



HOUSE BILL 440: Federal Home Loan Bank/Insurer Receivership.

2017-2018 General Assembly

Committee:		Date:	June 28, 2017
Introduced by:	Reps. Collins, Bradford, Rogers, Millis	Prepared by:	Amy Darden Staff Attorney
Analysis of:	Third Edition		

OVERVIEW: *House Bill 440 would clarify the obligations between the Federal Home Loan Bank (FHLB) and an insurance company in the conservatorship and rehabilitation process.*

CURRENT LAW: Federal Home Loan Banks were created by Congress in the FHLB Act of 1932 and are regulated by the Federal Housing Finance Agency. Banks, credit unions and insurance companies are eligible to be part of the FHLB system, which provides advances to members to help with short-term liquidity needs. There are 11 independent FHLB's that represent different regions. North Carolina is served by the Federal Home Loan Bank of Atlanta.

Article 30 of Chapter 58 details Insurers Supervision, Rehabilitation, and Liquidation. When an insurance company has become impaired, it has a duty to report the condition to the Commissioner of Insurance. A receiver (including a liquidator, rehabilitator, or conservator) can be appointed to oversee the insurance company's operations.

BILL ANALYSIS:

Section 1(a): Would make technical and clarifying changes and adds definitions for *federal home loan bank* and *insurer-member*.

Section 1(b):

- Would limit any injunction or stay issued by the court to 7 days for FHLB's
- Would require an FHLB exercising its rights regarding collateral pledged by an insurer-member to repurchase any outstanding capital stock in excess of the minimum investment amount an insurer-member is required to hold if:
 - the repurchase is permissible under applicable law, regulations, and the FHLB's capital plan; and
 - it's consistent with capital stock practices applicable to FHLB's entire membership
- Within 10 days of the appointment of a receiver for an insurer-member, the FHLB would be required to provide a process and timeline for the following:
 - release of collateral that exceeds the amount required to support obligations remaining after repayment of loans under agreements between the FHLB and the insurer-member
 - release of any collateral remaining in FHLB's possession following repayment of all outstanding secured obligations of the insurer-member
 - payment of fees owed by insurer-member and operation, maintenance, closure, or disposition of deposits or other accounts

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H 4 4 0 - S M B B - 6 9 E 3 - V - 2

Legislative Analysis
Division
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House Bill 440

Page 2

- redemption or repurchase of FHLB stock
- Would require the FHLB to provide available options for an insurer-member to renew or restructure a loan, upon request of a receiver

Section 1(c): Would enact a new section in Article 30 of Chapter 58 dealing with voidable transfers for FHLB's, which would provide:

- That a receiver will not attempt to void any obligation to the FHLB when it was made:
 - In the ordinary course of business, and
 - In compliance with the applicable FHLB agreement.
- That a transfer may be avoided if made with intent to hinder, delay or defraud.
- That this section is not intended to limit a receiver's rights regarding advances an insurer-member has received from the FHLB.

Section 2: The Asset Protection Act requires insurance companies to keep some assets unencumbered. This section would create a new admitted asset category for FHLB.

EFFECTIVE DATE: This act becomes effective July 1, 2017.

**Staff Attorney Kristen Harris contributed to this summary.*