

Premium Finance Board

May 25, 2021

**MINUTES**

At the call of Assistant Attorney General (AAG) Glenn Kaplan, designee of Attorney General Maura Healey, a meeting of the Premium Finance Board, hereby known as the Board, was called to order at 10:01 a.m. through GoToWebinar.

Also present were other Board members, Mary Gallagher, Commissioner of Banks, and Cara Toomey, Counsel to the Commissioner of Insurance at the Division of Insurance (DOI). Cara Toomey is the designee on this Board for the Commissioner of Insurance.

Others present who are staff of the agencies represented on the Board include Heather Bennett, Arwen Thoman, Burt Feinberg, Chloe Williams, and Gia Kim.

After the call to order, the second agenda item was the opportunity for opening statements of the Board members. None of the Board members offered an opening statement.

Discussion of the third agenda item, approval of the minutes from the prior meeting held on November 5, 2020 via GoToWebinar, followed. Chloe Williams roll-called the Board members on a vote to approve the minutes. AAG Kaplan voted in favor of the motion, as did Cara Toomey and Commissioner Gallagher.

**VOTED: to approve the prior Premium Finance Board meeting minutes as distributed to the Board members.**

The fourth item on the agenda was to discuss the comments received as a result of the Board's outreach. Commissioner Gallagher began by noting that the Board received a total of six comments and that the comments were representative of two different sets of stakeholders, the industry and consumer advocacy groups. Commissioner Gallagher noted that the submissions, albeit broad, were helpful for determining the task at hand, which was to discern whether the current rates and fees are nondiscriminatory and equitable.

AAG Kaplan noted that some of the comments reflected concerns about affordability. He also observed that the comments raised interesting issues regarding how certain aspects of policies, such as endorsements, may affect premium finance contracts. AAG Kaplan emphasized that change in policy is something the Board

should further delve into. AAG Kaplan then agreed with Commissioner Gallagher that the comments did not contain a sufficient level of detail or informational breadth about the current state of the market. He pointed out that the company submissions suggested that it may be difficult for companies to compile all the information the Board may seek, but that the comments can help the Board refine its requests.

Cara Toomey agreed with AAG Kaplan and Commissioner Gallagher that the submissions were broad. Cara Toomey also commented that she wonders how the Massachusetts market compares to the market of other states, and whether the Massachusetts 18% cap is relatively high or low compared to other state rates. AAG Kaplan noted that Cara Toomey raised an interesting point.

Commissioner Gallagher commented that the Division of Banks (DOB) was also curious about the rates in other states and did some preliminary research into states with insurance premium financing. She stated that the DOB found a general range between 9% and 36%, which would place Massachusetts rates roughly in the middle. Commissioner Gallagher noted that Heather Bennett conducted some of the research and invited Heather Bennett to share her thoughts.

Heather Bennett confirmed that Massachusetts is in the middle and also commented that some states have a range of rates. Commissioner Gallagher highlighted that Massachusetts law created our Board, which is tasked with examining whether rates are discriminatory and inequitable. The Commissioner noted that it may be that some other states do not have this mechanism, and this may be relevant when evaluating the rates present in other states. AAG Kaplan asked Heather Bennett whether the state rates she looked at were average rates lenders actually used or whether she was reporting on the caps. Heather Bennett responded that her findings reflected caps, and that averages could be another area that the DOB could find out as well.

Arwen Thoman questioned whether the caps may not be solely related to premium finance and could perhaps be related to usury. Heather Bennett responded that her initial research focused on premium finance, but that where she found additional information outside of this scope, she considered that as well. Heather Bennett also noted that her search was not exhaustive, and she can go back and refine her initial findings.

Arwen Thoman emphasized that the Office of the Attorney General would primarily be interested in premium finance because those loans are secured through financed insurance policies.

AAG Kaplan commented that the range of rates speaks to what is happening at both ends. He wondered if there was any data on whether premium finance companies were able to be profitable in states even when the rate cap was only 9%, and, conversely, for states at 36%, whether all premium finance companies are actually charging that ceiling or if market rates are lower. Heather Bennett agreed with AAG Kaplan that these were worthwhile issues. AAG Kaplan then asked whether anyone else had other comments on this matter.

Commissioner Gallagher stated that the Board needs to be thoughtful of the rate and fee that was set the last time the Board met and expressed concern that lowering the interest rate could cause entities to leave the State if it is no longer a highly profitable and high-volume market. She pointed out that the number of premium finance companies in Massachusetts that renewed their license decreased from twenty-seven to twenty-two in the past year. Commissioner Gallagher indicated that there are a limited number of entities in this space and suggested that lowering the interest rate could further limit the number of companies in the state and decrease consumer access to premium financing.

AAG Kaplan wondered whether the decline in the number of companies renewing the license has remained steady over time, or whether non-renewing companies left the space for reasons related to the COVID-19 pandemic or for non-market related reasons.

He noted that perhaps having a limited number of premium finance companies may not be a problem if there is an adequate number of companies to keep competition at the right level. AAG Kaplan suggested possibly asking companies if lowering the rate would be a problem for them.

Cara Toomey noted that AAG Kaplan made an interesting point and suggested that the Board could restructure the wording of its outreach to capture more responses from companies.

The discussion then transitioned to the fifth agenda item, which was Possible Next Steps.

With respect to outreach, AAG Kaplan suggested that the Board could reconnect with the entities to obtain more information on how to structure further outreach. AAG Kaplan also noted that the Board needs to

revisit the Premium Finance Board rules to determine whether the Board has subpoena power to demand request for information. AAG Kaplan raised that, as an initial sub-step, the Board may want to follow up with the entities that responded to get more information about the issues and any problems they may have with a reduced interest rate.

Commissioner Gallagher expressed concern that, in light of the disruption and delays already caused by the pandemic, following up with the entities may take too much time with respect to determining the Board's task of deciding whether the current rates are discriminatory or inequitable. Commissioner Gallagher also noted that the legislation does not mention the prime rate, a factor the Board had been considering. Commissioner Gallagher indicated that she liked the Board's original outreach approach of both casting a wide net and being specific when it comes to the data the Board would need, but would not be opposed to getting more information especially if it could help the Board with its task at hand.

Cara Toomey highlighted that some of the comments came from national companies who may write in other states. Cara Toomey suggested that, rather than doing further research, the Board directly approach the national companies about the rates set in other states and how the rates affect their profit.

Arwen Thoman questioned whether the national companies, as opposed to local companies, are the ones writing the bulk of consumer policies in Massachusetts. Arwen Thoman then asked whether the Board has market share data about premium consumer financing. Commissioner Gallagher noted that market share data is available on the DOB website. Arwen Thoman clarified that her question was regarding the volume of the consumer insurance lines being financed and who is writing the majority of the consumer premium finance contracts. Burt Feinberg added that he was also interested which companies finance the majority of financed Private Passenger Auto policies.

AAG Kaplan revisited Cara Toomey's suggestion of reaching out to national companies and questioned whether the view of national companies would be representative. AAG Kaplan proposed that the Board both follow up with the six entities that responded to the Board's outreach and also request more specific information

from the twenty-two premium finance companies licensed in Massachusetts to get more data on the state of the market.

AAG Kaplan suggested that, with respect to getting data from the twenty-two licensees, the Board can either delve into its regulatory authority to send out a demand for information or arrange for the DOB to obtain further information. Commissioner Gallagher responded that she would be more inclined with AAG Kaplan's former suggestion. Commissioner Gallagher expressed concern about AAG Kaplan's latter suggestion due to the confidential nature of the information that the DOB receives and noted that she would need to confirm with her team.

AAG Kaplan suggested that, as an initial matter, the Board follow up with the companies who responded to initial outreach while Commissioner Gallagher checks in with her team about his latter suggestion. AAG Kaplan also invited the other Board members to discuss at a later point in time whether the regulations provide the Board with subpoena power to demand information from the twenty-two licensees.

Commissioner Gallagher confirmed that she will talk to her team and noted that the next Premium Finance board meeting will focus on the outreach to the six responsive entities. Commissioner Gallagher suggested that the Board members take a couple entities each and engage with them further.

AAG Kaplan added that the Board members can also delegate to the staff at their respective agencies to make the calls and report back. He clarified that this delegation would not constitute a meeting of the Board.

Heather Bennett commented that the delegation would be fine. AAG Kaplan suggested that the Board take a vote to delegate to representatives of each of the Board member's agencies to form a committee to contact the entities that provided comments. Cara Toomey confirmed that she was also agreeable to a vote. Cara Toomey then noted that she was a representative of Commissioner Anderson, who is the actual Premium Finance Board member, and asked whether she would be permitted to be on the committee. AAG Kaplan responded that he was uncertain and suggested that the Board leave the committee open so that each agency can contribute people to the group.

Arwen Thoman asked whether it would be possible to reach out to the premium finance companies themselves. AAG Kaplan commented that he would be fine with limiting the outreach to the companies. Cara Toomey asked Arwen Thoman whether she meant reaching out only to the premium finance companies out of the six entities that provided comments. Arwen Thoman suggested perhaps also reaching out to agents and whoever is directly involved in the business of premium financing. Burt Feinberg raised potentially contacting other premium finance companies that may be bigger players to get more information.

AAG Kaplan responded that the next steps should be to first follow up with the entities that had already provided information. Commissioner Gallagher commented that she would want to first talk to her team with respect to reaching out to entities that did not respond to the requests.

AAG Kaplan then made a motion that the Board request their staff to collaborate and contact the commentators in the premium finance business to glean more information from their responses.

Chloe Williams roll-called the Board members on a vote regarding the proposed motion. AAG Kaplan voted in favor of the motion, as did Cara Toomey and Commissioner Gallagher.

**VOTED: to approve the delegation to representatives of each Board member's agencies to contact the entities in the premium finance business that responded to the Board's original request for information.**

AAG Kaplan then summarized that Commissioner Gallagher will go back to her team and discuss the issues, and he will take a look at the Board's existing regulatory powers and invited the other Board members to do the same. He noted the next Board meeting will discuss the staff's findings and focus on the issue of the data call.

Then, AAG Kaplan asked the other Board members whether they had any other issues to discuss and their thoughts on possible dates for the next Board meeting. Cara Toomey asked whether the Board may want to further discuss the topics addressed in the current meeting to help guide the staff when reaching out to the entities. AAG Kaplan was agreeable to discussing further. Commissioner Gallagher suggested that the staff can

begin by asking the entities about their responses to the Board's original request for information in order to get more granular data and a better understanding of the marketplace.

Arwen Thoman asked what extent to which the Board would want the staff to explore the available data. She noted that one of the comments indicated that it may be difficult for the companies to provide answers to the Board's outreach questions. AAG Kaplan responded that the companies may be able to provide further explanation of their answers. He also added that the data available will likely vary from company to company and may not be generalizable.

Cara Toomey and Heather Bennett noted that AAG Kaplan's points were helpful. AAG Kaplan asked whether the Board members had any suggestions for scheduling the next Board meeting. Commissioner Gallagher suggested three to four weeks to give time for the delegates to obtain information. Cara Toomey agreed with Commissioner Gallagher's suggestion.

AAG Kaplan noted that Chloe Williams will be in touch to schedule a date for the next meeting. AAG Kaplan also noted that Gia Kim will be performing the administrative tasks for the Premium Finance Board in the future.

AAG Kaplan motioned to adjourn the meeting. Commissioner Gallagher seconded the motion, and Cara Toomey agreed as well.

**VOTED: to adjourn at 10:54 a.m.**