

SENATE BILL REPORT

SB 5400

As of February 8, 2021

Title: An act relating to federal home loan bank rights regarding collateral pledged by insurer members.

Brief Description: Concerning federal home loan bank rights regarding collateral pledged by insurer members.

Sponsors: Senator Mullet.

Brief History:

Committee Activity: Business, Financial Services & Trade: 2/09/21.

Brief Summary of Bill

- Defines the rights of a Federal Home Loan Bank with respect to collateral pledged by its insurer members.

SENATE COMMITTEE ON BUSINESS, FINANCIAL SERVICES & TRADE

Staff: Clinton McCarthy (786-7319)

Background: The Federal Home Loan Bank (FHLB) System is a consortium of 11 regional banks across the U.S., created by the federal government to keep a reliable stream of cash available to other banks for lending to individuals. FHLBs are structured as privately capitalized corporations and receive no taxpayer funding. FHLBs are owned and governed by their nearly 7000 members, which include commercial banks, savings and loan institutions/thrifts, credit unions, community development financial institutions, and insurance companies. This system was created in 1932, and the banks receive no government funding and pay no federal or state income taxes.

In the insurance industry, life insurers make use of FHLB advances, mostly in the form of funding agreements, to a much larger extent than other insurance sectors. Under statutory

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accounting, funding agreements, or borrowings used for spread lending purposes, are treated as insurance liabilities as opposed to borrowed money.

Summary of Bill: The rights of a FHLB concerning collateral pledged by its insurer members are defined in statute in delinquency hearings or in instances where a receiver is appointed. If a FHLB exercises its rights regarding collateral pledged by an insurer member, subject to a delinquency hearing, the FHLB can repurchase any outstanding stock in excess of the amount the insured member is required to hold as a minimum investment. If there has been an appointment of a receiver for an insured member, the FHLB will provide a timeline within ten days of a request from the receiver for:

- the release of collateral that exceeds the amount required to support secured obligations remaining after the repayment;
- the release of any of the insurer member's remaining collateral in the FHLB's possession;
- the payment of fees owed by an insurer member and the operation of deposits and other accounts of the insurer member with the federal home loan bank; or
- the possible redemption or repurchase of FHLB stock or excess stock of any class an insurer member is required to own.

The FHLB shall provide options to an insurer member subject to a delinquency proceeding to renew or restructure a loan to defer associated prepayment fees subject to various terms.

The following statutes are no longer applicable when a FHLB is exercising its rights regarding collateral pledged by an insurer member:

- the Office of the Insurance Commissioner (OIC) statutory authority to take possession of the property of an insurer to conduct business in an order to rehabilitate a domestic insurer;
- the statutory authority the OIC has to apply for an order to liquidate the business of a domestic insurer or U.S. branch of an alien insurer having trusteed assets in the state of Washington;
- statutory authority of the OIC to take possession of an insurer's property, deal with the insurer's property and business, or in the name of the insurer as the courts may direct; and
- injunctions issued by the court to restrain the insurer, its officers, directors, stockholders, members, subscribers, agents and all other persons from the transaction of its business, or the waste or disposition of its property until the further order of the court.

Appropriation: None.

Fiscal Note: Not requested.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.