

SB_458_FHLB_League_Support_2021.pdf

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Testimony
for the Senate Finance Committee
In **SUPPORT** of

Senate Bill 458 – Insurance – Impaired Entities – Delinquency Proceedings

February 10, 2021

The League of Life and Health Insurers of Maryland Inc. supports Senate Bill 458 and urges the committee to give the bill a favorable report.

The League has long been a proponent of a level playing field on which our members can compete with insurers in other states and compete as businesses with other industries in Maryland. SB 458 places domestic insurance company members on par with domestic bank members of the Federal Home Loan Bank. SB 458 also places domestic insurance company members of the Federal Home Loan Bank on par with insurance company members of the Federal Home Loan Bank in states that have enacted this legislation. In addition to the level playing field, The National Association of Insurance Commissioners (NAIC) studied the Federal Home Loan Bank's requested changes to the insurance laws in 2013 and made a series of recommendations to the states considering enacting the Federal Home Loan Bank's proposal. This bill meets or exceeds every one of the NAIC's recommendations.

The League has three members that are also members of the Federal Home Loan Bank. On behalf of these League members, the League recommends a favorable report on SB 458.

The League of Life and Health Insurers of Maryland, Inc.
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MD_SB458_ACLI_FOSTER_FAV.pdf

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February 8, 2021

The Honorable Delores Kelley
Chair, Senate Finance
Miller Senate Office Building
3 East
Annapolis, MD 21401

RE: Senate Bill 458 – Federal Home Loan Bank Legislation

Dear Chair Kelley:

The American Council of Life Insurers (ACLI) is a Washington, D.C. – based trade association with 280 member companies operating in the United States and abroad. ACLI advocates in federal, state, and international forums for public policy that supports the industry marketplace and the 75 million American families that rely on life insurers' products for financial and retirement security. ACLI members offer life insurance, annuities, retirement plans, long-term care and disability income insurance, and reinsurance, representing more than 94 percent of industry assets and premiums. Specifically, each day, life insurers pay out \$36.3 million in life insurance and annuities to Maryland families and businesses.

The ACLI urges you to support Senate Bill 458 regarding Maryland's receivership laws. The legislation would amend your state's receivership laws to:

- (1) Provide greater certainty to a Federal Home Loan Bank (FHLB) with regard to its collateral through specific exemptions to the state's "stay" and voidable preference" provisions;
- (2) Eliminate the need for increased collateral requirements by the FHLB on its insurer borrowers; and
- (3) Result in continued, and possibly expanded, FHLB lending to insurers.

Access to FHLB funding is an important source of liquidity for many life insurers during both stable and uncertain economic times and should be maintained. This bill would benefit domestic insurers and their policyholders and is modeled after other state statutes that have been recently enacted. Without such legislation, a FHLB could reduce the amount it lends to its member insurers and/or offer less favorable lending terms.

Sincerely,



Michelle Carroll Foster

Cc: Senate Finance Committee Members

American Council of Life Insurers | 101 Constitution Ave, NW, Suite 700 | Washington, DC 20001-2133

The American Council of Life Insurers (ACLI) is the leading trade association driving public policy and advocacy on behalf of the life insurance industry. 90 million American families rely on the life insurance industry for financial protection and retirement security. ACLI's member companies are dedicated to protecting consumers' financial wellbeing through life insurance, annuities, retirement plans, long-term care insurance, disability income insurance, reinsurance, and dental, vision and other supplemental benefits. ACLI's 280 member companies represent 94 percent of industry assets in the United States.

Maryland SB 0458 - FHLBank Atlanta Presentation -

Uploaded by: Huff, Michael

Position: FAV



FHLBank Atlanta Insurance Company Membership and Benefits

February 10, 2021

FEDERAL HOME LOAN BANK
OF ATLANTA

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Forward-looking statements included in this presentation may not be realized due to a variety of factors, including, without limitation: the Bank's net income results; legislative and regulatory actions or changes; future economic and market conditions; changes in demand for advances or consolidated obligations of FHLBank Atlanta and/or the FHLBank System; changes in interest rates; political, national and world events; and adverse developments or events affecting or involving other FHLBanks or the FHLBank System in general. Additional factors that might cause FHLBank Atlanta's results to differ from these forward-looking statements are provided in detail in our filings with the Securities and Exchange Commission, which are available at www.sec.gov.

Certain information contained in this presentation has been prepared by FHLBank Atlanta from third-party and market data and using analytical tools it believes to be accurate and reliable. No warranty, expressed or implied, however, is made concerning the completeness or accuracy of such information. The analysis and applications contained herein are based on certain assumptions that FHLBank Atlanta believes to be reasonable. Different assumptions, however, may lead to materially different results. Additionally, past performance and experience may not necessarily be indicative of actual results.

- Federal Home Loan Bank Overview
- Proposed Changes to State Receivership Laws

FEDERAL HOME LOAN BANK OVERVIEW

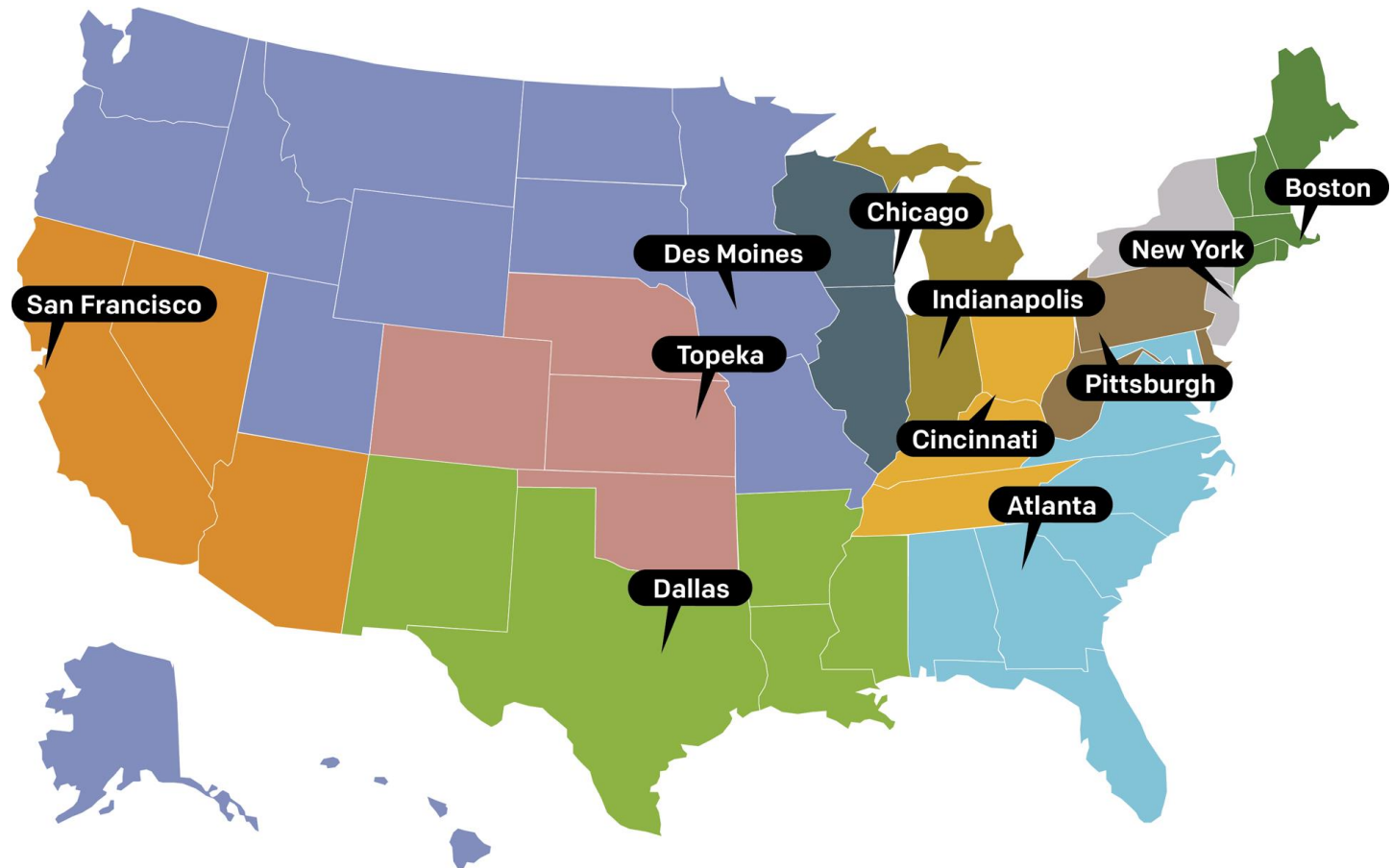
The Federal Home Loan Banks – System Background



- The Federal Home Loan Banks were created by Congress via the FHLBank Act of 1932
- Eleven independent regional Banks structured as cooperatives, owned by their respective member financial institutions (insurance companies*, commercial banks, credit unions, savings associations*, and community development financial institutions). No taxpayer funds are involved in the operation of the cooperatively owned FHLBanks.
- Nearly \$1 trillion in combined assets at September 30, 2020
- Funded primarily via debt issuance, referred to as consolidated obligations, for which the 11 banks are jointly and severally liable
 - Centralized debt issuer for FHLBank System: Office of Finance (Reston, VA)
 - Consolidated obligations rated Aaa and P-1 by Moody's and AA+ and A-1+ by Standard & Poor's
- Offer competitively priced financing (advances), affordable housing and community development grants, and other banking services for member financial institutions
- Regulated by the Federal Housing Finance Agency (FHFA)

* Original FHLBank members under the FHLBank Act of 1932

The Federal Home Loan Banks – System Geography



- Federal statute and regulations require members to purchase capital stock in the FHLBank to join, and activity-based capital stock to borrow
 - Capital stock is purchased and redeemed at par
 - Shareholders may receive dividends on capital stock
 - Membership capital stock is redeemable after five years if an institution exits FHLBank membership; excess stock may be repurchased earlier
- FHLBank Act and FHFA regulations require all obligations of members (advances, funding agreements and letters of credit) be secured with eligible collateral
 - Eligible collateral includes securities and certain types of mortgage loans, but not capital stock
 - May require third-party custodian to hold collateral

B1 (Membership Stock)

- Lesser of 9 basis points of total assets or \$15 million as of most recent year end
- Recalculated every year

B2 (Activity Stock)

- 4.25 percent of total advances
- Repurchased on a daily basis (with \$100k threshold)

FHLBank Atlanta Membership and Collateral Eligibility



Collateral Eligibility

Securities Collateral	Eligible	Ineligible	Whole Loans*	Eligible	Ineligible
US Treasury Securities	●		Residential 1 – 4	●	
Agency Securities	●		Commercial Mortgages	●	
Agency MBS	●		Multifamily	●	
Private Label	●		Farmland Mortgages	●	
CMBS	●				
Municipals	●				
Private Placements	●				

*Whole loan eligibility subject to state of domicile and FHLBank Atlanta specific underwriting criteria.

- **Contingent Liquidity**
 - Manage unanticipated claims or other liquidity events without liquidating high-quality assets
 - Low-cost, same-day access
- **Asset Liability Management**
 - Match-fund asset cash flows
 - Manage duration and maturity gaps
- **Operational Liquidity**
 - Short-term funding for normal business activities
 - More efficient cash management to improve returns
- **Investment Portfolio Management**
 - Optimize portfolio composition for enhanced income and liquidity
 - Advances and/or funding agreements available

- FHLBank Atlanta currently has five insurance company members that are domiciled in Maryland
 - These include Property and Casualty, Life, and Health companies
 - Banner Life Insurance Company
 - Union Labor Life Insurance Company
 - Baltimore Life Insurance Company
 - Chesapeake Employers' Insurance Company
 - CareFirst of Maryland, Inc.

PROPOSED CHANGES TO STATE RECEIVERSHIP LAWS

Overview of Suggested Legislative Changes



- Specifically recognize FHLBank membership and advances
 - FHLBanks are unique from other secured lenders
- Limit automatic stay and injunction provisions to seven days
- Require repurchase of excess capital stock if FHLBank exercises its right to collateral
- Clarify that collateral pledged to FHLBank is not a voidable transfer
- Clarify that receiver will not attempt to void a capital stock redemption or repurchase
- Include NAIC suggested provisions
 - Require FHLBank on request of receiver to provide a process and timeline for
 - Release of collateral in excess of collateral required to support secured obligations remaining after repayment of loans
 - Release of remaining collateral in FHLBank's possession after repayment of all secured obligations
 - Payment of fees owed by the insured-member to FHLBank
 - Operation of accounts of the insured-member with FHLBank
 - Possible redemption or repurchase of stock or excess stock of a class the insurer-member is required to own
 - Require FHLBank on the request of the receiver to provide options to renew or restructure loans
 - Limit transfers that may not be voided under FHLBank agreements to those made in the ordinary course of business

Benefits to Receivership Process Without Altering Claim Priority

- The proposed legislation will not have a material impact on the assets available to the receiver and may benefit the receiver in ways that enhance operating flexibility, increase available assets and reduce the overall costs of receivership by
 - Allowing lending to insurance companies with less onerous collateral requirements could leave more assets available to the receiver in the event of an insurance company insolvency
 - Increasing the possibility of continued/additional FHLBank lending during a receivership
 - Requiring FHLBank to provide the receiver options to renew or restructure loans for the insurer-member
 - Allowing adequately secured FHLBank advances to remain outstanding and be repaid in an orderly manner. As the advances are repaid, FHLBank will release its rights in the pledged collateral allowing the receiver to deal with the assets and maximize their value
 - Reducing risk that FHLBank will be forced to seek a sale of the underlying collateral to protect FHLBank's interest
 - Requiring FHLBank to provide the receiver a process and timeline for release of collateral in excess of secured obligations, the payment of fees, the operation of FHLBank accounts and the possible redemption or repurchase of stock or excess stock of a class the insurer-member is required to own

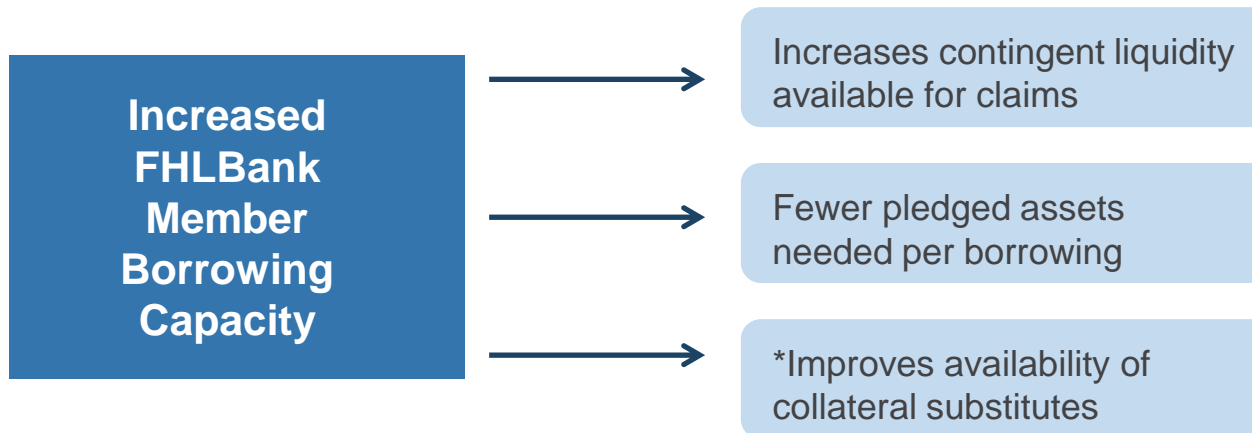
Benefits to Receivership Process Without Altering Claim Priority, cont.

- FHLBank monitors credit quality of members and can work with the receiver to identify concerns
- FHLBank may be able to establish lesser asset restrictions (such as having third party custodians hold collateral) instead of selling deteriorating assets
- The proposed legislation does not alter FHLBank's priority in a receivership proceeding
 - FHLBank is already a secured creditor under Insurance Article, § 9-227(f)
 - The seven-day stay limitation affects only the timing of FHLBank's right to collateral in which it has a perfected security interest
- Maryland's receivership laws currently prohibit a person from being stayed or otherwise prohibited from exercising any right under a pledge, security or collateral agreement relating to netting agreements or qualified financial contracts and limit voidable transfers with respect to such contracts under Insurance Article, §§ 9-229.1(b) and (f)
 - FHLBank's proposed fourteen day limit on automatic stays and injunctions affords the receiver a protection that does not exist for netting agreements and qualified financial contracts under which a party may immediately exercise its rights

Benefits to Maryland-Domestic Insurance Company Members

- Increases access to safe and reliable funding source because legislation is necessary for FHLBank to accept certain collateral and provide more favorable terms for currently permitted collateral
- Increases asset classes that may serve as collateral for FHLBank loans and funding agreements
 - Broadens collateral availability to include whole loans
- Allows Maryland-domestic insurers to obtain more favorable terms for currently permitted collateral
 - FHLBank recognizes a higher collateral valuation for certain existing assets classes
 - Reduces collateral required for FHLBank loans and funding agreements
 - Frees up capital for other investments
- Allows for issuance of additional funding agreements as a portfolio diversifier and to obtain funds to be used to generate positive spread under agreements receiving deposit-type contract accounting treatment
- Promotes parity across membership
 - Federal banking laws contain specific provisions regarding the treatment of FHLBank advances in delinquency proceedings
 - Proposed changes would create greater parity between insured depository members and insurance company members

Potential Insurer-Member Benefits of Additional Available Collateral



*Securities collateral may be readily substituted with other eligible collateral

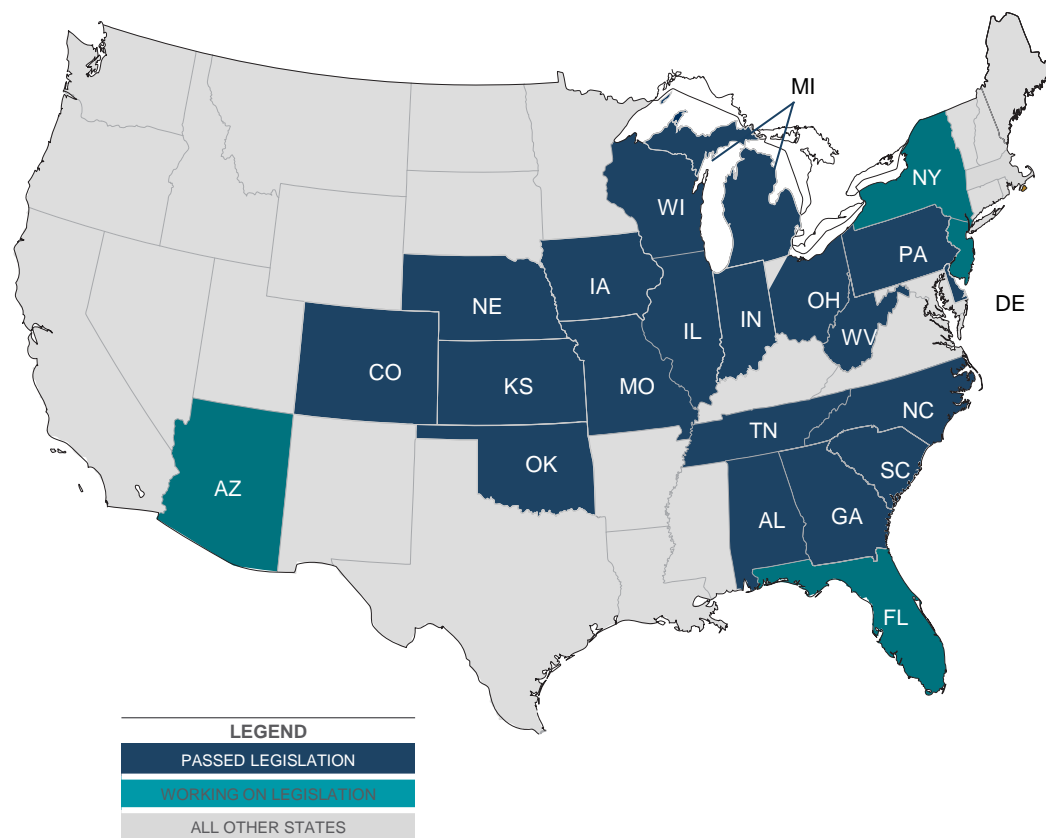
Example of Benefits to a Maryland-Domestic Insurance Company Member

A Maryland-domestic insurer estimates that the proposed legislation will:

- Increase its current FHLBank borrowing/funding agreement capacity by approximately \$75 million and its borrowing/funding agreement capacity as of December 31, 2020 by approximately \$150 million by permitting new asset classes
 - Amounts based on current commercial mortgage loans and estimated commercial mortgage loans as of the end of the 4th Quarter, and the estimated market value assigned to the commercial mortgage loan collateral
- Reduce the required collateral for currently permitted asset classes (i.e. securities) by \$400,000

States with Exemptions from Stay and Voidable Preference

- FHFA is concerned with the insolvency regimes of all 50 states because it is not clear if the statutory CEBA lien (lien priority) for the FHLBanks applies to insurance companies as it does apply to insured depositories. The McCarran-Ferguson Act issue has never been litigated. This relates to the focus of some FHLBanks' efforts to try to get state law equivalents to the FHLBanks' 12 U.S.C. §1430(e) lien priority.
- To date, 19 states have adopted similar language changes to their statutory insolvency provisions, and several others are either considering or pursuing such changes.
- To date, no state has enacted a statutory stay period greater than 14 days.
 - Stay provisions in the 19 states range from 0-14 days
 - 12 of the States have no stay provision.
- The states to the right have passed or are working on passing stay and voidable preference laws.
- Passage of these laws may allow for an improved haircut on securities collateral as well as the acceptance of whole loan collateral.



Contact Information



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Thank You

GR 21 - SB 458 - Insurance - Impaired Entities - M

Uploaded by: Lehman, Mindy

Position: FAV



Senate Bill 458 – Insurance – Impaired Entities – Delinquency Proceedings
Senate Finance Committee
February 10, 2021
Support

The Maryland Bankers Association (MBA) represents FDIC-insured community, regional and nation-wide banks that employ more than 26,000 Marylanders and hold more than \$182 billion in deposits in over 1,400 branches across our State. The Maryland banking industry serves about 6 million customers across the State and provides an array of financial services including residential mortgage lending, business banking, estates and trust services, consumer banking and more.

MBA supports Senate Bill 458, which amends Maryland law to align the statutory lien status of certain assets, including collateral, of insurance company members of the Federal Home Loan Bank (FHLBank) with that of federal law as it applies to federally insured depository institution members of the Federal Home Loan Bank. The Federal Home Loan Bank of Atlanta is a member of the Maryland Bankers Association and is one of eleven regional FHLBanks that were uniquely established by Congress in 1932 as cooperative banks to serve their members (which are their shareholders) as a source of funding and liquidity. FHLBank members are banks, thrifts, credit unions, insurance companies and community development financial institutions. Insurance companies have been eligible FHLBank members since the FHLBanks' inception. FHLBank Atlanta serves hundreds of members along the Southeast Atlantic coast from Maryland to Florida, including 80 members in Maryland, of which five are insurance companies.

Passage of SB 458 will level the playing field for insurance companies, providing them with the opportunity to have improved funding costs and a broader category of eligible collateral as FHLBank members. This improved access to liquidity should also enhance the ability of Maryland insurance companies to serve their Maryland policy-holders. In addition, improved access to and more cost effective liquidity should help create an even more stable and sound insurance system. Specifically, it ensures the priority of the FHLBanks' position regarding the collateral that supports its members' borrowing. Insurance companies access low-cost borrowing from the FHLBank for a variety of funding needs, including to meet unexpected claims related to such things as hurricanes or other natural disasters.

Senate Bill 458 will result in the FHLBank working more closely with the Maryland Insurance Administration to ensure that, in the event of an insurance company rehabilitation, it may be handled in as smooth a manner as possible, assisting the regulator in maintaining adequate liquidity through the process. The National Association of Insurance Commissioners studied the FHLB's requested changes to the insurance laws in 2013 and made a series of recommendations to the states considering enacting the FHLB's proposal. Senate Bill 458 meets or exceeds every one of the NAIC's recommendations.

This legislation has been enacted in 19 states so far, including Pennsylvania, Delaware, and West Virginia. Additional states are considering the legislation this year. Passage of this legislation will help ensure that Maryland insurance company members of the FHLBank are not at a disadvantage to insurance company members in states that have already adopted the legislation.

The Maryland Bankers Association strongly supports Senate Bill 458 and urges the Committee to give the bill a favorable report.

SB 458 LOI MIA.pdf

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Position: INFO

LARRY HOGAN
Governor

BOYD K. RUTHERFORD
Lt. Governor



KATHLEEN A. BIRRANE
Commissioner

JAY COON
Deputy Commissioner

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**TESTIMONY OF
THE
MARYLAND INSURANCE ADMINISTRATION
BEFORE THE
SENATE FINANCE COMMITTEE**

FEBRUARY 10, 2021

SENATE BILL 458 - INSURANCE - IMPAIRED ENTITIES - DELINQUENCY PROCEEDINGS

POSITION: LETTER OF INFORMATION

Thank you for the opportunity to provide written comments regarding Senate Bill 458. As drafted, Senate Bill 458 amends Maryland's "Liquidation, Rehabilitation, Reorganization, and Conservation" statute in Title 9, Subtitle 2 of the Insurance Article. The bill gives a Federal Home Loan Bank ("FHLB") preferential treatment in insurance company delinquency proceedings, primarily by providing the FHLB with quick access to secured collateral and limiting the circumstances in which a receiver could seek to void transactions made in connection with the FHLB secured loan or security agreement.

The Maryland Insurance Administration (MIA) recognizes the role of FHLB lending as both an important source of liquidity and as a method to promote the continued viability of insurance companies. Currently, nineteen states provide some form of preferential treatment to the FHLB.

Because the FHLB would be considered a secured creditor, under § 9-227(f) of the Insurance Article, assets validly pledged as security for the FHLB secured loan are not available for distribution by the Receiver in delinquency proceeding and will be distributed to the FHLB. Under current law, the FHLB is barred from exercising its contractual rights with respect to collateral and must await action by the Receiver or the Receivership Court to take the assets that serve as collateral for the secured loan. As drafted, Senate Bill 458 would permit FHLB to exercise those rights and access collateral 14 days after the date of the receivership filing.

In 2012, the National Association of Insurance Commissioners (NAIC) created the Federal Home Loan Bank Legislation (E) Subgroup ("Subgroup") of the Receivership and

Insolvency Task Force to study and consider receivership legislation proposed by the FHLB. The Subgroup did not reach consensus on the proposed legislation, but did encourage states to consider certain recommendations.

With respect to the exemption from a stay of action for the FHLB, the Subgroup had several discussions about the period of time that a receiver should have to evaluate the FHLB loan and collateral before the stay is lifted. The Subgroup suggested a limited stay of no more than 30-days was reasonable, after which time the stay would be lifted for the FHLB. The MIA agrees with that timing and believes that a 30-day period after the appointment of a receiver in conjunction with language allowing for exemptions in the ordinary course of business, is a more reasonable time frame for the Receiver to conduct a review, absent a compelling reason for more immediate access to the collateral.

Senate Bill 458 also limits the receiver's ability to void certain transactions or claw back certain payments made by the company to the FHLB prior to the date of the receivership. Currently, a receiver has authority to seek to void transactions and claw back transfers of assets that the receiver does not consider to have been within the normal course of business or that provided an unfair advantage to one creditor at the expense of others (often referred to as voidable preferences) regardless of intent. Senate Bill 458 would authorize the receiver to void FHLB secured loan related transactions only if the transfer was made with the intent to hinder, delay or defraud the insurer, the receiver, or other creditors.

The changes described above would put FHLB loans on par with certain other financial arrangements made by insurance companies, such as netting arrangements, commodities contracts, forward contracts, repurchase agreements, and swaps, as to which the automatic stay does not currently apply and as to which the receiver's voidance rights are limited pursuant to § 9-229.1(b) and (f) of the Insurance Article.

The MIA recognizes that while Senate Bill 458 would provide the FHLB with additional protections, a benefit of these changes is to create more liquidity and better credit options for insurers by enabling an FHLB to extend credit to an insurer based on lower-quality collateral than it otherwise would, thereby preserving higher quality assets for other purposes.