

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 15, 2007 in Room 234-N of the Capitol.

All members were present except:  
David Wysong- excused

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:  
John Campbell, KID; Chris Swickard, Security Benefit; Dave Hanson, Kansas Insurance Assns;  
Rick Wilborn, Farmers' Alliance; Larry Magill, KAIA; and John Meetz, KID

Others attending:  
See attached list.

The Chair called the meeting to order.

Hearing on:

**SB 219 - concerning insurance; relating to acquisition of subsidiaries by domestic insurance companies; amending K.S.A. 40-3303 and repealing the existing section.**

Chris Swickard, Second Vice President and Assistant General Counsel for Security Benefit Life Insurance Company, testified first in support of SB 219. Mr. Swickard testified that SB 219 proposed to amend K.S.A. 40-3303, which is part of the Kansas law that governs insurance holding companies. He said the amendment would make clear that, within certain prescribed parameters, subsidiary companies of an insurer do not need to comply with the investment statutes otherwise applicable to insurance companies. Mr. Swickard testified that the proposed amendment, which is from the NAIC model holding company act, will allow insurance companies to invest in one or more subsidiaries in an amount not to exceed the lesser of 10% of the insurer's assets or 50% of the insurer's surplus without having to comply with Article 2a or 2b of Chapter 40. The Kansas Insurance Department has reviewed the proposed amendment and is supportive of it. (Attachment 1)

John Campbell, General Counsel for the Kansas Insurance Department testified that the Kansas Insurance Department is in support of SB 219. This bill would permit domestic insurance companies to invest in their subsidiaries. Mr. Campbell testified that there are limits to these investments with safeguards to insure policy holders are protected. This bill is based on the National Association of Insurance Commissioners Model Insurance Holding Company System Regulatory Act. The Insurance Department's Financial Surveillance Division has thoroughly reviewed the proposed statute and is of the opinion that it can be safely implemented. The Commissioner is of the opinion that allowing domestic companies to use the same financial investment rules enjoyed by the insurance companies of other states and the world will make domestic companies more competitive and will ultimately benefit policy holders. (Attachment 2)

Following discussion Senator Schmidt moved SB 219 out favorably for passage. Senator Barone seconded. Motion carried.

Hearing on:

**SB 220 - pertaining to insurance companies; relating to corporate structure; amending K.S.A. 40-1004, 40-1006, 40-1201, 40-1508 and 40-1511 and K.S.A. 2006 Supp. 40-502 and repealing existing sections.**

David Hanson, Legislative Counsel, Kansas Insurance Associations, testified in support of SB 220, stating that provisions contained in SB 220 will help modernize and simplify statutory provisions relating to domestic company organizational requirements. The amendments being proposed essentially do away with outdated requirements that have remained in some statutes since 1927, while other statutory provisions have been

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updated. Proposed amendments eliminate the complex requirement for boards of directors to be divided into groups with elections of not less than 1/5 nor more than 1/3 of the members each year to serve not more than five years nor more than three years respectively. Mr. Hanson said the current statutory restrictions Kansas Insurance Associations is proposing to amend are no longer necessary and are burdensome and discourage out of state companies from considering redomesticating to Kansas. (Attachment 3)

Chris Swickard, again testified in support of SB 220. Mr. Swickard testified that SB 220 proposes to amend K.S.A. 40-502 which was originally adopted in 1927 and currently requires that at least one-fifth of the board of directors of a mutual life insurance company be elected to not more than five year terms, but that no more than one third of the board be elected to three year terms. Mr. Swickard said this provision is outdated and cumbersome. Mr. Swickard testified that the proposed amendment removes the one-fifth and one-third requirement. If SB 220 is adopted, the election and terms of directors of mutual companies would be governed in accordance with the Kansas general corporation code. Policy holders would then continue to elect members of the Board of Directors of mutual companies at the annual meeting based upon the number of directors whose terms have expired and directors would have to stand for election at least every third year. (Attachment 4)

Richard Wilborn, Vice President of Government Affairs for Farmers Alliance Mutual Insurance Companies, testified in support of SB 220 stating Farmers Alliance is simply attempting to modernize the statute that governs corporate structure of mutual insurance companies. He said these changes would be more in line with provisions of the corporate code and make it more attractive for insurance companies to move to Kansas and help companies attract quality people to serve on their Board of Directors. (Attachment 5)

John Campbell again testified in support of SB 220. Mr. Campbell testified that SB 220 would allow mutual life insurance companies to determine the method used to elect the board of directors and officers of the board as well as the titles and duties of the officers of the board under the provisions of the general corporation code.

SB 220 would also require that a quorum consist of a majority of the board of directors. The bill would update the governance of mutual insurance companies to 21<sup>st</sup> century standards. The Commissioner is of the opinion that the bill represents an important modernization of insurance laws. (Attachment 6)

The Chair closed the hearing on SB 220. Senator Brungardt moved the bill out favorably for passage. Senator Wilson seconded. Motion carried.

Hearing on:

**SB 271 - concerning insurance; relating to certain forms and rate filings; amending K.S.A. 2006 Supp. 40-216 and 40-955 and repealing the existing sections; also repealing K.S.A. 2006 Supp. 40-955a.**

Larry Magill, KAIA, testified in support of SB 271 stating that attached to his testimony were balloon amendments to the bill that respond to concerns raised by the Department and other interested parties. Mr. Magill stated SB 271 adds greater rating flexibility and efficiency to workers compensation and regulates the use of certificates of insurance. Mr. Magill stated that under Kansas' current insurance laws and regulations, an insurer with multiple insurance company licenses in its group is free to file a different loss cost multiplier for each company in the group. A regional mutual insurer may only have one company license. This bill allows them to do what the large insurer groups do by allowing them to file up to four loss cost multipliers in one insurer and to use underwriting judgment to determine which rate is used.

Mr. Magill said the Kansas Insurance Department is concerned about one carrier that is able to offer both multiple loss cost multipliers and dividend plans. KID asked, as a compromise, to delete the authority for multiple dividend plans in one insurer. In the absence of this change, a single carrier could actually have greater flexibility than a group because they could mix and match both rating factors where a group would have to designate one dividend plan for all business for that member insurance company.

Mr. Magill stated a certificate of insurance is supposed to give a snapshot of the coverage that a business has

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purchased. It is intended to grant no rights to the requester and merely verifies that certain policies with certain limits are in force for the insured. Our amendment would make it clear that a certificate “neither affirmatively nor negatively amends, extends or alters the coverage afforded by policy number...” This makes a long-standing insurance department position clear that certificates of insurance cannot amend a contract of insurance; only endorsements that are filed and approved by the Department can do that. Kansas Association of Independent Agents urges the Committee to adopt the balloon amendments agreed to with the Department and other interested parties and pass the bill out favorably. (Attachment 7)

John Meetz, Kansas Insurance Department, testified that changes to SB 271 serve two purposes. First, to prevent a fraudulent act that occurs when insureds attempt to modify insurance coverages with a certificate of insurance. The insurance department now approves these certificates and files them so that a record may be kept and checked against the insured’s certificate in the event of a claim. Second, it allows insurers to file up to four workers compensation loss cost multipliers within a single insurer under the condition that the insurer obtains prior approval by the Insurance Commissioner for each multiplier over one. This legislation has been scrutinized by the Insurance Department and we have reached an agreement on the bill that should protect agents and provide for a more flexible yet properly regulated rating system. (Attachment 8)

The Chair closed the hearing on SB 271.

Action on:

**SB 208 - concerning criminal history records; authorizing access by the insurance department to criminal history record information for certain purposes.**

Senator Barnett moved to amend SB 208 and designate it as a substitute bill. Senator Steineger seconded. Motion carried.

The meeting adjourned at 10:30 a.m.