

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 March 7, 2006 in Room 234-N of the Capitol.

All members were present.

Committee staff present:

Melissa Calderwood, Kansas Legislative Research Department
Terri Weber, Kansas Legislative Research Department
Ken Wilke, Office of Revisor of Statutes
Bev Beam, Committee Secretary

Conferees appearing before the committee:

Sonya Allen, State Bank Commissioner's Office
Jarrod Forbes, Kansas Insurance Dept.
Dave Hanson, Kansas Insurance Associations

Others attending:

See attached list.

The Chair asked Melissa Calderwood for an overview of **(HB 2874) - an act relating to transmission of money; providing for the regulation thereof.** Ms. Calderwood said **(HB 2874)** would enact new law by creating a Kansas Money Transmitter Act and amend the banking code to provide licensure requirements and regulate for the transmission of money. Among the things the bill would accomplish is, it would require the bank commissioner to issue a license only if the commissioner is of the opinion that the person would be able to and will perform the obligations to purchasers of money transmission services and purchasers, payees and holders of money orders sold by it and its agents, and that the financial responsibility, character, reputation, experience and general fitness of the person, its senior officers, directors and principal stockholders are such to warrant the belief that the business will be operated efficiently, fairly and in the public interest. The commissioner would also have the authority after notice and an opportunity for a hearing to revoke a license.

The revocation standards are in new section 2, Page 1 beginning in subsection b. Those include that a person may be financially unable to perform his obligations or that the person has willfully failed without reasonable cause to pay or provide for payment of any of its obligations related to the person's money transmission business. Another failure could result because the person or a senior officer, director or a stockholder who owns more than 10% of the money transmission business' outstanding stock has been convicted of a crime involving fraud, dishonesty or deceit. Another reason for revocation of license is a refusal by the person to permit an investigation by the commissioner and finally a failure to comply with any order of the commissioner.

Next addressed is permissible investments beginning on page 3, line 19 and it is also found in the definition section of the bill. The licensee will be required at all times to possess permissible investments having an aggregate market value of not less than the aggregate amount of all outstanding payment instruments issued or sold by the licensee in the United States. The permissible investments would be deemed to be by operation of law to be held in a trust for the benefit of purchasers and holders of the licensees outstanding payment instruments in the event the bankruptcy of the licensee even if the investments are commingled with other assets of the licensee. The Bill also would require that the information and reports obtained by the commissioner in the course of licensing be kept confidential, but there are exceptions. The commissioner would have the authority to share the supervisory information including examinations with other state and local agencies that have regulatory authority. The commissioner would also have authority to conduct joint examination and provide for release of information to law enforcement agencies or prosecutorial agencies or offices who are required to maintain the confidentiality of information. However, nothing in the bill prohibits the commissioner from releasing to the public a list of persons licensed or their agents or from releasing aggregated financial data on these persons.

The Chair called on Sonya Allen, General Counsel, Office of the State Banking Commissioner for her testimony. Ms. Allen said **(HB 2874)** amends the group of statutes governing the licensing and regulation of money transmitters in Kansas. Money transmitters include non-bank companies that perform funds

CONTINUATION SHEET

MINUTES OF THE Senate Financial Institutions and Insurance Committee at 9:30 A.M. on March 7, 2006 in Room 234-N of the Capitol.

transfers for consumers wanting to wire money from one location to another, and companies that engage in the sale of money orders, traveler's checks and stored value cards. They operate through agent locations. Those agents typically are businesses that offer money transmission services as an ancillary service. Grocery stores, convenience stores, and even banks are often agents for money transmitter companies. **(HB 2874)** is designed to modernize the statutes that are currently on the books in order to ensure that new technological methods of transmission are clearly covered by the licensing requirements of the law. The OSBC currently licenses 34 money transmitters operating through approximately 3,345 agents located in Kansas. The OSBC is part of the Money Transmitter Regulator's Association. Some of the changes in this bill address our supervision and examination authority and our ability to coordinate and share information with other states, many of whom are MTRA members. In drafting these changes, we consulted with other MTRA member states that have recently changed or updated their laws, and also reviewed two model acts, one authored by the MTRA and the other, the Uniform Money Services Act drafted in 2000 by the National Conference of Commissioners on Uniform State Laws, she said. (Attachment 1)

The chair closed the hearing on **(HB 2874)**.

The chair opened the hearing on **(HB 2692)** - **An act concerning insurance; pertaining to risk-based capital requirements.** This is the second of the two date-change bills before this committee. This particular bill relates to the calculation and filing of certain reports and would update from December 31, 2004 to December 31, 2005.

The Chair called on Jarrod Forbes, Kansas Insurance Department for his testimony. Mr. Forbes said this bill is a proposal to amend K.S.A. 40-2c01(j), which is the definition of "RBC instructions" for insurance companies. Risk-based capital (RBC) is a method that has been used by the Kansas Insurance Department since the mid 1990's to evaluate the financial solvency of insurance companies doing business in this state. The RBC statutes also prescribe various forms of regulatory action that may be taken in the event that a company's calculated RBC meets certain thresholds.

Companies must file financial reports with the Department using RBC instructions and formulas developed by the National Association of Insurance Commissioners. These instructions, including the formulas, are amended each year to address various matters, such as changes to line references in the annual statement blanks and to reflect any necessary modifications or adjustments to the formulas. The current law requires companies to use the December 31, 2004 version of the "RBC instructions". This bill would reflect a change in the date of the standards so that companies would use the "RBC instructions", including the formulas, in effect as of December 31, 2005. (Attachment 2)

The Chair asked David Hanson, Legislative Counsel, Kansas Insurance Associations, for his testimony. Mr. Hanson said the risk-based capital provisions referenced in the Bill were developed by the NAIC for adoption and use by the states as a standardized method of monitoring the financial condition of insurers and assessing the need for corrective action. The reference date in the statutory definition of "RBC instructions" was originally required with the initial passage of this law in 1994 to make sure that the adopted instructions and formula were limited to those that we had an opportunity to review, rather than potential future revisions, which could adversely affect our companies' risk-based capital evaluation and the resulting action or control levels. While we believe our companies remain in good standing, under the previously adopted NAIC instructions and formula, we also believe any significant changes in those instructions and formula by the NAIC should be carefully considered before adoption in Kansas. We do not believe there will be any substantial adverse effect from the latest revisions referred to in the Bill.

Mr. Hanson also asked the committee to consider amendments to the Kansas Insurance Guaranty Association Act in order to correct a wording error in the amendments to the guaranty association act adopted last year in **(HB 2326)**. He said the error was in the definition of an "insolvent insurer" requiring an order of liquidation by a court in the "insured's home state" rather than the "insurer's domiciliary state." Mr. Hanson said requiring such an order of liquidation was important to help clarify when coverage under the act was triggered and whether a claim would be considered a "covered claim" under the act. Rather than requiring multiple orders from various states where different insureds may reside, the intent was to refer to a single readily identifiable jurisdiction, the insured's state of domicile. (Attachment 3)

CONTINUATION SHEET

MINUTES OF THE Senate Financial Institutions and Insurance Committee at 9:30 A.M. on March 7, 2006 in Room 234-N of the Capitol.

The Chair called on John Federico, Humana, Inc., for his testimony. Mr. Federico said he would like to offer a simple amendment to **(HB 2692)**. Mr. Federico said currently Kansas statutes provide that group life insurance may be offered to groups of three employees or more. He said his amendment merely seeks to modify the Group Life Insurance eligibility requirement to a group size of two. He said the specific change would read "The policy shall cover at least two employees at the date of issue." He said the change in the Kansas statute will allow small group insurers to offer group life coverage to any group so they can offer health insurance coverage. (Attachment 4)

The Chair closed the hearing on **(HB 2692)**.

The Chair called for final action on **(SB 322) - relating to the Kansas Automobile Injury Reparations Act; concerning certain penalties; providing for triple damages.**

The Chair asked Ken Wilke to go over with the committee the amendments to **(SB 322) relating to the Kansas Automobile Injury Reparations Act; concerning certain penalties; providing for triple damages.** (Attachment 5)

Senator Wysong said on Page 4, Section 2, it says the fine is "not less than \$800" for a second conviction of a violation of any provision of this section within five years of any prior conviction. I would like to see that raised to \$1,000 because if the judge gives them a \$1,000 fine under (g)(1) for a first conviction, why would we give less than that on the second fine. It seems to me it should be at least \$1,000.

Senator Brungardt said once again we are dealing with people who have no money.

Senator Schmidt said she agrees with Senator Wysong.

The Chair asked for the wishes of the committee. Senator Wysong moved to raise the fine from \$800 to \$1,000. Senator Schmidt seconded; however, the vote tied, so motion died for lack of needed votes.

Senator Schmidt moved to move out substitute (SB 322). Motion was seconded by Senator Steineger. The bill was passed out favorably.

The meeting adjourned at 10:30 a.m. The next meeting of this Committee is scheduled for March 8, 2006.