

MINUTES OF THE SENATE COMMITTEE ON COMMERCIAL AND FINANCIAL INSTITUTIONS

The meeting was called to order by Sen. Neil H. Arasmith at
Chairperson

9:00 a.m./~~p.m.~~ on February 20, 1984 in room 529-S of the Capitol.

All members were present except:

Senators Gannon and Hess - Excused

Committee staff present:

Bill Wolff, Legislative Research
Myrta Anderson, Legislative Research
Bruce Kinzie, Revisor's Office

Conferees appearing before the committee:

Carl Sandstrom Banking Commissioner's Office
Ron Todd, Kansas Insurance Department

The minutes of February 16 were approved.

The meeting began with the request for the introduction of a bill by Carl Sandstrom of the Banking Commissioner's office. (See Attachment I.) Mr. Sandstrom explained that the purpose of the bill is to allow the Commissioner's office more power in the selection of officers and directors of banks.

Sen. Feleciano made a motion to introduce the proposed bill. Sen. Werts seconded, and the motion carried.

The hearing began on SB 560 which was introduced at the request of the Insurance Commissioner's office and which deals with financial requirements of insurance companies.

Ron Todd, Kansas Insurance Department, began testimony on the bill. He explained that the bill amends sections of the law applicable to all insurance companies over which the Department has jurisdiction. The purpose of the bill is to raise the basic financial requirements of insurance companies operating in this state which have not been altered since 1969. He continued by saying that at present Kansas is at the bottom for requirements in comparison to other states. Mr. Todd said that the bill will put Kansas in the main stream with other states although it will not have the highest requirements.

Mr. Todd said that the bill must apply to all companies so a grandfather clause has been written in allowing five years to comply with the requirements. The bill differs from the 1969 enactment which had a permanent grandfather clause in that it says that those companies in business before 1969 would have five years to meet the present requirements and an additional five years to meet the requirements of this bill. He added that these requirements are basic, minimum requirements which offer a cushion for cases of insolvency.

Mr. Todd's final comments concerned necessary editorial changes to delete obsolete provisions which had been added in 1969 in order that certain companies could meet the financial requirements at that time.

Sen. Reilly asked Mr. Todd if there are domestic companies which would be forced to raise their capital stock to comply with the requirements of the bill, explaining that he had received a letter from a domestic company containing this complaint. Mr. Todd said that there are two such companies, West General Insurance Company and Insured Title. He added that the grandfather clause had been added to accommodate such companies as these. The chairman told the committee that he had heard from persons wishing to testify regarding this aspect of the bill but they had not appeared. Mr. Todd said an example of the increase would be if a company had a \$600,000 capitol requirement and a \$400,000 surplus requirement at present, the figures under the new requirements would be \$900,00 and \$600,00 for which the company would have five years to meet. The chairman mentioned that in a letter from Vic Blakely of the West General Insurance Company he had stated that he felt the five year clause was too stringent on his company.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON COMMERCIAL AND FINANCIAL INSTITUTIONS,
room 529-S, Statehouse, at 9:00 a.m./~~p.m.~~ on February 20, 1984.

Sen. Werts asked how the bill compares to the requirements for Oklahoma. Mr. Todd replied that he did not have a break down on neighboring states but that he could get the information if the committee so desired. He surmised that the other states would not be higher, but he did not know how they handle the grandfather clause. Sen. Werts inquired further if there is an insolvency problem in Kansas for domestic companies, and Mr. Todd answered that there are none but that he feels that the bill is an effective cushion for avoiding insolvency.

Sen. Karr asked how many individual domestic and foreign companies would have a serious problem with the transition to which Mr. Todd answered that he would have the information regarding domestic companies but would need more time to prepare the information on foreign companies since there are about 1100 of them.

Sen. Reilly inquired if the domestic companies could be treated differently than the foreign companies. Mr. Todd replied that it would be possible, but he felt that the requirements should be the same for all of those companies writing the same kind of business.

The chairman asked if the Department had considered having a seven year period to apply to everyone rather than the step type grandfather clause. Mr. Todd answered that this had been considered, but those falling under the clause might object to the seven year concept. He explained that the reason West General Insurance is objecting to the requirements of the bill is that they had not written all lines of insurance until after 1969. If they had done so before 1969, they would have had ten years to comply rather than five years.

Sen. McCray inquired what the procedure is to publicize the new requirements. Mr. Todd answered that the Department notifies domestic companies and the trade associations of foreign companies before the bill is filed. In addition, as soon as legislation is enacted, a bulletin is prepared as to the bills enacted which may affect insurance. Also, a particular bulletin would be mailed calling special attention to this particular bill. The Department would then pay special attention to companies it had been watching.

Sen. Werts noted that he knew of a credit life insurance company that was chartered in Oklahoma but wanted to do business in Kansas. Because the Oklahoma requirement is lower, the company entered into a 100% re-insuring agreement with a Kansas company. Mr. Todd said that the Department refers to this as "fronting" and that it does not happen often. The Department becomes aware of "fronting" in its review of examination reports.

The chairman asked where title insurance is covered in the bill, and Mr. Todd answered that it is covered in Section 5.

Sen. Karr had a question as to if companies who sell mortgage guarantee insurance are covered in this bill. Mr. Todd explained that mortgage guaranty insurance has a separate section of law enacted which is still current, and so it is not dealt with in this bill.

Mr. Todd requested two editorial amendments to SB 560. The first appears on lines 91, 129, 304, 456, 508, and 682 in which "and/or" would be deleted and "and" inserted. He said that he understands that "and/or" is not to be used any more but that the "and/or" used in these places was put in on purpose twenty years ago to avoid a problem in admitting companies from other states. If it is impossible to leave "and/or" in the bill, Mr. Todd suggested that a comma be inserted after "policyholders" and "or creditors" be inserted after the comma. The other amendment appears on lines 382, 385, 386, 389, and 393 in which "paid-up capital stock" appears. This phrase is in the wrong section and should be stricken.

Mr. Todd concluded by saying that he would be able to distribute information regarding domestic companies' current requirements to the committee members.

The chairman announced that he would attempt to reach those who had indicated that they wanted to testify on SB 560 but had not appeared at this hearing and that the bill would be taken under advisement until hearing from them. He also announced that he planned to have committee discussion on Senate Bills 551, 559, 560, and 632 at the February 22 meeting.

The meeting was adjourned.

SENATE COMMITTEE

ON

COMMERCIAL AND FINANCIAL INSTITUTIONS

OBSERVERS
(Please print)

DATE	NAME	ADDRESS	REPRESENTING
2/20/84	Bob Coburn	Topeka	KCCI
	Morton Umbholz	Topeka	KCMU
	E. MULLINS	"	BUDGET
	Ron Todd	"	Ins Dept
	Garth Panethron	"	Banking
	Eugene C. Hegarty	"	Banking
	L.M. CORNISH	"	Ks Assoc of P/C
	Michael A. F...	"	AIA
	Tom Fritzylen	Lawrence	Sen Hess

SENATE BILL NO. _____

By Committee on Commercial and Financial Institutions

AN ACT relating to banks and banking; concerning the removal of officers or directors; amending K.S.A. 9-1805 and repealing the existing section.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 9-1805 is hereby amended to read as follows: 9-1805. If it shall come to the attention of the board that any officer or director of any bank or trust company has been dishonest, reckless or incompetent in performing ~~his-or-her~~ such person's duties as ~~sueh~~ an officer or director or willfully or continuously fails to observe any order of the commissioner or board legally made, the board, upon proof thereof, may remove such officer or director in the following manner. The board, in a notice signed by the commissioner, shall notify ~~sueh~~ the officer or director by mail that it has been informed that ~~he--or--she~~ such officer or director has been dishonest, reckless or incompetent in performing ~~his-or-her~~ such person's duties as ~~sueh~~ an officer or director or willfully or continuously failed to comply with any order of the commissioner or board legally made, ~~and-that~~ and the officer or director shall be removed immediately from such person's office by the board of directors of the bank or trust company. A hearing ~~thereon~~ will be held before the board at its next regular meeting, which shall be not less than twenty 20 days from the date ~~sueh~~ the notice is mailed, ~~--and--further notifying--said.~~ The commissioner shall further notify the officer or director that ~~he-or-she~~ the officer or director may be present at such hearing and may be represented by an attorney, ~~and--may--then~~ and may there introduce such evidence and make such defense as is proper.

The board may recess or continue any hearing from time to

Attachment I

time. If upon the conclusion of ~~such~~ the hearing the board is satisfied from the evidence that ~~such~~ the officer or director has been dishonest, reckless or incompetent in performing ~~his-er--her~~ such person's duties as such, or has willfully or continuously failed to comply with any order of the commissioner or board legally made, the board may order ~~his-er-her-office~~ the office of the officer or director to be forfeited and vacated, ~~and~~. Upon so doing ~~it~~, the board shall make and enter its written order to that effect and mail a copy ~~thereof~~ to ~~such~~ the officer or director and also mail a copy ~~thereof~~ to the bank or trust company which such officer or director was serving. During the time from and after any order legally made by the commissioner and upheld by the board, or order made by the board, and not complied with by any officer or director the board may place a special deputy in ~~said~~ the bank up to and until the final disposition of ~~said~~ the order by compliance or final disposition by order of the district court.

Upon and after any final order by the board upon any matter before it under the terms and provisions of this section any officer or director may appeal from such order to the district court of the county in which the bank concerned is located. Upon such appeal the matter shall be heard de novo by the district court and the court shall have access to all of the information, orders and findings that shall have been made by the ~~said~~ board up to that time and shall have the right to fully adjudicate and hear evidence upon any and all features of ~~said~~ the matter without prejudice or limitation due to any order or finding that may have ~~heretefore~~ been made by ~~said~~ the board and in the event ~~said~~ the district court shall affirm, modify or vacate the order of ~~said~~ the board it shall immediately notify ~~said~~ the board of its order and ~~thereupon~~ the board shall proceed to take such action and be governed by such order as shall be made by ~~said~~ the district court.

Notice of an intention to appeal from the order of ~~said~~ the board shall be filed with the secretary of ~~said~~ the board within

a period of ~~ten-(10)~~ 10 days from the date any such order is made. Thereupon, appeal and all proceedings following shall be handled as an original action in the district court.

In the event no notice of intention to appeal be taken from any order so made within a period of ~~ten-(10)~~ 10 days as herein provided ~~such~~, the order shall become absolute and final. If the finding of the district court shall sustain and affirm the ruling of ~~said~~ the board or if notice of intention to appeal shall not be filed as herein provided the office of ~~said~~ the officer or director shall be forfeited and vacated by law and such office shall then be filled in accordance with existing statutes and bylaws by some other person or persons.

Pending the completion of the administrative proceedings or the final appeal process, if taken by the aggrieved party, the officer or director shall not perform any of the duties of his office.

Sec. 2. K.S.A. 9-1805 is hereby repealed.

Sec. 3. This act shall take effect and be in force from and after its publication in the statute book.