

**BRYON H. SHORT**  
STATE REPRESENTATIVE  
Seventh District



HOUSE OF REPRESENTATIVES  
STATE OF DELAWARE  
LEGISLATIVE HALL  
DOVER, DELAWARE 19901

COMMITTEES  
Economic Development, Banking,  
Insurance & Commerce, Chair  
Energy  
Housing & Community Affairs  
Revenue & Finance  
Veterans Affairs

**Economic Development Committee**  
Meeting Minutes  
April 28, 2010

Chairman Short called the meeting to order at 2:44 p.m. Members present included Representatives Brady, Viola, Bennett, Hocker, Lavelle, Ramone, Hudson, and Keeley. For a list of guests present, please see attached.

Chairman Short explained that several bills would be discussed at the meeting, including Rep. Brady's bill which many people were in attendance to discuss. The bills that were expected to take minimal time would be discussed first.

First, Chairman Short chose to address **HB 256, AN ACT TO AMEND TITLE 25 OF THE DELAWARE CODE RELATING TO GIVING CERTAINTY TO THE MORTGAGING OF LEASEHOLD INTERESTS**, and recognized John Olsen, of Wilmington Trust, to describe the bill. Mr. Olsen explained that this bill was passed by the Delaware Bar Association due to arising legal issues. This bill solves a highly technical problem with the leasing of a premise. Currently, there exists uncertainty in whether or not a person could take out a security during the middle of a 10-year or longer lease. This bill states that a lender would be able to take out this security. Neither the committee nor the public had any issues or questions regarding this bill.

Rep. Bennett moved to release the bill from committee; Rep. Brady seconded the motion. The bill was released from committee on an 8-1-0 vote.

Next, Chairman Short addressed **HB 371, AN ACT TO AMEND TITLE 25 OF THE DELAWARE CODE RELATING TO FREEDOM OF CONTRACT**, and asked Mr. Olsen to explain the bill. Mr. Olsen stated that this bill, similar to HB 256, was passed by the Delaware Bar Association and clarifies a legal uncertainty. Typically, when a loan is given in a commercial transaction, the lender maintains the insurance policies. Under current law, when dealing with a consumer, a proof of insurance is required; therefore, commercial insurance is not uniform, which causes issues with enforcement. This bill requires both parties to maintain copies of the insurance policy. Rep. Ramone asked how this law would be enforced and if this law would apply only to new policies. Mr. Olsen stated that there would be a default in the transaction if there is no compliance. This law pertains to the beginning of a relationship between the two parties.

Rep. Hudson moved to release the bill from committee; Rep. Bennett seconded the motion. The bill was released from committee on a 9-0-0.

Next, Chairman Short addressed **SB 157, AN ACT TO AMEND TITLE 10 OF THE DELAWARE CODE RELATING TO RESIDENTIAL HOMES AND EXEMPTIONS**, and recognized Senator Peterson, the bill's sponsor. Senator Peterson explained that for the past few years, she has been working on conforming Delaware bankruptcy laws to the federal laws. This bill extends the protection of a debtor's equity in their principal residential home from \$50,000 to \$125,000. The amendment stipulates that this proposed increase will be staggered in certain cases. Rep. Hocker asked when the federal law ends in bankruptcy cases. Bill Jaworski, Senate attorney, responded that Delaware is an opt-out state, meaning that people can choose between federal and state; however, Delaware currently has a \$50,000 limit. Rep. Lavelle asked how this bill affects banks and if there are any exemptions. Mr. Jaworski explained that this bill has no impact on mortgage loans, but it protects people who have spent years building up the equity of their homes. This will affect the elderly and disabled who are unable to tap into the equity of their homes to make payments.

Rep. Ramone moved to release the bill from committee; Rep. Brady seconded the motion. The bill was released from committee on a 9-0-0 vote.

Next, Chairman Short chose to address **HB 343, AN ACT TO AMEND TITLE 18 OF THE DELAWARE CODE RELATING TO HEALTH INSURANCE CONTRACTS**, and recognized Rep. Brady, the bill's sponsor. Rep. Brady explained that the bill assures prosthetic parity by requiring all insurance companies to provide reimbursement for prosthetic devices at the same rate as the federal level. Rep. Lavelle asked if the bill will go to the Appropriations Committee due to the fiscal note. Rep. Brady stated that the fiscal note expects no impact in fiscal year 2011, a \$346,426 impact for fiscal year 2012 and a \$398,390 impact for fiscal year 2013. Rep. Brady asked that the committee proceed with the bill and allow the Appropriations Committee to digest the information.

Chairman Short opened the discussion to the public and recognized Dan Ignaszewski, of the Amputee Coalition of America. Mr. Ignaszewski explained that there are many support groups and partner organizations that support this bill. There are currently 4,500 amputees living in Delaware, many who will be affected by this bill. Currently, many insurance companies place a cap on prosthetic limbs, usually around \$2,500, and/or limit a person to one limb per lifetime. This becomes an issue because some amputees need multiple limbs; also, child amputees will need more than one prosthetic limb in their lifetime. The need for prosthetic limbs should be decided by a doctor. This bill does not force insurance companies to fully cover the cost of a prosthetic limb, but it makes insurance become equal with Medicaid coverage. There are some people who will stop working in order to be eligible for Medicaid because the prosthetic limb is a huge financial burden. There are currently 19 states that have passed legislation for prosthetic parity. Not all amputees will be eligible under this bill because it will be tied to the standards of Medicaid. Mr. Ignaszewski pointed out that, in regards to the fiscal note, a study was completed in Colorado before and after this prosthetic parity was introduced. After the passage of the legislation, the state realized savings of \$448,000 that were attributed to amputees increased ability to participate in active lifestyles.

Rep. Hudson asked for a description of durable medical insurance. Mr. Ignaszewski stated that in addition to prosthetic limbs, durable medical insurance includes crutches, walkers, and wheelchairs, which are all standardized equipment. Rep. Lavelle asked about the impact this bill will have on insurance premiums and for clarification on amputees not covered by this bill. Mr. Ignaszewski explained that any increases in premiums would be very small. At the federal level, there are laws that restrict who can be included in the prosthetic limb coverage; however, there are efforts currently at the national level to change the regulations. In Medicaid, the government typically pays an 80/20 reimbursement.

Chairman Short then recognized John Horne, of Independence Prosthetics. Mr. Horne, an amputee himself since the age of 16, owns a manufacturing company that produces prosthetic limbs. Mr. Horne stated that in his experience, the sooner an amputee is able to receive a prosthetic, the faster a patient is able to rehabilitate and return to their previous activity levels. In his past conversations with insurance companies, the companies reply that the patient should read the policy. However, no one expects to be in an accident. Mr. Horne described an accident which involved a University of Delaware professor losing both limbs below the knee. The professor's insurance did not cover the necessary prosthetic limbs. In addition, Mr. Horne stated that the fiscal note does not take into account the loss in tax revenue from noncontributing citizens.

Rep. Brady stated that other representatives of the amputees would hold their comments unless there were any other questions or issues. Neither the committee members nor the public had additional questions.

Rep. Viola motioned to release the bill; Rep. Bennett seconded the motion. The bill was released on an 8-1-0 vote.

Finally, Chairman Short addressed **HB 380, AN ACT TO AMEND TITLE 30 OF THE DELAWARE CODE RELATING TO ECONOMIC DEVELOPMENT INCENTIVES**, and recognized Rep. Bennett, the bill's sponsor. Rep. Bennett explained that this bill provides a tax credit to pre-existing Delaware businesses that bring a company into the state. Both the Delaware business and the new business will receive \$500 per Delaware job created. This bill will exist for three years with a maximum of \$3 million per fiscal year that can be spent. An annual report of the jobs created by this bill will be presented at the end of each fiscal year.

Rep. Bennett called Alan Levin, Director of the Delaware Economic Development Office (DEDO) to discuss the bill. Mr. Levin congratulated the committee on their forward thinking in regards to this bill. The objective of this bill is to attract both large and small businesses. Large businesses, such as DuPont, have many relationships with vendors outside of Delaware that could potentially be brought into the state, creating jobs for Delaware residents. Mr. Levin does not know how well this bill will work; however, this is a unique opportunity.

Rep. Hocker stated that due to the fact that he will be opening a new restaurant in the near future and believes that this bill presents a conflict of interest, he will not be voting on this bill.

Rep. Ramone asked if vertical integration of a business qualifies for this tax credit. Mr. Levin explained that a business in that situation would not qualify. The business needs to have been in existence for at least three years because the state does not want to take a chance on new businesses that typically have a high failure rate. Rep. Ramone asked if a business with a division in another state moves the division into Delaware qualifies. Mr. Levin stated that a subsidiary of a company does not qualify. Rep. Ramone asked why a \$3 million cap was chosen and how this cap might affect businesses. Mr. Levin explained that the cap is not cumulative and each year the company can add employees, with the average number of employees added used each year. The Office of Management and Budget (OMB) wanted to place a cap until they can view the results of the bill for the first year. Rep. Hudson asked if an individual can refer a company and receive the tax credit, to which Mr. Levin responded no.

Rep. Keeley asked if this bill cancels out any other tax credits a company may be receiving, specifically Work Opportunity Tax Credit (WOTC). Mike Barlow, a Governor's attorney, stated that there is one specific program that is excluded, but WOTC funds will not be affected. Rep. Lavelle asked why real estate and other businesses are excluded by this bill. Mr. Levin stated that their job is to find new opportunities and this tax credit would allow certain sectors to "double-dip." Rep. Lavelle stated that a company, like DuPont, would receive a cost advantage if their suppliers moved into Delaware, making the supplying company more accessible for DuPont. Rep. Lavelle then asked if the current DEDO office is equipped to handle the increase in activity. Mr. Levin stated that currently, the office can handle the activity; however, if this bill becomes very successful, an increase in staff may be necessary. Rep. Lavelle asked where the money to disperse tax credits comes from. Mr. Levin explained that the money will be generated by increased tax revenue from the new businesses. Rep. Lavelle stated that the government is creating jobs and becoming like GM and Chrysler, looking to the sale. Mr. Levin replied that with 9.2% unemployment, the government can create these opportunities.

Rep. Ramone asked if the tax credits are large enough that refunds would be given to the companies, to which Mr. Levin responded that tax refunds could be given to the companies. Mr. Levin also stated that there needs to be a connection between the two companies and the hope is that businesses will behave ethically. Rep. Ramone asked if acquisitions qualify, to which Mr. Levin answer no, only new businesses qualify.

Chairman Short opened the discussion to the public and recognized Bob Maxwell, a Delaware resident, who voiced his support of the bill. Mr. Maxwell, a former member of the House of Representatives, acknowledged the risks that must be taken in a negative economic climate but hopes to see employment increase in Delaware. He believes this bill will benefit the state in the long-term. Next, Chairman Short recognized David Ennis, another former member of the House of Representatives, who cautioned the

committee about attracting large businesses into Delaware at the expense of smaller, local businesses. He cited the increase in Lowes Hardware stores that forced many local hardware stores out of business.

Rep. Lavelle asked a final question about the qualification of non-profits. Mr. Levin stated that he believes that non-profits would be included in the bill.

Rep. Brady moved to release the bill from committee; Rep. Viola seconded the motion. The bill was released from committee on a 6-0-0 vote.

Chairman Short adjourned the meeting at 3:46 p.m.

Respectfully submitted by,

Jordan L. Fischer