

One Hundred Third Legislature - First Session - 2013

Introducer's Statement of Intent

LB337

Chairperson: Senator Mike Gloor

Committee: Banking, Commerce and Insurance

Date of Hearing: February 04, 2013

The following constitutes the reasons for this bill and the purposes which are sought to be accomplished thereby:

LB 377 is introduced in response to an advisory Bulletin issued by the Federal Housing Finance Agency (FHFA), the Federal regulator of the Federal Home Loan Bank System, regarding standards by which Federal Home Loan Banks may loan to insurance company members. Federal Home Loan Banks provide low interest financing to their member banks, credit unions and insurance companies. LB 377 is intended to provide Nebraska Insurance Companies the same access to low interest financing that is available to Nebraska banks and credit unions.

Unlike banks and credit unions, insurance companies are not regulated at the federal level. Although some banks and credit unions are state chartered, Federal law makes clear that FHLBank loans to banks and credit unions are governed by 12 U.S.C. 1430 which sets forth requirements pertaining to FHLBank advances for, among other things: the types and amounts of collateral that may be accepted; the priority of FHLBank claims to such collateral in relation to receivers and other creditors; and requirements regarding the valuation and verification of pledged collateral. Because there are 50 separate state regulators for the insurance industry, various state law provisions create uncertainties concerning an FHLBank's enforcement of its rights as a secured creditor. The FHLBanks' Federal regulator has expressed concern over these uncertainties and suggested that, in the absence of clarification at the state level, FHLBank lending to insurance companies may be restricted.

LB 377 is intended to clarify the priority that FHLBank advances and collateral have under the Nebraska Insurers Supervision, Rehabilitation and Liquidation Act and to ensure that the FHLBank's position with regard to an insurance company's collateral is parallel to the position the FHLBank has regarding collateral pledged by a bank or credit union. The bill would clarify that security interests granted to the FHLBank are entitled to priority over the claims and rights of any party except the claims and rights of other secured parties entitled to priority by reason of actual perfected security interests and that the FHLBank's interests are valid and enforceable at any stage of a rehabilitation or liquidation proceeding. As the bill is a clarification of existing law, it will apply to existing lending arrangements currently in effect. The bill has an emergency clause to establish that the bill becomes law immediately upon signature of the Governor.

Principal Introducer: _____

Senator Paul Schumacher