

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 1, 2007 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:

Doug Wareham, Kansas Bankers' Assn.
Matt Goddard, Heartland Community Bankers
John Fowler, First State Bank, Burlingame, for Community Bankers' Assn.

Others attending:

See attached list.

The Chair welcomed everyone and called the meeting to order.

Bill Introductions:

John Meetz, Kansas Insurance Department, said he would introduce two bills, first, a bill that would change the Commissioner's reserve evaluation method. The technical bill comes from the NAIC regarding the reserve evaluation method and the use of anticipated lapse rates. It is a very complicated issue. We will have our chief actuary testify. Second bill is a new prompt pay law for long-term care insurance. We originally tried to include long term care under the prompt pay bill we introduced previously, however, the nature of long term care will not fit into the category of accident and health insurance so we are proposing a new bill that would create prompt pay bill solely for long term care.

Senator Wysong moved introduction of the bills. Senator Wilson seconded. Motion carried.

Kerri Spielman, Kansas Association of Insurance Agents, requested two amendments to KSA 40-955. The first requires that Certificates of Insurance be filed with the Commissioner's office and approved prior to use and the Certificate would not be used to modify, alter or amend the insurance policies described and would establish violation having a fine up to \$1,000. The second amendment to the same statute would allow up to four worker's compensation loss cost multipliers per the insurers and also up to four dividend plans to be filed.

Senator Steineger moved introduction of the bill. Senator Wilson seconded. Motion passed.

The Chair opened the hearing on **SCR 1603** requesting the creation of a task force to study the design and implementation of an electronic motor vehicle financial security verification system for real time verification of compliance with the financial security requirements of the Kansas Automobile Injury Reparations Act.

John Meetz testified that in 2006 **SCR 1619** authorized the creation of an Auto Insurance Verification Task Force which was charged with finding a solution to the problem of uninsured motorists in Kansas. The Task Force met twice prior to the 2007 Legislative Session and explored a number of options.

The information gathered during the meetings was extremely valuable. Compilation of current information with new information from test programs in other states allowed the task force to present definitive solutions to the uninsured motorist problem. Members of the Task Force have agreed to urge the Kansas Legislature for a reauthorization of the Task Force with the hope that more information regarding experimental projects in other states and further exploration of the problems facing Kansas will manifest a solution to the uninsured motorist problem.

Senator Brungardt moved continuation of the Task Force. Senator Barone seconded. Motion passed.

CONTINUATION SHEET

MINUTES OF THE Senate Financial Institutions and Insurance Committee at 9:30 A.M. on February 1, 2007 in Room 234-N of the Capitol.

Senator Wysong moved to amend Senator Brungardt's motion with a substitute motion to put SCR 1603 on the consent calendar. Senator Steineger seconded. Motion carried.

The Chair opened the hearing on **SB 137**.

Melissa Calderwood gave the following overview: **SB 137 would enact new law to prohibit banks from establishing a branch bank on the premises or property where an affiliate of the bank is engaged in commercial activity.** The bill is requested by the Kansas Bankers' Association and will have no fiscal affect on the operations of the banking department. The issues that have been raised are that industrial loan companies or industrial banks are FDIC supervised financial institutions. They can be owned by commercial firms that are not regulated by a federal banking agency. There was a moratorium put in place six months ago that was extended January 31 for another year by the FDIC Board of Directors and specifically for those institutions that have deposit insurance.

Doug Wareham, on behalf of Kansas Bankers Association, testified that Kansas Bankers Association membership includes 352 Kansas banks, which operate more than 1,300 banking facilities in 440 towns and cities across the state. Kansas banks currently employ nearly 15,000 Kansans. Concerns over the potential negative impact of commercial firms forming a Utah state-chartered industrial bank reached a boiling point recently with Wal-Mart, Inc. and Home Depot, Inc. Both filing applications for an industrial loan company charter in Utah and simultaneously applying for Federal Deposit Insurance Corporation Insurance.

Adoption of **SB 137** prohibits banks from establishing or maintaining a branch in Kansas on the premises or property of an affiliate if the affiliate engages in commercial activities and will require branches of all banks, regardless of charter, to compete stand-alone-branch to stand-alone branch. This proposal is in the best interests of consumers, small business, and the banking industry. Adoption of this bill sends a clear message to Congress that maintaining a clear dividing line between banking and commerce is the standard in Kansas. (Attachment 1)

Matt Goddard, Heartland Community Bankers Association testified that Community financial institutions have a number of concerns with ILC expansion, primarily as it relates to commercial ownership. The primary objection for HCBA is the mixing of banking and commerce. While there are those who object to the mixing of banking and commerce on safety and soundness grounds, the main objection is the exploitation of the ILC loophole in the federal Gramm-Leach-Bliley Act. Prior to the passage of this Act in 1999, a commercial firm was allowed to own a savings and loan through a unitary thrift holding company. This Act was supposed to have finally put the issue of mixing banking and commerce to rest; however, commercial firms who wanted to get into banking merely shifted their sights from the unitary thrift holding company to the industrial loan company charter. They are now exploiting the banking and commerce loophole that exists because Congress did not foresee the ILC issue when it was crafting the 1999 legislation. **SB 137** would preserve the original intent of Gramm-Leach-Bliley in Kansas. (Attachment 2)

John Fowler, Community Bankers Association of Kansas, testified that one of the fundamental ideals of our country is the separation of banking and commerce. This separation has been the strength of our economy for decades during the prosperous history of the United States. The federal safety and soundness provisions of banking law are deeply rooted in the belief that combining banking and commerce has the potential for conflicts of interest and dangerous operational relationships. Community Bankers Association of Kansas is cognizant of the detrimental concentration of power that could occur by mixing banking and commerce as proposed by the Wal-Mart application. This fosters an environment of unprecedented risk for conflict of interest with little or no oversight authority in place by either the FDIC or state banking regulators **SB 137** will protect community banks in Kansas and send a message to Wal-Mart and the federal government. Kansas citizens do not want Wal-Mart banks. (Attachment 3)

The Chair closed the hearing on **SB 137**.

The meeting adjourned at 10:30 a.m.