Approved: February 8, 1994
Date

MINUTES OF THE SENATE COMMITTEE ON FINANCIAL INSTITUTIONS AND INSURANCE.

The meeting was called to order by Chairperson Richard Bond at 9:10 a.m. on February 4, 1994 in Room 529-S of the Capitol.

Members present: Senators Hensley, Lee, Moran, Praeger, and Steffes.

Committee staff present: William Wolff, Legislative Research Department
Fred Carman, Revisor of Statutes
June Kossover, Committee Secretary

Conferees appearing before the committee: Richard Mason, Kansas Trial Lawyers Association
Bradley Smoot , Hartford Steam Boiler Inspection & Insurance
Judi Stork, Kansas Bank Department
Kathy Taylor, Kansas Bankers Association

Others attending: See attached list

Senator Steffes made a motion, seconded by Senator Hensley to approve the minutes of the meeting of February 3 as submitted. The motion carried.

Richard Mason, Kansas Trial Lawyers Association, appeared before the committee to request introduction of legislation to amend the statute relating to mandatory automobile liability insurance. (Attachment #1.) This bill corrects a potential inconsistency which may excuse self-insurers of motor vehicles registered in Kansas from full compliance with the automobile liability insurance coverage required of other motorists and is proposed in response to a recent decision of the Kansas Supreme Court. Senator Hensley made a motion to introduce the legislation. Senator Steffes seconded the motion, and the motion carried.

The chairman opened the hearing on **SB 568**, which repeals KSA 40-209a, relating to foreign stock companies. Bradley Smoot, representing the Hartford Steam Boiler Inspection and Insurance Company, appeared before the committee to urge favorable consideration of this bill and to explain why it is needed. (Attachment #2.) Kansas is the only state which requires foreign companies to place a par value on their stock. KSA 40-209a, which was enacted in the 1930's, has lost its value and has been superseded by other, more effective state regulatory powers. Since there were no other conferees, the hearing was closed.

Senator Moran moved to past **SB 568** favorably and to place it on the Consent Calendar. The motion was seconded by Senator Praeger. The motion carried.

Hearing was opened on **SB 538**. Judi Stork, Banking Department, explained that this legislation would correct a technical error that exists within KSA 9-1724. The statute erroneously refers to Article 67 of Chapter 17 relating to the transfer or purchase of assets and liabilities. The reference should be to Article 68, which this legislation would insert into the statute. (Attachment #3.) The hearing on **SB 538** was closed.

Senator Praeger made a motion, seconded by Senator Steffes, to pass **SB 538** favorably and to place it on the Consent Calendar. The motion carried.

The chairman opened the hearing on **SB 539**, which would raise the lending limits for active officers and employees of state chartered banks. Kathy Taylor, Kansas Bankers Association, testified as a proponent and advised the committee that this bill is an attempt to give state chartered bank officers and employees the same ability to borrow from their own institution that federally chartered bank officers and employees have. (Attachment #4.) In response to Senator Moran's question, Ms. Taylor replied that other restrictions apply to insider loans over $10,000 and that maximum amount is the same for employees and outside customers. Ms. Taylor also clarified for the committee how the limits would apply. Senator Steffes observed that the safeguards are adequate and that state banks should be put on a par with national banks.

In response to Senator Lee's question, Ms. Taylor replied that aggregate insider loans amounting to 100% of the bank's unimpaired capital/surplus would still equal a small percent of the bank's total assets.

Judi Stork, Banking Department, advised that the Bank Commissioner supports this legislation and, in answer to Senator Moran's question, stated that no problems have been experienced with insider loans.

There being no further questions and no other conferees, the hearing on **SB 539** was closed.

Senator Lee made a motion to move **SB 539** favorably. The motion was seconded by Senator Steffes. The motion carried. Senator Steffes will carry this bill.

The subcommittee on **SB 540**, application process for trust branches/desks, will meet Monday, February 7, at 9:00 a.m. in room 529S.

The committee adjourned at 9:32 a.m.

The next meeting is scheduled for February 8, 1994.

GUEST LIST

SENATE

COMMITTEE: FINANCIAL INSTITUTIONS AND INSURANCE DATE: 2/4/94

NAME	ADDRESS	ORGANIZATION
David Hanson	Topeka	Ks Assoc P&C
Brad Smoot	"	HSB
Judi Stork	✓	Ks BKG Dept
Alan Steppat	Topeka	Pete McGill & Assoc.
Roger Fraunfelter	"	Ks Gov Consulting

KANSAS
TRIAL LAWYERS ASSOCIATION
Jayhawk Tower, 700 SW Jackson, Suite 706, Topeka, Kansas 66603-3731
(913) 232-7756 FAX (913) 232-7730

EXPLANATORY NOTE ON PROPOSED LEGISLATION

Background

This bill is offered in response to a suggestion by the Kansas Supreme Court in Overbaugh v. Strange, No. 68,488 (January 25, 1994): "We are puzzled by what appears in the KAIRA to be a broader coverage requirement imposed on a nonresident selfinsurer than on a resident self-insurer. The legislature may wish to revisit the appropriate KAIRA self-insurer statutes."

Summary

This bill would amend a statute relating to mandatory automobile liability insurance coverage under the Kansas Automobile Injury Reparations Act (KAIRA). The bill corrects a potential inconsistency which may excuse self-insurers of motor vehicles registered in Kansas from full compliance with the automobile liability insurance coverage required of other motorists.

All automobile liability insurance policies issued to owners of motor vehicles registered in Kansas must insure not only the named insured but also any other person who uses the vehicle with the expressed or implied consent of the named insured. Motorists whose vehicles are registered in other states are also required to insure permissive users of their vehicles in Kansas, whether the vehicle is covered by an automobile liability insurance policy or self-insured.

The existing statute governing self-insurers of motor vehicles registered in Kansas is ambiguous and may require only that the self-insurer pay judgments rendered directly against the self-insurer itself, and not judgments against persons using the vehicles with the consent of the owner. Such an interpretation would create a hole in the requirement of financial responsibility and render self-insurers guilty of allowing their vehicles to be operated on Kansas highways without the liability insurance coverage required by law.

It is not in the best interest of operators of motor vehicles in Kansas that resident self-insurers be excused from full liability coverage of their vehicles. This bill corrects this inconsistency and clearly provides that self-insurers of motor vehicles registered in Kansas must comply with the same mandatory insurance provisions which apply to other motorists, and must pay judgments rendered against any covered person.

Senate Financial Institutions and Insurance 2/4/94

Attachment #1

BRAD SMOOT
ATTORNEY AT LAW

EIGHTH & JACKSON STREET
MERCANTILE BANK BUILDING
SUITE 808
TOPEKA, KANSAS 66612
(913) 233-0016
(913) 234-3687 FAX

10200 STATE LINE ROAD
SUITE 230
LEAWOOD, KANSAS 66206
(913) 649-6836

STATEMENT OF BRAD SMOOT, LEGISLATIVE COUNSEL FOR THE HARTFORD STEAM BOILER INSPECTION & INSURANCE COMPANY,

PRESENTED TO THE KANSAS SENATE FINANCIAL INSTITUTIONS AND INSURANCE COMMITTEE REGARDING 1994 SENATE BILL 568, FEBRUARY 3, 1994.

Chairman Bond and Members of the Committee:

I am Brad Smoot representing The Hartford Steam Boiler Inspection and Insurance Company of Connecticut (HSBC), a wholly-owned subsidiary of The Hartford Steam Boiler Inspection & Insurance Company (HSB), an engineering and property insurance company with 1992 revenues of $682.1 million. The Kansas Insurance Department has licensed HSBC to do business in Kansas as a property and casualty insurer.

Approximately seven years ago, the parent company's shareholders eliminated the par value of HSB's stock. The reason HSB eliminated its par value was to permit it to declare stock splits without having to convene shareholders to approve a charter amendment each time. For references to the Kansas Corporation Code permitting such actions by Kansas corporations, see K.S.A. 17-6403 and 17-6602.

As a result of the elimination of par value stock, we were notified by the Kansas Insurance Department of the requirements of the above-referenced statute. The par value requirements of Kansas insurance law are utterly unique in the fifty states. (California requires a par value although no minimum amount is specified.) HSB created HSBC solely as a result of the Kansas law and structured it to meet the $1 par value stock requirements of the above-referenced statute. As we indicated to the Department in 1989, this unique Kansas law had the effect of substituting a $2.5 million insurer (at the time) for a $700 million company, which seems contrary to the apparent consumer interests of K.S.A. 40-209a.

Senate FI&I 2/4/94
Attachment #2

In December of 1992, we notified the Kansas Insurance Department of the problems we were experiencing with the Industrial Risk Insurers (IRI), a joint underwriting association authorized under K.S.A. 40-273. In 1992, HSB participated in IRI at a rate of .484% or $21,780 of the $4.5 million direct written premium in Kansas covering 130 insureds including well known companies such as Boeing and General Motors. Since IRI does not permit insurers to participate on a state by state basis, HSB must either withdraw from the IRI or amend its bylaws to require a $1 par value. Neither prospect appears to be in the best interests of our Kansas customers or our shareholders.

In light of the extensive protections provided Kansas insureds by K.S.A. 40-901, governing the capital and surplus requirements, and applicable holding company laws, there is a real question whether K.S.A. 40-209a truly extends any additional protections for Kansas businesses. This law, which has been around since the thirties, may have lost its value and been superseded by other, more effective, state regulatory powers. For these reasons, we would urge this committee to repeal this antiquated provision with the enactment of Senate Bill 568.

Thank you for this opportunity to comment on S 568 and I would be pleased to stand for questions from the Committee.

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40-209a. Foreign stock companies; par value of shares required. No stock insurance company now or hereafter to be organized under the laws of the United States or any state thereof shall be authorized to do business in this state unless the shares of capital stock of such company shall have a par value of at least one dollar ($1) per share, which value shall be fixed by the articles of incorporation.

History: L. 1931, ch. 210, § 1; L. 1970, ch. 174, § 1; March 11.

Law Review and Bar Journal References:

Decrease below required par value of shares considered in survey of law of business associations, Edward Larson, 12 K.L.R. 140 (1963).

CASE ANNOTATIONS

1. Company had to meet requirements hereof on admission and thereafter; commissioner had no discretion to waive requirements under 40-209. Bankers Service Life Ins. Co. v. Sullivan, 188 K. 783, 366 P.2d 264.

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KANSAS

JOAN FINNEY
GOVERNOR

Frank D. Dunnick
Bank Commissioner

Judi M. Stork
Deputy Commissioner

Kevin C. Glendening
Assistant Deputy Commissioner

William D. Grant, Jr.
~~Staff Attorney~~ General Counsel

Ruth E. Glover
Administrative Officer

OFFICE OF THE
STATE BANK COMMISSIONER

TO: The Senate Financial Institutions and Insurance Committee

RE: Senate Bill 538

DATE: February 4, 1994

Mr. Chairman and Members of the Committee:

During the past year it was brought to the attention of the Banking Department that a technical error exists within K.S.A. 9-1724. This statute relates to the merger, consolidation, or the purchase of assets and liabilities between a bank and another corporation. It refers the reader of K.S.A. 9-1724 to Chapter 17, to follow in part the provisions of the corporation code when completing a merger, consolidation or a purchase and assumption. In particular, it refers you to Article 67. However, if you look at Article 67 under Chapter 17, it only addresses mergers and consolidations. The transfer or purchase of assets and liabilities is found under Article 68. To date, the department has not had any assertions by banks claiming we have no jurisdiction, however, we feel the language should be corrected to clarify any questions.

I will be pleased to answer any questions.

JMS:dsla

Senate FI&I 2/4/94
Attachment #3

The KANSAS BANKERS ASSOCIATION
A Full Service Banking Association

February 2, 1994

TO: Senate Committee on Financial Institutions and Insurance

FROM: Kathleen A. Taylor, Associate General Counsel
Kansas Bankers Association

RE: SB 539: Lending Limits for Active Officers and Employees of State Banks

Mr. Chairman and Members of the Committee:

Thank you for the opportunity to appear before the Committee on **SB 539** which will amend KSA 9-1104(b). This statute is the reference for determining the maximum amount that a state-chartered bank can lend to active officers and employees.

Currently, the liability of active officers and employees can not exceed 5% of the bank's paid-in and unimpaired capital stock and unimpaired surplus fund. In addition, any loan which will exceed $10,000 must be approved by the bank's board of directors prior to the loan being made.

There are also exemptions and exceptions to this flat 5% rule contained in subsection (a), paragraphs (1) through (7). Generally, this means that when the collateral on a loan consists of certain property, the active officer or employee can have the lending limit bumped up 10% (to 25% total), or that the amount of the loan secured by that type of property will not be counted towards the total lending limit.

The proposed amendment to KSA 9-1104(b) is very simple. We would like to increase the lending limit for active officers and employees to 15%. Compared to federal law, our statute is more restrictive. National banks under Federal Regulation O may lend up to 15% of unimpaired capital and unimpaired surplus to their directors, principal shareholders, and executive officers. There are also exemptions and exceptions under Regulation O which apply to these individuals, making it clear that there is truly a disparity between state and federal law.

The calculations for determining lending limits are very difficult, and especially so if the borrower is an active officer or employee of a state bank. State banks are not only regulated by our State Banking Department, but are also examined by a federal regulator - either the Federal Deposit Insurance Corporation (FDIC) or by the Federal Reserve (Fed). Regulation O states that these federal bank regulators will follow federal law, unless state law is more restrictive. This means that each state bank must compute the lending limit for each executive officer and employee under both Regulation O rules and under our state lending limit law, KSA 9-1104(b). The individual is then limited to whichever is the lowest of these two computations.

I have enclosed a chart that was prepared by our KBA staff attorney. This chart demonstrates the disparity in treatment for those individuals working in state-chartered banks. We believe that employees of state-chartered institutions should have the same rights as their national counterparts, as there are sufficient safe-guards in place with the State Banking Department so that no greater risk to safety and soundness of our institutions will be posed.

We respectfully request the Committee to report SB 539 favorably for passage.

Office of Executive Vice President • 1500 Merchants National Building
Eight Richards Jackson • Topeka, Kansas 66612 • (913) 232-3444
FAX (913) 232-3484

Senate FI&I 2/4/94
Attachment #4

REG O - LOANS TO INSIDERS

	NATIONAL BANKS	STATE BANKS	ALL BANKS
Regular Lending Limit (Do not include related interests)	15% of unimpaired capital and surplus, with an additional 10% if fully secured by readily marketable collateral. Note exceptions in 12 USC §84.	15% of umimpaired capital and surplus. Special rules/exceptions for loans secured by livestock, seed and grain, first mortgages, CDs, U.S. agencies.	
Director (Include related interests)	15% of unimpaired capital and surplus, with an additional 10% if fully secured by readily marketable collateral. Note exceptions in 12 USC §84.	If does **not** work in bank, lowest of: o Amount in national bank column; or o 15% of capital/surplus with exceptions. If **works** in bank, lowest of: o Amount in national bank column; or o 5% of capital/surplus with exceptions.	*Aggregate limit for all insider loans (including related interests) of 100% of unimpaired capital/surplus.*
Principal Shareholder (Include related interests)	15% of unimpaired capital and surplus, with an additional 10% if fully secured by readily marketable collateral. Note exceptions in 12 USC §84.	If does **not** work in bank, lowest of: o Amount in national bank column; or o 15% of capital/surplus with exceptions. If **works** in bank, lowest of: o Amount in national bank column, or o 5% of capital/surplus with exceptions.	*Prior to ~~May~~ Feb 18, ~~1993~~ 1994 200% of capital/surplus for banks with deposits of under $100 million.*
Executive Officer Education/Home Loans (Include related interests)	15% of unimpaired capital and surplus, with an additional 10% if fully secured by readily marketable collateral. Note exceptions in 12 USC §84.	Lowest of: o Amount in national bank column; or o 5% of capital/surplus with exceptions.	
Executive Officer Other Purpose Loans (Include related interests)	Highest of 2.5% of unimpaired capital and surplus or $25,000. If using the 2.5% figure, cap at $100,000.	Lowest of: o Amount in national bank column; or o 5% of capital/surplus with exceptions.	

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