

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 January 29, 2008 in Room 136-N of the Capitol.

All members were present.

Committee staff present:

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

Conferees appearing before the committee:

Others attending:

See attached list.

Bill Introductions

The Chair called the meeting to order and asked for bill introductions. Stuart Little, on behalf of the County Treasurer of Johnson County, Kansas, introduced a bill concerning insufficient payments. Mr. Little said currently, when someone pays their car license fees and registers their vehicle by check and the check bounces, the Sheriff is sent out to take the tags off the car. If you use a credit card or any other means of electronically paying for your licensing, there is no authorization in the statute to go out and tell the Sheriff to take those tags off, he said.

Senator Wilson moved to introduce the bill. It was seconded by Senator Brungardt. Motion passed.

John Meetz with Kansas Insurance Department introduced a bill to increase fines for companies who fail to respond to inquiries from the insurance commissioner from \$500 to \$1,000 and raising the per week fine from \$100 to \$500.

John Meetz also introduced a bill based on the Viatical Settlement Model Act to mediate the NAIC Model and some elements of the NCOIL Model. He said at this point, however, there is no language.

Senator Brownlee moved introduction. Senator Steineger seconded and motion passed.

The Chair called Doug Wareham who appeared on behalf of the Kansas Bankers Association. Mr. Wareham introduced legislation to more clearly define Kansas Law regarding credit union "common bond" and "field of membership" and to also establish transparency standards for state chartered credit unions similar to those currently in place for state chartered banks in Kansas. He said the proposal is being introduced in response to performance audit findings in a May 2000 Legislative Post Audit Report that this committee has reviewed and introduced in response to recommendations adopted recently by the 2007 Interim Committee on Financial Institutions. Mr. Wareham said language has been submitted and is in the hands of the Revisor's staff. (Attachment 1)

Senator Wilson moved to introduce this bill. Senator Brungardt seconded. Motion passed.

The Chair opened the hearing on **SB 441 - concerning insurance; pertaining to HIPAA compliance.**

Melissa Calderwood, Legislative Research, gave an overview of the bill. Ms. Calderwood said SB 441 is one of the two bills from the Kansas Insurance Department that requires annual update. This bill would amend the date from December 31, 2007 to December 31, 2008. The fiscal note on the bill indicates there would be no fiscal effect associated with this enactment. The Chair closed the hearing on SB 441.

The Chair opened the hearing on **SB 439 - concerning insurance; establishing advertising standards for life insurance policies and annuities.**

Melissa Calderwood gave an overview of SB 439. This bill states that every insurer shall establish and at all

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times maintain a system of control over the content, form and method of dissemination of all advertisements of its policies. All such advertisements, regardless of the writer, creator, designer or presenter, shall be the joint responsibility of the insurer and the insurance producer. She said in addition, advertisements shall be truthful and not misleading in fact or by implication. She said in the bill the Commissioner is permitted to determine the implications of the advertising standards established in current law which include the unfair insurance business practices and relate to the misrepresentation and false advertising of insurance policies and also false information and advertising generally. If the Commissioner determines that the advertisement has the ability to deceive or mislead the public, this law would allow her to require insurance companies or their agents to submit all or any part of that advertising material for review and approval prior to its use. Advertising plans would not be allowed to use a number of terms in connection with life insurance policies and annuities if it is reasonable to believe there is a context it could mislead or deceive. She said there is no fiscal effect associated with the enactment of the bill for the Insurance Department.

The Chair called on John Meetz, KID, for his testimony in support SB 439. Mr. Meetz testified that this bill was introduced by the Insurance Department in an attempt to regulate deceptive and misleading advertisements and presentations by those selling life insurance and annuities. He said the Department drafted a balloon in an attempt to alleviate concerns from the industry but since time was limited, more work may need to be done. Mr. Meetz said the balloon essentially simplifies the bill and goes to the root of the problem which is deceptive and misleading advertising that occurs in free seminars. The balloon gives authority to the Insurance Commissioner to determine if an advertisement is deceptive using the standards set forth in K.S.A. 40-2404 which deals with unfair and deceptive practices in insurance. He said several things were removed in an attempt to narrow the scope of the bill. (Attachment 2)

The Chair called for testimony from those opposing the bill. First to testify was Bill Sneed who represents State Farm Insurance Company. Mr. Sneed said when issues with SB 439 were raised with the insurance industry in the Kansas Insurance Department's pre-legislative meeting, the Department described a problem it was having with investigating "public presentations" by individuals who held an insurance license and were promoting "financial service" and/or "retirement" services. He said at that time, his client advised the Department that in general, it had no problem with the Department's gathering additional regulatory oversight in this area. However, he said SB 439 goes substantially beyond that issue, and it is that broad brush approach that is the basis for opposition to this bill in its current form. Mr. Sneed noted that SB 439 is over-broad and unnecessary and creates unnecessary bureaucracy within the insurance marketplace. He said based on the current form of the bill, he respectfully requests that the Committee not take action. (Attachment 3)

The Chair said based on testimony, the Committee would not work SB 439 at this time. The Chair asked the Insurance Department to get together with those who have concerns and try to work out a solution.

Written testimony opposing this bill was also presented from American Council of Life Insurers, Larry Magill, Kansas Association of Insurance Agents and Brad Smoot, BCBS. (Attachments 4, 5, and 6)

The Chair discussed the bill introduced earlier by the Kansas Bankers Association. She said this summer when F I & I interim meetings were held and the Legislative Post Audit Report was addressed, LPA did say, in their opinion, that the credit unions were taking liberties with the laws that were on the books and going outside their authority. The Chair said testimony has been heard from credit unions and also from financial institutions, so there is a lot of information from both sides. The conclusion of the Interim Committee was that these two groups get together and discuss a solution to the situation prior to the legislative session. That did not take place. The Chair said she is disappointed that those involved did not take that opportunity because it doesn't help the Committee to have to sift through this fight without the groups coming together. She said for this reason, she is not going to take up this issue until the groups come together and talk about whether there could be a compromise. She said she intends to set up a subcommittee. She has asked Senator Wilson to chair that committee. She said he will be setting an agenda to listen to the bill set out in HB 2676 and also will be hearing the conceptual bill that is being addressed by the KBA. She said she has also appointed to that committee Senator Brownlee and Senator Steineger. She said all these meetings will be open to all who want to attend.

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The Chair asked for a motion to move SB 441 out favorably. Senator Wysong so moved. Senator Steineger seconded. Motion passed to move SB 441 out favorably to the consent calendar.

The meeting adjourned at 10:35 a.m.