbursement or guarantee agreement or arrangement to which a Federal Home Loan Bank is a party.

The bill would amend section 44-4821 (regarding powers of a liquidator) to provide that a liquidator shall not have power to disavow, reject, or repudiate any pledge, security, credit, collateral, loan, advance, or reimbursement or guarantee agreement or arrangement to which a Federal Home Loan Bank is a party.

The bill would amend section 44-4826 (regarding fraudulent transfers and obligations incurred prior to a petition) to provide that a receiver may not avoid any transfer of, or any obligation to transfer, money or any other property arising under or in connection with any pledge, security, credit, collateral, loan, advance, or reimbursement or guarantee agreement or arrangement to which a Federal Home Loan Bank is a party and that is made, incurred, or assumed prior to or after the filing of a petition for rehabilitation or liquidation or would otherwise be subject to avoidance.

The bill would amend section 44-4827 (regarding fraudulent transfers after a petition) to provide that a receiver or other person may not avoid any transfer of, or any obligation to transfer, money or any other property arising under or in connection with any pledge, security, credit, collateral, loan, advance, or reimbursement or guarantee agreement or arrangement to which a Federal Home Loan Bank is a party and that is made, incurred, or assumed prior to or after the filing of a petition for rehabilitation or liquidation or would otherwise be subject to avoidance.

The bill would amend section 44-4828 (regarding preferences and liens) to provide that a liquidator or other person shall not avoid any preference arising under or in connection with any pledge, security, credit, collateral, loan, advance, or reimbursement or guarantee agreement or arrangement to which a Federal Home Loan Bank is a party.

The bill carries the emergency clause.

Explanation of amendments:

The committee amendments would restructure the various new provisions of the bill to restrict their applicability to a Federal Home Loan Bank and not also to any other person.

Mike Gloor, Chairperson