

# **Financial Institutions Committee**

Senator David Farnsworth, Chairman



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# FINANCIAL INSTITUTIONS COMMITTEE

## LEGISLATION ENACTED

### securities; exempt transactions (S.B. 1003) – Chapter 31

Modifies the exemption from registration applicable to the sale in good faith of securities by the bona fide owner of such securities in an isolated transaction to include the sale of securities issued under the state's crowdfunding law. Specifies that the sale of securities issued under the state's crowdfunding law by the owner of such securities is exempt from the restriction on repeated or successive transactions of similar character applicable to isolated transactions if: 1) such securities were exempt when originally issued; and 2) at least nine months have passed from the date of the last sale of such securities by the issuer to a resident of this state.

### private fund advisers; exemption (S.B. 1005) – Chapter 32

Exempts, effective September 1, 2016, an investment adviser that is a private fund adviser (adviser) from certain licensure and notice filing requirements, provided that the adviser meets certain criteria, including: 1) not being subject to an event that would disqualify an issuer of securities under federal law; 2) filing with the Arizona Corporation Commission (ACC) each report and amendment that an adviser is required to file with the U.S. Securities and Exchange Commission for exempt reporting advisers; 3) paying a \$125 fee to the ACC for each calendar year in which the adviser relies on the exemption; 4) advising at least one retail buyer fund; and 5) obtaining annual audited financial statements for each retail buyer fund, when applicable.

Defines *private fund adviser* as an investment adviser who provides advice solely to one or more qualifying private funds. Defines *retail buyer fund* as a qualifying private fund that is neither a venture capital company nor a qualifying private fund that qualifies for exclusion from the definition of an investment company under the federal Investment Company Act of 1940.

### insurance coverage; telemedicine (S.B. 1363) – Chapter 278

Requires insurers, effective January 1, 2018, to cover certain statutorily specified healthcare services provided through telemedicine in this state if such services would be covered were they to be provided through in-person consultation between the insured and a healthcare provider. Removes the definition of *rural region* and references to a rural region from the state insurance statutes to allow for statewide coverage of healthcare services that are provided through telemedicine. Adds *pulmonology* to the list of healthcare services that are provided through telemedicine and covered by insurance.

### fiduciary access to digital assets. (S.B. 1413) – Chapter 165

SEE THE JUDICIARY COMMITTEE.

## **FINANCIAL INSTITUTIONS COMMITTEE (Cont'd)**

### securities; salesmen; registration exemptions (S.B. 1425) – Chapter 329

Exempts the offering of certain types of securities from registration requirements, provided that: 1) the dollar value or aggregate offering price of such securities does not exceed \$1,000,000; 2) written documents of substantive disclosure are provided to each purchaser of the securities; 3) a notice on Form D is filed with the Arizona Corporation Commission (ACC) no later than 15 calendar days after the first sale of securities occurs; 4) the dealer or issuer does not advertise the securities without a waiver from the Director of the ACC's Securities Division (Director); and 5) anyone with a disciplinary history is disqualified from using the exemption. Requires the Director to adopt rules based on the federal regulation for exempt limited offerings and sales of securities and revise such rules as necessary to stay current with federal law.

### long-term care insurance; rates; premiums (NOW: long-term health insurance; rulemaking) (S.B. 1441) – Chapter 280 E

An emergency measure, effective May 17, 2016, that requires the Arizona Department of Insurance (DOI) to adopt rules relating to long-term care insurance that substantially conform to those adopted in model regulations adopted by the National Association of Insurance Commissioners, including the 2014 revisions. Exempts DOI from rulemaking requirements for one year after the effective date of this legislation. Requires DOI to provide public notice and an opportunity for public comment on the proposed rules at least 60 days before the rules are amended or adopted. Repeals the rule adoption requirement on July 1, 2018.

### insurance; prohibited inducements; exceptions (S.B. 1494) – Chapter 113

Permits insurance companies to offer reasonable incentives to policyholders who participate in feedback efforts through an independent third party. Prohibits an insurer from referencing or promoting an incentive or feedback effort in connection with an application or renewal of insurance coverage. Defines reasonable incentive as not exceeding \$200.

### uninsured and underinsured motorist coverage (H.B. 2129) – Chapter 180

Specifies that an insurance producer's standard of care in offering and explaining the nature and applicability of uninsured and underinsured motorist coverage is satisfied if the insurance producer: 1) offers uninsured and underinsured motorist coverage to a named insured or applicant; and 2) confirms the selection of limits or rejection of coverage by a named insured or applicant on a form that is approved by the Director of the Arizona Department of Insurance.

### genetic testing; informed consent (H.B. 2144) – Chapter 37

Prohibits a person from ordering a genetic test without written consent from the person who was subject to the test (test subject). Specifies that the results of a genetic test may be released if express consent is provided by the test subject or an authorized person.

## **FINANCIAL INSTITUTIONS COMMITTEE (Cont'd)**

### domestic surplus lines insurance; fees (H.B. 2149) – Chapter 38

Allows a domestic insurer that possesses minimum capital and surplus of at least \$15,000,000 to be designated as a domestic surplus lines insurer for the purposes of writing surplus lines insurance in this state. Defines *domestic surplus lines insurer* as an insurer that is domiciled in and authorized to transact insurance in this state and that has received approval from the Arizona Department of Insurance (ADOI) to write surplus lines insurance coverage in this state. Specifies that designation as a domestic surplus lines insurer is contingent on the following: 1) a resolution by the domestic insurer's board of directors; and 2) written approval of the Director of ADOI. Specifies that surplus lines insurance policies that are issued by a domestic surplus lines insurer in this state are not subject to the protection of the Arizona Property and Casualty Insurance Guaranty Fund.

### consumer lenders; referral fees; insurance (H.B. 2152) – Chapter 63

Modifies existing law relating to consumer lenders by: 1) removing the prohibition on loan business referral, including referral fees, commissions or bonuses; and 2) the monetary cap on prizes, goods, wares, merchandise or tangible property that may be given by consumer lenders to consumers. Allows consumer lenders to offer and sell accidental death and dismemberment insurance and disability income protection insurance in connection with a consumer lender loan.

### insurance; risk management; solvency assessment (H.B. 2188) – Chapter 51

Adopts, effective January 1, 2017, the National Association of Insurance Commissioners' (NAIC) Own Risk Solvency and Assessment (ORSA) model regulation that requires an insurer or insurance group to: 1) maintain a risk-management framework; and 2) regularly conduct an ORSA consistent with the ORSA Guidance Manual. Specifies that an ORSA must be submitted annually or when significant changes to a risk profile occur, and must be submitted to the Director of the Arizona Department of Insurance (Director) not more than once each year, upon the Director's request. Provides that an insurer may be exempt from filing an ORSA under certain circumstances, and that ORSA reports must remain confidential unless otherwise specified by the insurer.

### ~~insurance; identity theft group policies~~ (NOW: identity theft group policies; insurance) (H.B. 2238) – Chapter 65

Allows insurers to issue identity theft group insurance policies to insure against losses incurred due to stolen identity events. Specifies that such policies may be issued to a business that sells products or a service related to preventing stolen identity events, or to another entity that is engaged in a common enterprise and issuance of a policy is in the best interest of the public. Provides that policies may be issued for one year unless otherwise specified, and may include one member of the immediate family of a certificate holder. Requires premiums on the policy to be paid solely by the group policyholder, the group members, or both. Specifies that coverage for a group member is terminated upon termination of employment with the group policyholder.

## **FINANCIAL INSTITUTIONS COMMITTEE (Cont'd)**

### insurance; prescription eye drops; refills (H.B. 2264) – Chapter 42

Beginning January 1, 2018, prohibits the denial of insurance coverage for prescription eye drops that treat either glaucoma or ocular hypertension. Specifies that for a 30-day, 60-day, or 90-day supply of eye drops, a request for a refill either one week, two weeks or three weeks in advance, respectively, may not be denied coverage. Specifies that all of the above requirements apply to insurance coverage offered by: 1) a hospital and medical service corporation; 2) a health care services organization; 3) a disability insurer; and 4) a group or blanket disability insurer.

### securities; issuers; website operators (H.B. 2302) – Chapter 53

Extends the statutory exemption from current law pertaining to the registration, offering and sale of securities to crowdfunded securities that are offered and sold through an internet website operated by the issuer of such securities. Exempts the issuer from the following restrictions currently applicable to operators of internet websites through which crowdfunded securities are offered and sold: 1) that the website operators may not be purchasers in any offering made pursuant to the exemption; and 2) that the website operators may not hold an interest in or be affiliated or under common control with any issuer making an offer or sale pursuant to the exemption.

### exempt transactions; securities registration (H.B. 2303) – Chapter 67

Exempts the issuance and delivery of securities of a limited liability company or limited partnership to the original organizers or general partners from current law pertaining to the registration, offering and sale of securities, provided that such securities: 1) are not acquired by the organizers or general partners for the purpose of sale to others; and 2) are not directly or indirectly sold to a third party within 24 months unless an organizer or general partner experiences a bona fide change of financial circumstances and provides the other organizers or general partners with notification of their right to review the financial books and records of the limited liability company or limited partnership.

### healthcare providers; family members; coverage (H.B. 2306) – Chapter 100

Requires insurance coverage for lawful healthcare services to be provided regardless of an insured's familial relationship with the healthcare provider. Specifies that an insurer may limit the coverage to those healthcare providers who are members of the insurer's provider network.

### insurance; licensed entities (H.B. 2342) – Chapter 101

Modifies requirements that authorized insurers must follow when issuing an insurance policy in this state. Provides that instead of receiving a countersignature endorsement from a licensed insurance producer in this state, an insurance policy need only identify the name of the licensed insurance producer on the policy statement. Requires a licensee to notify the Director of the Arizona Department of Insurance of a change in the licensee's email address within 30 days.

## **FINANCIAL INSTITUTIONS COMMITTEE (Cont'd)**

motor vehicle insurance; nonrenewal (H.B. 2445) – Chapter 363

SEE THE TRANSPORTATION COMMITTEE.

audits; accountants; reciprocity privilege (H.B. 2448) – Chapter 30

SEE THE GOVERNMENT COMMITTEE.

fiduciary access to digital assets (H.B. 2467) – Chapter 199

Adopts the Revised Fiduciary Access to Digital Assets Act (Act) as developed by the Uniform Law Commission. States that the provisions of the bill apply to all of the following after enactment: 1) a fiduciary acting under a will or power of attorney; 2) a personal representative acting for a decedent; 3) a conservatorship proceeding; 4) a trustee acting under a trust; and 5) a custodian if the user resides in this state. Allows a user to direct a custodian to disclose, or not disclose, to a designated recipient some or all digital assets using an online tool and stipulates that such directions: 1) override any contrary direction in a will, trust, power of attorney or other record, if the online tool allows for modification or deletion of a direction at any time; and 2) override any contrary provision in a terms-of-service agreement, if the agreement does not require the user to act affirmatively and distinctly from the user's assent to the terms of service. Specifies that the Act does not apply to the digital assets of an employer used by an employee in the ordinary course of business.

~~technical correction; college savings plan~~ (NOW: credit unions; actions; meetings) (H.B. 2471) – Chapter 332

Removes the requirement that the board of directors of a credit union must meet at least monthly, provided that meetings still occur at least 10 times in 10 different months during a calendar year. Allows a credit union to compensate members of its board of directors, specifying that life, health and similar insurance is not considered compensation.

Allows a board of directors meeting to be executed electronically if proper notice is given to each board member. The purpose of the meeting along with the response date and time must be provided in the notice. Requires that action in a meeting only be taken if the following requirements are met: 1) that the same number of votes required to begin a physical meeting are received electronically; 2) that a board member has not submitted a signed communication to the board chairman demanding that action not be taken without a physical meeting; 3) that action taken in an electronic meeting has the same effect in a physical meeting and is reflected in documentation; 4) that actions and votes are included in the minutes of the next meeting; and 5) that votes submitted electronically must be signed using an electronic signature with security pursuant to the electronic transactions statute.

Removes the five percent investment cap pertaining to a credit union's ability to invest in fixed assets. Allows a credit union to offer a savings promotion account that includes an incentive in which the sole requirement to obtain the incentive is a deposit of a specified amount of money in the account.

## **FINANCIAL INSTITUTIONS COMMITTEE (Cont'd)**

### insurance; risk retention groups (H.B. 2553) – Chapter 201

Establishes new rules and regulations for risk retention groups operating in the state. Requires the board of directors of a risk retention group to consist of a majority of individuals independent of the group. Specifies that an independent board director must have no material relationship with the risk retention group. Requires the board of directors to adopt a written policy outlining a plan of operation that does the following: 1) ensures that all owners or insureds receive evidence of ownership interest; 2) develops a set of governance standards; 3) oversees the evaluation of the risk retention group's management; 4) reviews the amount to be paid for all material service providers; and 5) reviews at least annually the group's objectives and the performance and continued engagement of the officers and service providers.

### judgement liens; recorded information statement (H.B. 2555) – Chapter 202

Modifies current statute pertaining to judgment liens on real property. Stipulates that a judgement does not become a lien until the following are recorded with the office of the county recorder in each county where the judgment creditor desires the judgment to become a lien on the real property of the judgment debtor: 1) a certified copy of the judgment containing certain statutorily prescribed information, including the date of entry of the judgment, the docket record for the judgment and the judgment amount; and 2) a separate information statement containing statutorily prescribed information pertaining to the judgment creditor, judgment debtor and the judgment amount.

## **LEGISLATION VETOED**

### legal tender; taxation; regulation (S.B. 1141) – VETOED

Permits, effective January 1, 2018, the use of specie legal tender as a medium of exchange in the state as authorized by the U.S. Constitution. Prohibits the regulation of legal tender and specie as property other than money. Prohibits a person from compelling another person, the state or political subdivision to accept specie legal tender as payment, unless provided by contract. Excludes net capital gains derived from the exchange of one kind of legal tender for another from federal adjusted gross income and federal taxable income.

The Governor indicates in his veto message that the language of the bill provides for a broad prohibition from state regulation of legal tender as anything other than money. In his view, this provision is ambiguous and may have unintended consequences beyond the intent of the proponents.