

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 10, 2009, in Room 136-N of the Capitol.

All members were present.

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:

Melissa Calderwood, Principal Analyst, Research Dept.
Bill Sneed, American Investors Life Insurance Co. (Attachment 1)
Nancy Zogleman, America's Health Insurance Plans (Attachment 2)
John Meetz, Kansas Insurance Department (Attachment 3)

Others attending:

See attached list.

The Chair called the meeting to order and welcomed everyone to the meeting.

Hearing on

HB 2052 - Life and health insurance guaranty association, claims.

Melissa Calderwood gave an overview of **HB 2052**. She stated this bill would increase the maximum annuity benefit from \$100,00 to \$250,000 for which a life and health guaranty association would be liable in the event of insurer insolvency. She said under current law any increased limit of liability of a guaranty association does not apply to an impaired or insolvent insurer prior to July 1, 1993. She noted that **HB 2052** would apply the guaranty association's limits of liability in effect on the date the association became liable for the impaired or insolvent insurer.

Bill Sneed, representing American Investors Life Insurance Co., testified in support of **HB 2052**. Mr. Sneed said insurance companies are regulated by the states. Companies must be licensed in each state in which they do business, and state insurance departments monitor their financial stability. He said if an insurance company is found to be financially unstable, the insurance department in its home state can step in and take control of the company. He noted that if the attempt to rehabilitate the company is successful, the receivership process for the company ends. If the company's financial difficulties are too great to overcome, the commissioner declares the company insolvent and the receivership process moves into liquidation. He added that when a member insurer is found to be insolvent and is ordered liquidated, a special deputy receiver takes over the insurer under court supervision and administers the assets and liabilities through liquidation. The task of servicing the insurance company's policies and providing coverage to Kansas resident policyholders becomes the responsibility of the Guaranty Association. Mr. Sneed said **HB 2052** provides another form of consumer confidence in some very precarious economic times. He said it is their belief that **HB 2052** is good for consumers, and as such, continues to support the health of the insurance industry. He noted that to avoid any concerns that the implantation of this proposal might increase coverages immediately, two changes to the bill are included. He said on page 6, beginning on line 43, and page 7, lines 1-6, it is clear that the increase in coverage under the Act will only apply to those insurers who become impaired or insolvent after the effective date of this bill. Additionally, on page 7, lines 35 and 36, January 1, 2010 was made the effective date, thus adding additional protection against any increase in coverage unanticipated during 2009. (Attachment 1)

Nancy Zogleman, representing America's Health Insurance Plans (AHIP), also testified in support of **HB 2052**. Ms. Zogleman said this bill would amend the Kansas Life and Health Insurance Guaranty Association Act to increase the maximum annuity benefit and would allow that the Guaranty Association's limits of liability with respect to the obligations of any impaired or insolvent insurer are the limits of liability under

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this Act. She noted that in early 2008, the National Organization of Life and Health Guaranty Associations made known its position that state guaranty associations should include premiums associated with Medicare Part C & D programs in their health insurance assessment bases. She said in response to the position taken by NOLHGA at the national level, AHIP argued that the federal programs are exempt from assessment or from taxation by the states. She said because each state has its own guaranty fund act that does not automatically incorporate NAIC's suggested amendments to its model act, it is necessary that all state guaranty fund acts contain a similar exemption to the one adopted by the NAIC.

She said the rationale for this exemption is because federal law and regulations preempt state assessments and all parties agree that companies should only pay into a guaranty fund for premiums attributable to business that guaranty funds will need to cover in the event of insolvency. She said therefore, there is no need for state guaranty funds to assess these premiums. Continuing, she said in the event of an insolvency of a carrier participating in the Medicare Part C or D programs, the guaranty funds will not have Parts C and D claims to pay. She said Congress and CMS have assured that beneficiaries will continue to receive services in the event of insolvency by providing continuation of coverage for services in the event of insolvency by providing continuation of coverage for those beneficiaries, either through new carriers or original Medicare, and specifically prohibiting those beneficiaries from being billed by providers. She said given that beneficiaries do not need the protection afforded by guaranty associations in the event of insolvency, then the guaranty associations should not assess the premiums for those programs. She asked the Committee to amend HB 2052 on page 6, line 28, by adding a new (8). It would read, "a policy or contract providing any hospital, medical, prescription drug or other health care benefits pursuant to Part C or Part D of the Subchapter XVIII, Chapter 7 of Title 42 of the United States Code (commonly known as Medicare Part C & D) or any regulations issued pursuant thereto." (Attachment 2)

John Meetz, Government Affairs Liaison, Kansas Insurance Department, stated that KID supports **HB 2052** in an effort to make state regulated annuities as attractive as they were before the FDIC rule change. (Attachment 3)

The Chair closed the hearing on **HB 2052**.

Final Action

SB 241 - Regulating distressed property consulting services.

Melissa Calderwood reviewed the bill for the Committee. She stated **SB 241** would amend the Kansas Credit Services Organization Act to place additional requirements for individuals engaged in distressed property consulting services and would address activities related to "foreclosure avoidance" scams perpetrated on consumers and legitimate mortgage lenders. In addition, she said the bill transfers oversight of loan brokers from the Office of the Securities Commissioner to the Office of the State Bank Commissioner. She added that the Office of the State Bank Commissioner indicates the bill would require it to regulate loan brokers which would have a negligible fiscal affect on its operations. She noted the Office of the Securities Commissioner indicates the transfer of oversight of loan brokers to the Office of the State Bank Commissioner would have a negligible fiscal effect on its operations.

Luke Bell, on behalf of the Kansas Association of Realtors, presented an amendment to **SB 241** adding on page 11, line 36© "Services performed by an individual licensed as a real estate broker or salesperson pursuant to K.S.A. 58-3034 et seq., and amendments thereto, while providing any real estate brokerages services as defined under K.S.A. 58-3035(f).

Senator Masterson moved to pass the amendment to **SB 241**. Senator Kelsey seconded. Motion passed.

Kevin Glendening, State Banking Commissioner's Office, presented a proposed amendment to this bill. The first amendment clarifies that the financial statements that they are looking for are completed in the acceptable form. Second, page 15, line 34-35 simply adds some additional prohibited activities that we have inadvertently left out of our original draft.

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Senator Kelsey moved that the two amendments proposed by Bank Commissioner, Kevin Glendening, be passed as presented. Senator Barnett seconded. Motion carried.

Senator Kelsey moved to pass out **SB 241** favorably as amended. Senator Masterson seconded. Motion passed. Senator Brownlee voted no.

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

The next meeting is scheduled for March 11, 2009.