

PTAC Meeting Summary August 27, 2008

It occurred to me in the last couple of days that I had failed to report on the substance of the PTAC meeting on August 27. The best excuse that I have for that oversight is the effect of the sinus infection that I had at the time. Anyway, here is a report to correct that oversight. I am also attaching the agenda of the meeting and the minutes of the July 16 meeting for your information and edification.

Under Item V, KDOI reported that the disclosure regulations had been filed as I previously reported to you on August 18. They also announced that Brad Currier was added as a new IT staff person to aid KDOI in the implementation of the risk location criteria requirement. Finally, KDOI plans to attend the local issues conference to address local governments on various aspects of HB 524.

Under Item VI each of the subcommittees reported its activities as follows:

Risk Location Criteria: There is a lot of interest in the Secretary of State boundary data and how that plays into the data available for geo-coding. There was also a lot of discussion on the efficacy of a state database. Of course, the legislation does not establish a state database but instead evaluates vendor or company software based on its accuracy.

Guidelines for Due Diligence: They have discussed many issues, risk location among them as the most prominent.

Data Collection: This is the subcommittee that I chair. Rather than give you a shortened version of our discussion, I am attaching a summary that I distributed to members of the subcommittee.

Education: The need to educate agents and local governments was discussed briefly.

Future Reforms: There was a discussion of how much legislation should be attempted in the 2009 session given that it is a short session and follows HB 524 so quickly. I proposed that we could pursue items on which we had a clear consensus from all parties and which could be viewed as clean-up items in the law. To that end, I suggested that we consider clarifying the statute to make it clear that the collection allowance is an add-on to the premium tax rather than a deduction from it as some lawsuits have alleged.

Finally, Under Old Business, we discussed the Franklin County lawsuits. The KDOI position is that the lawsuit "is outside the current framework." However, I would not look for an amicus brief by the Department.

We also discussed the appeals process and had one minor point of controversy. In her summary of the appeals process, KDOI Counsel Sharron Burton asserted that the exclusive remedy portion of the statute would not begin until 1-1-09 when the statute of limitations took effect.

I challenged that assertion based on our intent in drafting of the legislation (see Section 2(1)) and the language of the statute. A reading of the language makes it plain that the effective date of the exclusive remedy is not dependent on when the statute of limitations change takes effect. I received back-up from my fellow drafters, one of whom made the point that Franklin County must have believed that the exclusive remedy went into effect July 15 given when the lawsuit was filed.

KDOI will be assessing the issue as it relates to the appeals process and reporting back at the next meeting.

Other than a discussion of future meeting dates, that concluded the meeting.

If anyone has any questions, please let me know.

Thanks,

Mark