

Local Premium Tax Advisory Council

December 16, 2008 ~ 1:30 pm

Department of Insurance Hearing Room

Minutes

Members Present

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

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 November 17, 2008 were approved as amended.

DOI Update on Implementation Efforts

- a. Assessment – To date, we have collected \$280,000. Of those assessed, 23% of those remain outstanding. Following the December 31, 2008 deadline, the Department plans to take administrative action to collect the outstanding assessment.

- b. Administrative Regulations – The disclosure regulation, 806 KAR 2:092, and the repealer regulation, 806 KAR 2:091, were heard at the Administrative Regulation Review Subcommittee and have been referred to the second committee. The verification regulation, 806 KAR 2:088, was filed on December 12. The public hearing is schedule for January 29, 2009, and the public comment period ends February 2. The filed regulation reflects minor changes from the draft.

Subcommittee Reports

- a. Risk Location Criteria: Neil Hackworth reported that the subcommittee did not meet. He did note that boundary filings continue to be made with the Secretary of State.

- b. Due Diligence: Greg Kosse reported that the subcommittee did not meet. The question was raised as to whether the Advisory Council needed to adopt the risk location chart. Because the chart is reflective of best practices, the Department does not believe it needs to adopted.

- c. Data Collection: Mark Treesh reported that the subcommittee met to update its members on the activities of the Advisory Council.

d. Education: Judge Jenkins reported that the Department's Web site now contains all documents related to HB 524 in one location. A copy of the Web site page was provided to the Advisory Council.

e. Future Reforms: Prentice Harvey reported that the subcommittee did not meet. However, the chairs plan to meet with the Department staff to review the issues and finalize a time frame for drafting 2010 legislation.

Old Business

Commissioner Clark raised the issue of creating an electronic system for filing municipal tax reconciliations. Russ Hamblen shared the following status of this project:

- The Department has developed an electronic system and is interested in piloting the system with some insurers.
- The Department has drafted a data elements guide and will be sharing the guide with the pilot insurers for input.
- The main hurdle is how to upload data from the insurer to the Department and whether the method used will result in additional administrative costs.

Judge Jenkins asked whether local governments could have Web site access to this information. The Department is still researching our capability to make this information available, but the Department would like to share this information with local governments either electronically or in hard copy, depending on the local government's preference.

New Business

The Department has been receiving inquiries regarding credits on quarterly tax filings. HB 524 prohibits an insurer from taking a credit for an overpayment without the permission of the local government. However, refunds of unearned premium may appear to be credits on a quarterly tax filing. This has caused confusion among local governments. The Department plans to issue guidance related to this issue. A draft will be circulated to the Advisory Council for comment.

Mark Treesh raised the concern of the short time frame for insurers to comply with the requirement to use a verified risk location system. He asked whether the members would consider requesting statutory relief for the January 1, 2010 deadline. It was noted that insurers are eligible for a safe harbor if they meet the deadline. However, insurers are not penalized if they do not meet the deadline, because the requirement to pay local government premium taxes has not changed. It was asked whether the verification regulation could be refiled as an emergency regulation. The Department responded that because of the strict statutory reasons for the promulgation of emergency regulations, they did not believe that was an option.

Chris Gorman, representing Pitney Bowes, provided comments to the Advisory Council regarding the verification regulation. He noted that the regulation, as it currently exists, tests data rather than the software program. The Department acknowledged that its role in verifying risk location systems relates only to the mapping of addresses. An insurer is responsible for using that mapping in conjunction with other processes to ensure that a

tax is paid appropriately. The Department will conduct a market conduct examination to determine whether an insurer is appropriately paying the tax. Chris Gorman asked whether the Department would be willing to sign a confidentiality agreement and whether it would be willing to accept the address data on an evaluation or “read only” basis. The Department agreed to both.

Next Meeting

The next meeting of the Advisory Council will be held on April 15, 2009 at 1:30 in the DOI Hearing Room. However, if a legislative issue arises, a special meeting will be called.