

MINUTES OF THE SENATE FINANCIAL INSTITUTIONS AND INSURANCE COMMITTEE

The meeting was called to order by Chairman Ruth Teichman at 9:30 a.m. on February 18, 2009, in Room 136-N of the Capitol.

All members were present except:

Senator Jeff Colyer- excused

Committee staff present:

Bruce Kinzie, Office of the Revisor of Statutes

Melissa Calderwood, Kansas Legislative Research Department

Terri Weber, Kansas Legislative Research Department

Beverly Beam, Committee Assistant

Conferees appearing before the committee:

Others attending:

See attached list.

The Chair called the meeting to order and updated the Committee. She reported that a Press Release was in the Committee's material regarding **SB 12**, the autism bill. She said she did get **SB 12** blessed. She said she sent a letter to the Commissioner of Insurance with several questions and she is waiting to hear back from her. She said she also has had the following bills blessed: SB 136; SB 174; SB 230; SB 195 and SB 241.

Action on

SB 105 - Enacting the public adjusters licensing act.

The Chair asked Melissa Calderwood, Principal Analyst, for a review of the bill. Ms. Calderwood said this was the Public Adjusters Licensing Act and there were three conferees. She said there were no questions except in the fiscal note with regard to where the money for the background check would come from.

Senator Brownlee stated that she is on the Rules and Regs Committee and one thing the Committee discussed was putting dates certain on rules and regs requirements. Senator Brownlee offered an amendment stating that Rules and Regs would be completed by July 1, 2010. She noted she wasn't implying that the Insurance Commissioner's office is slow with their rules and regs, but that there are some state agencies who are. She said she would also offer that fines and fees be determined in rules and regs.

Senator Taddiken said that would not be very palatable to him. He said he is okay with the fees, but he is always concerned when the fines go back to the agency determining the fine. He said he believes the fines should go to the General Fund unless there is a compelling reason they should go to some other area.

Senator Brownlee moved in Section 18, Page 14, line 20 to add that rules and regs would be completed by July 1, 2010. Senator Steineger seconded. Motion passed.

Senator Taddiken moved the fines should go to the General Fund. Senator Brownlee seconded. Motion passed.

Senator Steineger moved out SB 105 as amended. Senator Brownlee seconded. Motion passed.

Action on

SB 240 - Mortgages, the regulation of.

Martha Neu Smith, on behalf of Manufactured Housing, said regarding **SB 240**, that Manufactured Housing Association questions whether they would be considered a loan originator.

Kevin Glendenning, Office of the State Banking Commissioner, said the issue was whether taking an

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application and receiving compensation should be linked. He said since 1996, those have not been linked under existing Kansas Law and they still are not linked after this bill. HUD, in their comments, has opined that simply faxing an application or handing an application to the consumer does not constitute taking an application. So, I don't think there is any issue related to that. We have not considered that activity as loan origination since 1996 and we still don't believe it is.

Senator Brownlee said if this is satisfactory or adequate, let it clearly show in the Minutes.

Senator Brownlee asked, on Page 4, Line 37, where it says who takes a residential mortgage loan application or offers or negotiates, do we not need an "and" in there? She said we have "or" written in between.

Mr. Glendening said, from a practical standpoint, we could eliminate lines 37, 38 and 39 and it would not change a thing in existing law. We threw that in for additional clarification. But if you take those lines out it would still need "or" because we read the existing language that starts back on who was the loan originator and what is involved in mortgage business. The concept of taking an application and getting compensation didn't have to be linked to get the other. The practical ramification of that and why you can't do it that way is if you had an "and" there, you could take my loan application and hand it to the chairman and she could negotiate the terms and neither of you would have to be licensed as a loan originator and that doesn't work in Kansas or anywhere else. We would essentially be reversing state law that has been in place since 1996.

The Chair asked Martha Neu Smith if she was comfortable with the language.

Ms. Smith said if it is clear that we are going to fall under HUD's interpretation, and as long as Mr. Glendening puts that in writing that you will be using HUD's interpretation of what taking an application means, going over exactly what we talked about, she was comfortable with the language.

Senator Teichman said the consensus of the committee is that we will leave the "or" in with the understanding that Kevin will get a letter to the Manufactured Housing Assn.

Senator Brownlee moved **SB 240** favorable for passage. Senator Steineger seconded. Motion carried.

Action on

SB 239 - Enacting the rural risk bank loan guarantee loan program.

The Chair asked Melissa Calderwood for an overview of **SB 239**. Ms. Calderwood said **SB 239** would establish the Kansas Rural Risk Bank Loan Guarantee Program that would be implemented by the State Treasurer to provide loan guarantees against risk of default for rural development projects with rural developers and financial institutions. **SB 239** would also establish the Rural Risk Bank Loan Guarantee Fund that would receive all fees and charges for the purposes of implementing the program.

The Chair said there seems to be several things that need to be worked out and asked about getting the bill blessed.

Senator Brownlee said last year, the Kansas Rural Policy Commission was formed. She said that Board is supposed to look at things like this and she asked if the Committee should send this concept to that Board and asked them to review this and determine the need for it and what is the best procedures that could be utilized to accomplish this task. She said there are many different kinds of loans that we already have in place that make me wonder what we might be duplicating.

Senator Barnett said he thinks the concept is good and supports what Senator Brownlee has said. However, he suggested if we do work this bill, we consider a sunset on it that makes this body revisit the issue.

Senator Taddiken said he welcomes Senator Barnett's suggestion. He said his concern was the timing, does it take Edenspace out of their project.

Mr. Thull, State Banking Commissioner, said Robert Munson, President, Central National Bank, who was

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one of the conferees, indicated he and Mr. Mayhew, Vice President and CFO, Edenspace, should get together and chat, so there might be other options they can pursue in the short term.

Senator Brownlee moved that the bill be sent to the Kansas Rural Policy Commission for further study. Seconded by Senator Barnett. Motion passed.

The next meeting is scheduled for February 19, 2009.

The meeting was adjourned at 10:15 a.m.