

## Local Premium Tax Advisory Council

April 15, 2009 ~ 1:30 pm

Department of Insurance Hearing Room

### Minutes

#### **Members Present**

Commissioner Sharon Clark, Chair  
Neil Hackworth  
Neil Hackworth, proxy for Mayor Will Cox  
Tom Troth  
Greg Kosse  
Mike Lane  
Judge Executive David Jenkins  
Mark Treesh  
Stan Logan

#### **Welcome and Roll Call**

Commissioner Clark called the meeting to order and the roll was called. A quorum was present.

#### **Approval of Minutes**

The minutes for the meeting of December 16, 2008 were approved.

#### **DOI Update on Implementation Efforts**

a. Assessment – To date, we have collected \$348,650 (\$289,600 from insurance companies and \$59,050 from surplus lines brokers.) Of the 1,448 insurance companies assessed, 100% have paid their assessment. Some penalties for late payment remain outstanding. Of the 1,229 surplus lines brokers assessed, 48 remain outstanding. The Department is pursuing administrative action against these surplus lines brokers to collect the outstanding assessment.

b. Administrative Regulations – HB 524 necessitated the promulgation of three administrative regulations. The first was a regulation to repeal 806 KAR 2:0806 KAR 2:090 regarding collection fees in that it was a re-statement of the statute and 806 KAR 2:096, regarding disclosure fees in that HB 524, Section 7, provides for new disclosure requirements. This repealer regulation is now effective and the referenced regulations have been repealed.

The disclosure regulation, 806 KAR 2:092, is now final. It sets forth the requirements for the one-time notice (that was required to be sent to current policyholders by December 31, 2008) and the requirements for on-going itemization of the tax and taxing jurisdiction on either the policy and renewal documents or the billing statement.

The verification regulation, 806 KAR 2:088, is in its final stage of promulgation. It was approved at the Administrative Regulation Review Subcommittee in March and has the

opportunity to be heard by a committee of jurisdiction in April. The Department anticipates that the regulation will be final the first week of May.

c. Verification Process – In anticipation of the final adoption of the verification regulation, the Department has posted the application for verification and the verification data manual on its Web site. Both documents include the disclaimer that the regulation is not yet final, and the Department will not be acting on applications until the regulation is effective. The Department will be posting the names of verified entities on its Web site.

### **Subcommittee Reports**

a. Risk Location Criteria: Neil Hackworth reported that the subcommittee did not meet, but there has been lots of activity with regard to the boundary filings. The Secretary of State's office has been receiving and processing filings. The Commonwealth Office of Technology (COT) does, however, have a backlog of filings to digitize. COT indicated that last year they received 47 filings to digitize. After the Department sent a letter to cities reminding them to update their boundaries, they have received 145 filings and currently have a backlog of 125 filings.

It was asked whether there was a time frame for COT to complete their work on digitizing the filings. COT did not provide a time frame. Further, it was noted that this task is primarily handled by one staff person who has numerous other assignments.

It was asked whether there was any way the filings could be prioritized. For example, could larger filings be mapped first? Neil indicated that he would contact the Secretary of State's Office and COT to determine whether that was an option. He will follow-up with members through e-mail.

Finally, it was noted that, from the industry's perspective, the backlog may not be a large issue as companies will not be penalized for the backlog. As the statute and regulation requires use of the COT boundary data, the insurers can only be as accurate as the data available.

b. Due Diligence: Greg Kosse reported that the subcommittee did not meet. However, he was aware that there was an issue related to location of the risk for surety bonds. Additionally, it was noted that the Department had received a question regarding location of the risk for group disability income policies. The subcommittee does plan to meet before the next Advisory Council meeting and provide a recommendation to the council regarding these issues.

It was also noted that the risk location chart appears to be fulfilling its purpose in providing guidance to insurance companies. It appears that we are now focusing on niche issues rather than larger location questions.

c. Data Collection: Mark Treesh reported that the subcommittee did not meet, but they will meet before the next Advisory Council meeting to provide the members with a status update.

Commissioner Clark asked the subcommittee to discuss and provide feedback from members on the option of filing the annual reconciliation electronically. It was noted that one question that will need to be explored is the desire of cities and counties to have electronic report and the capability of cities and counties from receiving a filing electronically or retrieving an electronic filing from DOI's secure Web site.

d. Education: Stan Logan reported that he has been checking with agent associations and they don't seem to have many questions about local government premium taxes. So, it appears that information is being disseminated.

Commissioner Clark asked whether there was a need for a Frequently Asked Questions document for cities and counties. It was noted that an option may be to put a story in the association newsletter.

e. Future Reforms: Mike Lane reported that the subcommittee had not met, but will begin meeting to discuss and draft legislative proposals. (A list of the future reforms that had been raised for consideration was distributed.)

A brief discussion was held as to whether any legislative proposal would be part of the Department's agency legislation. One thought was to have the bill be a DOI bill if the proposal was technical in nature and all parties were in agreement. Commissioner Clark noted the process of both Cabinet and Governor's Office approval for agency legislation. Another thought was that the bill would come from the cities, counties and industry (much like HB 524) with the Department's support.

In considering future reforms, it was noted that one duty of the Advisory Council is to review the criteria for risk location verification annually. The 90% accuracy level is something the Council may want to consider adjusting after the initial applications are reviewed. This standard is within the verification regulation, so any change would need to be made to the regulation.

**Old Business**

There was no old business to report.

**New Business**

There was no new business to report.

**Next Meeting**

The next meeting of the Advisory Council will be held on June 16, 2009 at 1:30 in the DOI Hearing Room.

Submitted By:

Approved By:

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Date

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