



WISCONSIN LEGISLATIVE COUNCIL

UNIFORM DEBT MANAGEMENT SERVICES

Room 411 South, State Capitol
Madison, Wisconsin

December 8, 2006
10:00 a.m. - 12:15 p.m.

[The following is a summary of the December 8, 2006 meeting of the Special Committee on Uniform Debt Management Services. The file copy of this summary has appended to it a copy of each document prepared for or submitted to the committee during the meeting. A digital recording of the meeting is available on our Web site at <http://www.legis.state.wi.us/lc>.]

Call to Order and Roll Call

Chairperson Wieckert called the meeting to order. The roll was called and it was determined that a quorum was present.

COMMITTEE MEMBERS PRESENT: Rep. Steve Wieckert, Chair; Rep. Dean Kaufert; Sen. Spencer Coggs; and Public Members Kathryn Crumpton, Joanne Huelsman, Linda Kennedy, Rose Oswald Poels, Rick Sense, and Cindy Tang.

COMMITTEE MEMBERS EXCUSED: Rep. Robin Kreibich; Sen. Michael Ellis; and Public Member Claire Ann Resop.

COUNCIL STAFF PRESENT: Mary Matthias, Senior Staff Attorney; and Dan Schmidt, Senior Analyst.

APPEARANCES: Pat Essie, President, Essie Kammer Group and Adam Brauer, The Association of Settlement Companies.

<p>*ATTENTION: This was the final meeting of the Special Committee on Uniform Debt Management Services. Committee members are requested to send any corrections regarding these Minutes to the Legislative Council staff. After the incorporation of any corrections, these Minutes will be considered approved by the committee.</p>
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Approval of the October 11, 2006 Minutes

Joanne Huelsman requested the term “model act” be changed to “uniform act” in the portion of the minutes describing the Mike McCabe presentation. It was then moved by Linda Kennedy, seconded by Joanne Huelsman, that the minutes be approved. The minutes were approved, as corrected, on a voice vote.

Brief Description of Materials Distributed

Mary Matthias described the materials that had been mailed to the committee members prior to the meeting:

- Memo No. 1, *Comparison of LRB-5042/1, Relating to Adopting the Uniform Debt-Management Services Act and the Uniform Act on Uniform Debt Management Services as Passed by Utah, Rhode Island, and Delaware* (November 30, 2006).
- Memo No. 2, *Proposed Changes to LRB-5042/1, Relating to Adopting the Uniform Act on Debt Management Services, Requested by the Department of Financial Institutions* (November 30, 2006).

Presentation by Department of Financial Institutions

[Note: PowerPoint presentations and other documents referred to by the speakers are posted on the committee’s Internet site.]

Ms. Matthias described the changes requested to LRB-5042/1 by the Department of Financial Institutions (DFI) set forth in Memo No. 2 while DFI, represented by Carrie Templeton, Chris Green, Paul Egide and Jean Plale, responded to committee questions regarding the changes.

The committee indicated the following concerns with the amendments proposed by DFI:

1. The elimination of the term “material” from the draft in reference to the required disclosure of certain judgments or actions against an applicant. (Item #15 in Memo No. 2)
2. The additional requirement that an out-of-state applicant provide a “certificate of good standing.” (Item #11 in Memo No. 2)
3. The elimination of any substitute to a surety bond as permitted under the original Uniform Debt Management Act. (Item #5 in Memo No. 2)
4. The inclusion of a provision to prevent the intentional evasion of the Act by persons who are generally exempt from licensure. (Item #13 in Memo No. 2)

Carrie Templeton indicated that DFI currently has the authority to determine what information is material to an application for licensure as an adjustment service company and that their request that “material” be deleted is intended to clarify that DFI, not the applicant, should determine which elements are relevant to determining the fitness of an applicant to do business in Wisconsin. She added that the

requirement to provide a certificate of good standing when applying for a license is commonplace for corporations and limited liability companies in most states, including Wisconsin.

Jean Plale stated that the alternatives to the surety bond were not as secure as a bond and that the bond provides greater safety for the consumer than the insurance alternatives.

The committee asked Legislative Council staff to prepare an amended version of LRB-5042/1 that would remove the term “material” on page 11, line 25, and substitute a more specific description of the required disclosure of judgments or actions against an applicant. Suggested language included “all convictions, all actions by a licensing agency and all judgments relevant to the practice of debt service.”

The committee also asked Legislative Council staff to add amendments limiting the requirement for an applicant to provide a “certificate of good standing” to corporations and limited liability companies and limiting the “intent to evade” provision to certain attorneys, accountants, title insurers, escrow companies, or other persons providing bill paying services if any of these individuals is acting with the intent to evade the proposed licensure requirements.

With the inclusion of these modifications:

Representative Kaufert moved, seconded by Ms. Oswald Poels, that Legislative Council staff prepare a revised draft for them to vote on the DFI amendments and incorporate them into LRB-5042/1 for the committee to vote on by mail ballot. The motion was approved by a vote of Ayes, 9; Noes, 0.

Presentation by Pat Essie, President, Essie Kammer Group and Adam Brauer, The Association of Settlement Companies

Adam Brauer, representative for the Association of Settlement Companies (TASC) and **Pat Essie**, of the Essie Kammer Group (also representing the TASC), summarized a list of amendments to LRB-5042/1 supported by TASC. Mr. Brauer indicated that the companies he represents differ from traditional debt service providers because they do not hold client funds and that they are paid a fee for negotiation with creditors, not distribution of funds. He argued that because the companies represented by TASC do not hold customer funds, they should not be required to maintain a surety bond when insurance should serve as adequate protection. He stated that TASC was not interested in deregulation; they only seek regulation that is relevant to their business.

Chair Wieckert asked whether TASC was represented in the National Conference of Commissioners on State Laws’ (NCCUSL) discussions of the Uniform Act and, if not, why these issues had not been raised with NCCUSL.

Mr. Brauer stated that TASC was not yet formed at the time the Uniform Act was being developed and that NCCUSL did not accept their more recent arguments for alterations to the Act because, in their opinion, the businesses represented by TASC had been adequately represented in the drafting of the Uniform Act.

Ms. Huelsman, who served as a member on the NCCUSL Drafting Committee, stated that many for-profit companies were included in the NCCUSL negotiations and that the NCCUSL committee responsible for developing the Uniform Act worked to ensure that both non-profits and for-profits were able to operate under the provisions of the Act.

The committee discussed the TASC amendments. Chair Wieckert asked the committee if they wanted to adopt any of the TASC amendments. No motions were made to revise the draft to include any of the TASC amendments.

Discussion of Committee Assignment

Discussion largely ensued during the presentations discussed above. The committee agreed that members would vote on the final proposal via a mail ballot following the incorporation of DFI and committee amendments discussed during the meeting.

Other Business Related to Committee Assignment

Chair Wieckert thanked the members for their attendance and interest in the committee.

Plans for Future Meetings

The committee will conclude its business via mail ballot. This was the final meeting of the committee.

Adjournment

The meeting was adjourned at 12:15 p.m.

DWS:wu