

SENATE BANKING AND FINANCIAL INSTITUTIONS COMMITTEE
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Senate Banking and Financial Institutions Committee 2014

Rules of Operation

1. These Committee Rules of Operation shall be consistent with the Senate Rules regarding establishment of Rules of Operation.
2. All meetings of the Committee shall be open to the public in accordance with Senate Rule 1-5.1
3. The Committee shall meet at the time and place designated by the Secretary of the Senate and approved by the Committee on Administrative Affairs.
4. The Committee Quorum shall be six (6) members.
5. The Chairman shall determine bills and resolutions to be considered and the order in which such are called.
6. The Chairman shall have the authority to refer bills and resolutions to subcommittees for study. Such subcommittees shall have the authority to make recommendations to the full committee. All actions of any subcommittee shall be approved or disapproved by the standing committee.
7. The Committee shall convene, recess, and adjourn upon the order of the Chairman.
8. Committee rules may be amended by a two-thirds vote of the full membership of the Committee.
9. A bill, resolution, or other matter shall be considered only after presentation by its principal author or his or her designee. The principal author shall be notified in writing at his or her Capitol office no less than twenty-four (24) hours prior to the scheduled presentation. In the event more than one member of the General Assembly has signed a measure, the principal author shall be the one whose name appears first in the list of authors.
10. Precedence of motions shall be as set out in Senate Rule 2-5.3

11. The proceedings of all meetings shall be reduced to writing. The recording of the minutes of the committee and subcommittee meetings shall comply with Senate Rule 2-1.7(d).
12. Any member or members of the committee who disagree with the majority committee report shall have the privilege of filing a minority report. The minority report must state succinctly the reasons for the dissent.
13. Where the Committee rules are silent on a specific issue, the Rules of the Senate shall apply.

The **Senate Banking and Financial Institutions Committee** met on February 18, 2014 at 3:30 p.m. in Room 310 CLOB. Members present:

Crosby, 13th, Chairman
Miller, 49th, Secretary
Balfour, 9th, Ex-Officio
Shafer, 48th, Ex-Officio
Staton, 18th
Harbison, 15th
Jones, 10th
Thompson, 33rd

Chairman Crosby started the meeting at 3:45 p.m. The first bill called was:

[HB 809 \(LC 39 0645S\) – Williamson, 115th – Action for Bad Faith Assertions of Patent Infringement](#)

Representative Williamson explained:

- This bill prohibits bad faith assertions of patent infringement, provides factors for determining whether a bad faith assertion of patent infringement has been made, and requires posting of bond when a bad faith claim of patent infringement has been made.
- A finding of a bad faith assertion of patent infringement also constitutes an unfair and deceptive act or practice in the conduct of consumer transactions under the Fair Business Practices Act.
- Federal regulation of biological products does not apply to this article.

Those supporting the bill:

Elizabeth Chandler, Georgia Bankers Association
Steve Bridges, Georgia Community Banks
Brandee Bickle, Georgia Credit Unions
Sally Kilpatrick

There was no opposition to the bill. Senator Miller made the motion Do Pass by substitute, seconded by Senator Steve Thompson. The vote was unanimous. **HB 809 Do pass by substitute**

SB 363 (LC 34 4151ERS)- Tippins, 37th – Verification of Funds and Notice to Construction Contractors

Senator Tippins explained to the committee that this bill applies to contracts for improvements to real property for \$20,000.00 or more which is to be paid in whole or part from funds provided by a bank or other lending institution. Under this bill, “contractors” are construction contractors, and “owners” are persons with an interest in improved real property who contract for improvements to be made.

Upon request of the construction contractor and prior to the commencement of the contractor’s work, the owner is to provide the contractor and bank or lending institution a schedule of disbursements of funds applicable to the contractor’s services.

The owner is also to instruct the bank or lending institution to provide the contractor with written verification of the availability of funds sufficient to satisfy the disbursement schedule. Each contractor is to be provided a copy of any notice of material default directed to the owner by the bank or lending institution regarding any loan whose proceeds are subject to such verification. Further, each contractor is to be provided with any notice of initiation of proceedings to exercise a power of sale in a mortgage, security deed, or other lien regarding any property securing a loan whose proceeds are subject to such verification.

Senator Tippins also stated that this is a problem facing small business owners.

Senator Thompson, 33rd stated he signed the bill without reading it, something he has not done in 30 years. However he can’t support this bill. He went on to say that he has been in the banking industry and they are accountable to the shareholders and this would force the banks to share information to non- banking members.

Chairman Crosby stated we will not take a vote on this bill today; however we will discuss this at the next scheduled Banking and Financial Institutions Committee meeting.

Ricky Harp, Fayette County, spoke in favor of this bill stating he had to shut down his company of 37 years due to not getting paid. This killed the cash in his company and he couldn’t get bonded.

The Chairman asked that all parties involved get together and try to resolve their differences. He stated we will hear and vote on [SB 363](#) at the next Senate Banking and Financial Institutions Committee meeting.

HB 824 (LC 39 0540) - Smith, 134th – Fees and Charges Not Considered Interest

Representative Smith explained

- This bill amends the code sections relating to the legal and maximum rates of interest and criminal penalties for charging excessive interest to clarify that the term “interest” does not include certain fees agreed to by a financial institution and a depositor in a written agreement between the parties.

This bill clarifies that certain fees and charges agreed to by financial institutions and depositors such as overdraft, nonsufficient funds, delinquency or default, returned payment, stop payment, and ATM

charges are not considered interest with regard to the legal and maximum rates of interest and with regard to criminal penalties for charging excessive interest.

Representative Smith stated he would like to see this bill pass unanimously with no amendments. The committee lost the quorum and therefore we continued with witnesses who signed up to speak. The Chairman stated he would have this bill on the next agenda.

Those opposing this bill:

Bill Custee

Steve Bridges, Georgia Community Bankers

Brandee Bickle, Georgia Credit Unions

Those in support of the bill:

Ben Finley, Attorney, The Finley Firm, PC

Because the quorum was lost, the bill was carried over to the next meeting.

The meeting adjourned at 4:30 p.m.

Respectfully submitted

/s/ Kathleen Cominski, Recording Secretary

/s/ Senator Miller, 49th, Secretary

The **Senate Banking and Financial Institutions Committee** met on February 20, 2014 at 2:00 p.m. in Room 310 CLOB. Members present:

Crosby, 13th, Chairman
Stone, 23rd, Vice Chairman
Miller, 49th, Secretary
Jones, 10th
Shafer, 48th
Thompson, 33rd
Balfour, 9th

The Chairman began the meeting by stating that we would hear and vote on SB 363. He called the author of the bill, Senator Lindsey Tippins, 37th, to present the bill.

SB 363 (Tippins, 37th) Verification of Funds and Notice to Construction Contractors

Senator Tippins stated that he has a substitute (LC 34 4167ERS) to offer the committee. The substitute clarifies that "Notice of Material Default" means any notice delivered by the bank or lending institution to the owner of the default of payment provisions or acceleration of the maturity of any loan whose proceeds are subject to a written verification.

Senator Thompson, 33rd, stated giving information to nonmembers of the bank, the contractor, would be a liability to the stock holders and the banks would be violating confidentiality laws of the bank.

Jones of the 10th stated this bill would give early warning to the contractor allowing him to stop work on the project until payment is made for the work.

Opposing the bill:

Austin Hackney, Home Builders Association
Elizabeth Chandler, Georgia Bankers Association
Steve Bridges, Georgia Community Bankers

Senator Balfour made a motion Do pass, seconded by Senator Shafer. The vote was 5 yeas (Miller, 49th, Jones, 10th, Shafer, 48th, Stone, 23rd, Balfour, 9th) and 1 Nay (Thompson, 33rd). **SB 363 Do Pass by substitute (LC 34 4167ERS).**

HB 824 (Representative Smith, 134th;) Fees and Charges Not Considered Interest

Representative Smith explained this bill clarifies that certain fees and charges agreed to by financial institutions and depositors such as overdraft, nonsufficient funds, delinquency or default, returned payment, stop payment, and ATM charges are not considered interest with regard to the legal and maximum rates of interest and with regard to criminal penalties for charging excessive interest.

Senator Stone was concerned about this bill not having an effective date. He suggested added language adding a date. The following is the language:

Striking line 24 and substitute the following:

“All laws and parts of laws in conflict with this Act are repealed; the Act shall become effective upon the signature of the governor or as otherwise provided by law without such signature. It is not the intent of the General Assembly to affect the law applicable to litigation pending as of January 1, 2014.”

Senator Balfour made the motion to pass substitute language, seconded by Senator Miller. The substitute language was adopted.

Senator Stone made the motion Do pass by substitute, seconded by Senator Miller. The vote was unanimous. **[HB 824 Do pass by substitute.](#)**

The meeting adjourned at 3:05 p.m.

Respectfully submitted,

/s/ Kathleen Cominski, Recording Secretary

/s/ Senator Miller, 49th, Secretary

The **Senate Banking and Financial Institutions Committee** met on March 6, 2014 at 2:30 p.m. in room 310 CLOB. Members present:

Crosby, 13th, Chairman

Stone, 23rd, Vice Chairman

Miller, 49th, Secretary

Balfour, 9th

Staton, 18th

Mullis, 53rd

Harbison, 15th

Thompson, 33rd, arrived at 2:45p.m.

The Chairman called the meeting to order at 2:35 p.m. The first bill was HB 750.

[HB 750 \(Representative Frye, 118th\) License Exemption for Nonprofit Corporation Employees Acting as Mortgage Loan Originators](#)

Representative Frye explained this bill provides an exemption to mortgage loan originator licensing requirements for employees of certain nonprofit corporations. He stated a nonprofit employee who acts as a mortgage loan originator only with respect to work duties and mortgage loans with terms that are favorable to the borrower is exempt from obtaining a mortgage loan originator license.

The exemption applies to bona fide nonprofit corporations that are tax-exempt under Section 501(c)(3) of the Internal Revenue Code, promote affordable housing, conduct activities that serve public or charitable purposes, receive funding and revenue, charge fees, and compensate employees in a manner that does not incentivize employees to act other than in the best interest of its clients, provide or identify mortgage loans with favorable terms for the borrower and comparable to mortgage loans and housing assistance provided under government housing assistance programs, and make mortgage loans to promote home ownership or improvements for the disadvantaged.

The State of Georgia Department of Banking and Finance must periodically examine the books and activities of the nonprofit corporation, and the employee exemption from having a mortgage loan originator license no longer applies in the event the nonprofit corporation no longer qualifies for that status.

Senator Miller, 49th made the motion Do Pass, seconded by Senator Staton, 18th. The vote was unanimous. **[HB 750](#) Do Pass. Senator Hill, 6th will carry the bill on the Senate Floor.**

[HB 883 \(Representative Strickland, 111th\) Cross-reference in Code Section relating to Georgia Merchant Acquirer Limited Purpose Banks](#)

Representative Strickland explained this bill corrects cross-references in Code Section 7-9-2 relating to definitions and Code Section 7-9-13 relating to enforcement of rules and regulations.

No one had any comments on this bill. Senator Balfour, 9th made a motion Do pass, seconded by Senator Miller, 49th. The vote was unanimous. **[HB 883](#) Do Pass. Senator Miller, 49th will carry the bill on Senate Floor.**

[HB 982 \(Representative Williamson, 115th\) Repeal and Enactment of New Articles relating to Sale of Checks or Money Orders and Cashing of Checks, Drafts, or Money Orders for Consideration](#)

Representative Williamson, 115th, explained this bill repeals Articles 4 and 4A of Chapter 1 of Title 7 and enacts modernized provisions regarding the licensure requirements of a person engaged in the sale of payment instruments¹, transmission of money, and cashing of payment instruments as recommended in a study by the Department of Banking and Finance (“Department”).

Authorizes the Department to participate in the Nation-wide Multistate Licensing System & Registry to facilitate sharing of information and standardization of the licensing and application processes.

Licensure under these articles requires an application, fees, and investigation into the applicant’s financial responsibility, experience, character, and fitness.

Senator Thompson, 33rd, asked if the fees are going straight to Georgia.

Representative Williamson, 115th, answered MLS gets a portion for processing and the remainder goes to Georgia Department of Banking and Finance.

Senator Balfour, 9th, asked if any background checks are done?

Representative Williamson, 115th, answered all owners have a criminal background check which is run through the FBI database to determine if that person has any felonies.

Senator Balfour, 9th, made the motion Do Pass, seconded by Senator Miller, 49th. The vote was unanimous. **[HB 982](#) Do Pass. Senator Stone, 23rd will carry the bill on the Senate Floor.**

¹ Payment instruments include checks, money orders, and similar instruments.

The meeting adjourned at 3:25 p.m.

Respectfully submitted,

/s/ Kathleen Cominski, Recording Secretary

/s/ Senator Miller, 49th, Secretary

March 24, 2014

The Honorable David Cook
Secretary of the Senate
State Capitol
Atlanta, GA 30334

Dear Mr. Secretary:

The Senate Banking and Financial Institutions Committee is returning the following Senate Bills:

[SB 56](#)

[SB 106](#)

[SB 108](#)

Respectfully submitted:

/s/ Kathleen Cominski, Recording Secretary