

MINUTES OF THE SENATE BUSINESS & LABOR STANDING COMMITTEE

Room 215 Senate Building
Tuesday, February 19, 2013

Members Present: Sen. Curtis S. Bramble, Chair
Sen. Gene Davis
Sen. Deidre M. Henderson
Sen. David P. Hinkins
Sen. Karen Mayne
Sen. John L. Valentine
Sen. Todd Weiler

Staff Present: Mr. Bryant R. Howe, Assistant Director
Ms. Karen Allred, Committee Secretary

A list of visitors and a copy of handouts are filed with the committee minutes.

Chair Bramble called the meeting to order at 2:10 p.m.

Approval of Minutes

MOTION: Sen. Henderson moved to approve the minutes of the February 14, 2013 meeting.
The motion passed unanimously with Sen. Davis, Sen. Hinkins and Sen. Valentine absent for the vote

Chair Bramble relinquished the Chair to Sen. Henderson

2nd Sub. H.B. 47 Insurance Law Amendments (*J. Dunnigan*)

MOTION: Sen. Bramble moved to adopt **3rd Sub. H.B.47**. The motion passed unanimously with Sen. Davis, Sen. Hinkins and Sen. Valentine absent for the vote.

Sen. Bramble resumed the Chair.

Rep. Dunnigan introduced and explained the bill.

Sen. Bramble relinquished the committee chair to Sen. Henderson.

MOTION: Sen. Bramble moved to transmit **3rd Sub. H.B. 47** favorably. The motion passed unanimously with Sen. Davis and Sen. Hinkins absent for the vote.

MOTION: Sen. Bramble moved to place **3rd Sub. H.B. 47** on the Consent Calendar. The motion passed unanimously with Sen. Davis and Sen. Hinkins absent for the vote.

S.B. 189 Oncology Insurance Amendments (*C. Bramble*)

Sen. Bramble introduced and explained the bill.

Spoke in favor of the bill: Dr. Nitin Chandramouli, President, Utah Society of Medical Oncology
Dr. Richard Frame, Utah Cancer Specialists
Kellie Gubler, Cancer Patient
Cody Anderson, Volunteer, Cancer Patient
Kermit Heid, Cancer Patient, Cancer Action Network
Jamie Toftum, Cancer Patient
Michelle McOmber, CEO, Utah Medical Association
Shelley Anderson, Caregiver, Cancer Action Network
Susan Connor, Cancer Patient

Spoke in opposition to the bill: Travis Wood, Executive Director, Utah Health Plans
Brian Allen, Lobbyist, America's Health Insurance Plans
Ron Holbrook, Blue Cross Blue Shield

MOTION: Sen. Bramble moved to transmit **S.B. 189** favorably. The motion passed unanimously.

S.B. 21 Unincorporated Business Entities (*L. Hillyard*)

MOTION: Sen. Valentine moved to amend the bill as follows:

1. Page 45, Lines 1361 through 1363:

1361 (ii) Title 42, Names; or

1362 (iii) on or before {~~June 30, 2014~~} December 31, 2013, Title 48,
Partnership, and on and after {~~July~~} January 1, 2014,

1363 Title 48, Unincorporated Business [~~Entities~~] Entity Act; or

2. Page 47, Lines 1431 through 1433:

1431 Until this chapter is repealed January 1, 2016, this chapter applies only to a
partnership

1432 formed on or before {~~June 30, 2014~~} December 31, 2013, that has not elected
to be governed by Chapter 1d, Utah

1433 Uniform Partnership Act, as provided in Section 48-1d-1405.

3. Page 101, Lines 3119 through 3125:

3119 (31) "Protected agreement" means:
3120 (a) a record evidencing indebtedness and any related agreement in effect on
{~~July~~} January 1,
3121 2014;
3122 (b) an agreement that is binding on an entity on {~~July~~} January 1, 2014;
3123 (c) the organic rules of an entity in effect on {~~July~~} January 1, 2014; or
3124 (d) an agreement that is binding on any of the governors or interest holders of an
entity
3125 on {~~July~~} January 1, 2014.

4. Page 110, Lines 3388 through 3391:

3388 (3) If a protected agreement contains a provision that applies to a merger of a
domestic
3389 partnership but does not refer to an interest exchange, the provision applies to an interest
3390 exchange in which the domestic partnership is the acquired entity as if the interest
exchange
3391 were a merger until the provision is amended after {~~July~~} January 1, 2014.

5. Page 114, Lines 3523 through 3524:

3523 partnership but does not refer to a conversion, the provision applies to a conversion of
the
3524 entity as if the conversion were a merger until the provision is amended after
{~~July~~} January 1, 2014.

6. Page 119, Lines 3682 through 3683:

3682 domestication of the limited liability partnership as if the domestication were a merger
until the
3683 provision is amended after {~~July~~} January 1, 2014.

7. Page 144, Lines 4439 through 4443:

4439 (1) Before January 1, 2016, this chapter governs only:
4440 (a) a partnership formed on or after {~~July~~} January 1, 2014; and
4441 (b) except as otherwise provided in Subsection (3), a partnership formed before
{~~July~~} January 1,

4442 2014, which elects, in the manner provided in its partnership agreement or by law for
amending
4443 the partnership agreement, to be subject to this chapter.

8. Page 144, Line 4460 through Page 145, Line 4462:

4460 Until this chapter is repealed January 1, 2016, this chapter applies only to a limited
4461 partnership formed on or before {~~June 30, 2014~~} December 31, 2013, that has
not elected to be governed by Chapter
4462 2e, Utah Uniform Limited Partnership Act, as provided in Section 48-2e-1205.

9. Page 145, Lines 4465 through 4467:

4465 Until this chapter is repealed January 1, 2016, this chapter applies only to a limited
4466 liability company formed on or before {~~June 30, 2014~~} December 31, 2013.
that has not elected to be governed by
4467 Chapter 3a, Utah Revised Uniform Limited Liability Company Act, as provided in Section

10. Page 216, Lines 6682 through 6689:

6682 (31) "Protected agreement" means:
6683 (a) a record evidencing indebtedness and any related agreement in effect on
{~~July~~} January 1,
6684 2014;
6685 (b) an agreement that is binding on an entity on {~~July~~} January 1, 2014;
6686 (c) the organic rules of an entity in effect on {~~July~~} January 1, 2014; or
6687 (d) an agreement that is binding on any of the governors or interest holders of an
entity
6688 on {~~July~~} January 1, 2014.
6689 (32) "Public organic record" means the record, the filing of which by the division is

11. Page 225, Lines 6957 through 6960:

6957 interest exchange in which the domestic limited partnership is the acquired entity as if the
6958 interest exchange were a merger until the provision is amended after
{~~July~~} January 1, 2014.
6959 Section 255. Section 48-2e-1132 is enacted to read:
6960 48-2e-1132. Plan of interest exchange.

12. Page 230, Lines 7099 through 7102:

7099 limited partnership but does not refer to a conversion, the provision applies to a
conversion of
7100 the entity as if the conversion were a merger until the provision is amended after
{~~July~~} January 1, 2014.
7101 Section 261. Section **48-2e-1142** is enacted to read:
7102 48-2e-1142. Plan of conversion.

13. Page 235, Lines 7257 through 7259:

7257 domestication of the limited partnership as if the domestication were a merger until the
7258 provision is amended after {~~July~~} January 1, 2014.
7259 Section 267. Section **48-2e-1152** is enacted to read:

14. Page 240, Line 7429 through Page 241, Line 7451:

7429 (1) Before January 1, 2016, this chapter governs only:
7430 (a) a limited partnership formed on or after {~~July~~} January 1, 2014; and
7431 (b) except as otherwise provided in Subsections (3) and (4), a limited partnership
7432 formed before {~~July~~} January 1, 2014, which elects, in the manner provided in
its partnership agreement
7433 or by law for amending the partnership agreement, to be subject to this chapter.
7434 (2) Except as otherwise provided in Subsection (3), on and after January 1, 2016,
this
7435 chapter governs all limited partnerships.
7436 (3) With respect to a limited partnership formed before {~~July~~} January 1,
2014, the following
7437 rules apply except as the partners otherwise elect in the manner provided in the
partnership
7438 agreement or by law for amending the partnership agreement:
7439 (a) Subsection 48-2e-104(3) does not apply and the limited partnership has
whatever
7440 duration it had under the law applicable immediately before {~~July~~} January 1,
2014.
7441 (b) Sections 48-2e-601 and 48-2e-602 do not apply and a limited partner has the
same

- 7442 right and power to dissociate from the limited partnership, with the same consequences,
as
- 7443 existed immediately before ~~{July}~~ January 1, 2014.
- 7444 (c) Subsection 48-2e-603(4) does not apply and the partners have the same right
and
- 7445 power to expel a general partner as existed immediately before ~~{July}~~ January
1, 2014.
- 7446 (d) Subsection 48-2e-603(5) does not apply and a court has the same power to expel
a
- 7447 general partner as the court had immediately before ~~{July}~~ January 1, 2014.
- 7448 (e) Subsection 48-2e-801(1)(c) does not apply and the connection between a
person's
- 7449 dissociation as a general partner and the dissolution of the limited partnership is the
same as
- 7450 existed immediately before ~~{July}~~ January 1, 2014.
- 7451 (4) With respect to a limited partnership that elects pursuant to Subsection (1)(b) to
be

15. Page 308, Lines 9514 through 9521:

- 9514 (30) "Protected agreement" means:
- 9515 (a) a record evidencing indebtedness and any related agreement in effect on
~~{July}~~ January 1,
- 9516 2014;
- 9517 (b) an agreement that is binding on an entity on ~~{July}~~ January 1, 2014;
- 9518 (c) the organic rules of an entity in effect on ~~{July}~~ January 1, 2014; or
- 9519 (d) an agreement that is binding on any of the governors or interest holders of an
entity
- 9520 on ~~{July}~~ January 1, 2014.
- 9521 (31) "Public organic record" means the record the filing of which by the division is

16. Page 316, Lines 9789 through 9791:

- 9789 interest exchange in which the domestic limited liability company is the acquired entity as
if
- 9790 the interest exchange were a merger until the provision is amended after
~~{July}~~ January 1, 2014.

9791 Section 370. Section **48-3a-1032** is enacted to read:

17. Page 321, Lines 9932 through 9935:

9932 limited liability company but does not refer to a conversion, the provision applies to a
9933 conversion of the entity as if the conversion were a merger until the provision is amended
after

9934 ~~{July}~~ January 1, 2014.

9935 Section 376. Section **48-3a-1042** is enacted to read:

18. Page 326, Lines 10091 through 10094:

10091 limited liability company but does not refer to a domestication, the provision applies to a
10092 domestication of the limited liability company as if the domestication were a merger until
the

10093 provision is amended after ~~{July}~~ January 1, 2014.

10094 Section 382. Section **48-3a-1052** is enacted to read:

19. Page 350, Lines 10835 through 10839:

10835 (1) Before January 1, 2016, this chapter governs only:

10836 (a) a limited liability company formed on or after ~~{July}~~ January 1, 2014;
and

10837 (b) except as otherwise provided in Subsection (3), a limited liability company
formed

10838 before ~~{July}~~ January 1, 2014, which elects, in the manner provided in its
operating agreement or by law

10839 for amending the operating agreement, to be subject to this chapter.

20. Page 350, Lines 10842 through 10844:

10842 (3) For the purposes of applying this chapter to a limited liability company formed
10843 before ~~{July}~~ January 1, 2014:

10844 (a) the limited liability company's articles of organization are deemed to be the
limited

21. Page 371, Lines 11485 through 11487:

11485 (1) The amended sections in this bill take effect on July 1, 2013.

11486 (2) The sections enacted in this bill take effect on ~~{July}~~ January 1, 2014.

11487 (3) Section 422, Repealer, in this bill of the uncodified repealer Laws of Utah 2011,

The motion passed unanimously.

Sen. Hillyard introduced and explained the bill.

Sen. Bramble resumed the committee chair.

Russ Smith, Attorney, further clarified the bill and answered questions from the committee.

Spoke in support of the bill: Bob Hadley, Attorney

MOTION: Sen. Valentine moved to transmit **S.B. 21** favorably as amended. The motion passed unanimously.

MOTION: Sen. Valentine moved that **S.B. 21** be placed on the Consent Calendar. The motion passed unanimously.

2nd Sub. S.B. 67 Consumer Protection Revisions (C. Bramble)

MOTION: Sen. Bramble moved to adopt **3rd Sub. S.B. 67**. The motion passed unanimously.

MOTION: Sen. Bramble moved to adopt the following amendment:

1. *Page 1, Lines 9 through 10:*

9 This bill prohibits sellers from imposing a surcharge on a transaction paid for with a
10 {~~financial transaction~~} credit card.

2. *Page 1, Lines 14 through 16:*

14 ▶ prohibits sellers from imposing a surcharge on a transaction for \$10,000 or less
 that
15 is paid for with a {~~financial transaction~~} credit card;
16 ▶ repeals the provisions in this bill related to {~~financial~~
 ~~transaction~~} credit card surcharges on

3. *Page 2, Lines 47 through 48:*

47 [~~13-38-101~~]. 13-38a-102. Definitions {~~-- Financial transaction card~~
 ~~receipt~~
48 ~~requirements~~} .

4. Page 3, Lines 82 through 84:

82 (4) "Surcharge" means an additional charge added to a transaction paid for by using a
83 { ~~financial transaction~~ } credit card, but not added to a transaction paid for by a
means other than a
84 { ~~financial transaction~~ } credit card.

5. Page 4, Line 111 through Page 5, Line 119:

111 Part 3. { ~~Financial Transaction~~ } Credit Card Surcharges
112 13-38a-301. Title.
113 This part is known as " { ~~Financial Transaction~~ } Credit Card Surcharges."
114 Section 7. Section **13-38a-302** is enacted to read:
115 13-38a-302. { ~~Financial transaction~~ } Credit card surcharges prohibited.
116 (1) A seller may not impose a surcharge on a transaction for \$10,000 or less that is
paid
117 for by using a { ~~financial transaction~~ } credit card.
118 (2) A seller may offer a discount on a transaction that is paid for by means other than
a
119 { ~~financial transaction~~ } credit card.

The motion passed unanimously.

Sen. Bramble introduced and explained the bill.

Howard Headlee, Utah Bankers Association, further clarified the bill and answered questions from the committee.

MOTION: Sen. Mayne moved to transmit **3rd Sub. S.B. 67** favorably as amended. The motion passed unanimously.

S.B. 187 Food Handler Licensing Amendments (C. Bramble)

MOTION: Sen. Bramble moved to adopt **1st Sub. S.B. 187**. The motion passed unanimously.

Sen. Bramble introduced and explained the bill.

MOTION: Sen. Bramble moved to adopt the following amendment:

1. Page 3, Line 86 through Page 4, Line 95:

- 86 (7) The department, in consultation with local health departments, shall:
87 (a) approve the content of an approved food handler training program required under
88 Subsection (3):
89 ~~{(b) approve, as qualified, each instructor who will provide classroom based~~
 training;}
90 ~~{(c)}~~ **(b)** approve, as qualified, each provider; and
91 ~~{(d)}~~ **(c)** in accordance with applicable rules made under Subsection (10),
 provide a means
92 to authenticate:
93 (i) documents used in an approved food handler training program;
94 (ii) the identity of an approved instructor; and
95 (iii) an approved provider.

The motion passed unanimously.

MOTION: Sen. Bramble moved to transmit **1st Sub. S.B. 187** favorably as amended. The motion passed unanimously.

Sen. Bramble resumed the committee chair.

S.B. 143 Mortgage and Financial Affairs Amendments (*W. Harper*)

MOTION: Sen. Weiler moved to adopt the following amendment:

1. Page 2, Line 58 through Page 3, Line 72:

- 58 ~~{(f)}~~ (i) "Single point of contact" means ~~[a person]~~ an individual or the individual's
59 replacement who, as the designated representative of the beneficiary or servicer, is
 authorized
60 to ~~{+}~~ :
 (i) ~~{+}~~ coordinate and ensure effective communication with a default trustor
 concerning:
61 ~~{+}~~ (A) ~~{+}~~ ~~{(i)}~~ foreclosure proceedings initiated by the beneficiary
 or servicer relating to the
62 trust property; and
63 ~~{+}~~ (B) ~~{+}~~ ~~{(ii)}~~ any foreclosure relief offered by or acceptable to the

- beneficiary or servicer {+} ; {+}
- 64 [and] {-}
- (ii) be informed of and involved in making decisions concerning the default trustor's eligibility for foreclosure relief; and
- 65 {+} ~~{(ii)}~~ (iii) ~~{direct}~~ access and be informed of the procedural details of all foreclosure proceedings initiated by the beneficiary or servicer relating to
- 66 the trust property, including: {+}
- 67 {+} (A) the filing of a notice of default under Section 57-1-24 and any cancellation of a
- 68 notice of default; {+}
- 69 {+} (B) the publication of a notice of trustee's sale under Section 57-1-25; and {+}
- 70 {+} (C) the postponement of a trustee's sale under Section 57-1-27 or this section. {+}
- 71 (2) (a) ~~{Before}~~ No fewer than 30 days before the day on which a notice of default is filed for record under Section 57-1-24, a beneficiary
- 72 or servicer shall:

Sen. Weiler withdrew his motion.

The Committee proceeded to the next item on the agenda.

Chair Bramble announced that S.B. 173, H.B. 101, and H.J.R. 4 would be considered at the next committee meeting.

S.B. 59 Worker's Compensation Coordination of Benefits Amendments (K. Mayne)

MOTION: Sen. Mayne moved to adopt **1st Sub. S.B. 59**. The motion passed unanimously.

Sen. Mayne introduced and explained the bill.

Spoke in favor of the bill: Dennis Lloyd, Workers's Compensation Fund

Spoke in opposition to the bill: Kelly Atkinson, Utah Health Association

MOTION: Sen. Henderson moved to adjourn. The motion passed unanimously. Chair Bramble adjourned the meeting at 4:05 p.m.

Sen. Curtis S. Bramble, Committee Chair