

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 22, 1984 in room 529-S of the Capitol.

All members were present except:

Sen. Hess - Excused

Committee staff present:

Bill Wolff, Legislative Research  
Myrta Anderson, Legislative Research  
Bruce Kinzie, Revisor of Statutes

Conferees appearing before the committee:

Bill Mitchell, Insured Titles  
Don Horttor, Delta Dental  
Ron Todd, Kansas Insurance Department  
Senator James Francisco  
Larry Christ, Security Commissioner's Office

The minutes of February 21 were approved.

The chairman informed the committee that Bill Mitchell of Insured Titles would like to offer further testimony on SB 560 which had been heard on February 20 and which deals with the financial requirements of insurance companies. Mr. Mitchell explained that his concern involves a Wichita based company, Insured Titles, Inc., which only writes title insurance. He wanted to propose an amendment to SB 560 to grandfather insured title companies so that they do not have to comply with the capital requirements of the bill. He told the committee that there are only two title companies in Kansas, Columbian Title which meets these requirements already and Insured Titles which would have a problem meeting the requirements. Mr. Mitchell had spoken to the Insurance Department about the amendment, and they had indicated that they would approve the amendment.

Sen. Karr asked where the amendment would occur, and Mr. Mitchell answered that it would appear in Section 6 where the capital requirement for title companies would be left at \$500,000 for these companies already in business.

The hearing began on SB 697 with the testimony of Don Horttor of Delta Dental who had requested that the bill be introduced. He explained that this bill deals exclusively with nonprofit dental corporations and that the language is taken verbatim out of the nonprofit medical and hospital corporations bill passed in 1980, thus, allowing nonprofit dental corporations to deal with dental insurance as the medical corporations deal with medical insurance. He added that the Insurance Department could see no problems with the bill.

Sen. McCray asked how the bill would affect dental services at the Wichita Clinic where there are several dentists. Mr. Horttor said that the bill would not affect the clinic because it does not limit any other type of corporation but rather just expands the authority of Delta Dental to enter into more programs.

Sen. Pomeroy asked if Mr. Horttor was requesting that Delta Dental be allowed to contract for dental services as is the case of Blue Cross-Blue Shield in their contracts for dental services. Mr. Horttor said that this is his intent.

Sen. Gordon inquired as to how Delta Dental carries out its business. Mr. Horttor said that Delta Dental sells to groups not to individuals. It provides a third party to pay bills similar to Blue Cross-Blue Shield.

Ron Todd, Kansas Insurance Department, said that his department supports the enactment of SB 697. With this, the hearing on the bill was concluded.

The chairman called on Sen. James Francisco for his testimony on SB 691 dealing with the sale of bullion which was introduced by Sen. Francisco. Sen. Francisco began by

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 22, 1984.

saying that since he had introduced the bill, he had found that the bill will not take care of the problem involved. He said he had introduced the bill after hearing from a constituent from Wichita who had had an unfortunate experience in attempting to purchase five gold coins as an investment. The constituent selected a firm from Wichita from the yellow pages, American Gold and Silver Exchange, to contact. (See Attachment I.) He paid for the coins in advance but received only one coin with the promise that the other four coins would follow. He received only one more coin and was notified that the other three would not be available. He has not been able to get the other three coins.

Sen. Francisco said that he has learned that SB 697 is just a starting point to protect investors from fraud in the trading of precious metals. The Securities Commissioner had told him that the bill is not the answer to the problem. (See Attachment II.) Sen. Francisco explained that New York is the only state which has a protection act for precious metals. There is a model bill being prepared and may be presented next year which will address the problem. Sen. Francisco said that his bill would put a hardship on legitimate businesses and, therefore, he is not recommending the passage of the bill. He called on Larry Christ of the Securities Commissioner's office to expand on the subject.

Mr. Christ said that he would like to share his experiences on this subject and to inform the committee of what is being done. He supports the concept that additional protection is needed in Kansas. He added that several states have been victimized by gold selling organizations. He stated that the biggest problem is that most legitimate businesses will not purchase gold if they do not have the money in advance, and the bill would put them out of business. He said that coins would not be bullion so the bill relating to bullion would not cover coins. He explained that the model bill that is in the process of being prepared is in regard to the sale of precious metals.

The chairman asked if there will be federal legislation dealing with the problem. Mr. Christ answered that he was not sure. He said the federal government does have jurisdiction in these areas already. The chairman inquired further if precious metal dealers are bonded, and Mr. Christ said that they are bonded and licensed and are as regulated as the security industry. The chairman asked if there are penalties for fraud for these dealers. Mr. Christ said the dealers have to be a member of the National Futures Association to do business and that they can be expelled from the association for fraud.

Sen. Gannon asked if the company in Sen. Francisco's case was licensed. Mr. Christ did not know but felt the company might have been just a seller of coins and, therefore, would not have to be licensed since it would not be selling precious metals.

Sen. Karr asked if this problem is the same problem as was publicized about the State of Utah this year. Mr. Christ said the situation was not exactly the same but both are the types of activities that the National Association of Securities Administrators are trying to regulate.

The chairman announced that the hearing on SB 697 was concluded and would be taken under advisement due to the advice of the author.

The chairman called the committee's attention to bills previously heard. Committee discussion began on SB 560 dealing with financial requirements of insurance companies. Sen. Pomeroy commented that even though other states are doing it, he feels that this is not reason for Kansas to do it since it does not have the problems other states may have. The chairman reminded the committee that amendments have been offered for those companies who would not be able to comply in addition to other amendments. Sen. Feleciano said that he had visited with some executives from New York who had said that the bill tends to restrict more any new companies coming in the market place because the criteria is so high they will not be able to meet them.

The chairman told Sen. Feleciano and the committee that he had a copy of the information sent out by the Insurance Department on bill proposals for their inspection as Sen. Feleciano had requested and asked that the copy be left with staff.

Sen. Reilly said that he could understand Sen. Feleciano's concerned feelings about the bill, but the committee should place value on the Commissioner's ability since he had served as President of the National Association of Insurance Commissioners and had been able to see what has happened in other states. Sen. Reilly feels the Commissioner is

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trying to anticipate problems with companies being able to pay on claims after a catastrophe such as a tornado. He feels the Commissioner is concerned for the financial stability of insurance companies and that the bill may not curtail free enterprise as the executives had indicated to Sen. Feleciano. He said insurance is dealing with people's lives, and the Commissioner has a tremendous responsibility to protect the interest of the people and the state.

The chairman reminded the committee that Mr. Todd of the Insurance Department had said that the Department needed the bill and had had no objections to the amendments to take care of the domestic companies.

Sen. McCray asked if there are emergency funds available for disaster payments in the event insurance companies could not pay off on a major claim. The chairman said the reinsurance procedure is the only one he knew of. Sen. Reilly noted that that procedure is done by insurance companies, and there is no such fund for disasters. Sen. Werts noted that reserves are used for protection in such cases and that maybe the Department should look to reserves rather than to capital requirements. The chairman told the committee that Sen. Werts had information showing that other states are all considerably higher in their requirements than Kansas except for Oklahoma. The committee agreed that Mr. Todd should come back to discuss the bill further before any action is taken on it.

Committee discussion began on SB 559 dealing with credit union powers.

Sen. Gordon made a motion to amend SB 559 on lines 136 and 139 by changing "surviving" to "continuing". Sen. Pomeroy seconded, and the motion carried.

The chairman told the committee that Marvin Umholtz of the Kansas Credit Union League had furnished him with a copy of a balloon of SB 559 showing the amendments discussed at the hearing. (See Attachment III.)

Sen. Pomeroy made a motion to amend, as shown on the balloon, line 98 by adding "(a)" before "shares", line 99 by adding "(b)" before "share", and line 101 by adding "(c) investments in" before "any". Sen. McCray seconded, and the motion carried.

The chairman reminded the committee that lines 114-116 regarding voting on the merger of credit unions had concerned some members and asked if the committee wished to adopt the language as presented. It was the concensus of the committee to leave the language in the bill.

Sen. Pomeroy made a motion to report SB 559 favorably as amended. Sen. McCray seconded, and the motion carried.

Sen. Pomeroy noted if the House changes the language back to as it was, the committee would have no problem concurring.

The chairman asked the committee how it wished to deal with SB 691 which was no longer recommended for passage by the author. The committee's decision was to hold the bill.

The meeting was adjourned.

SENATE COMMITTEE

ON

COMMERCIAL AND FINANCIAL INSTITUTIONS

OBSERVERS  
(Please print)

DATE	NAME	ADDRESS	REPRESENTING
2/22	Ray Todd	Topeka	Ins Dept
2/22	Walter Hall	Hutchinson	Insured Rates
2/22	Phil Anderson	—	BUDGET DIV
2/22	Ed Poling	Ovland Park	DELTA DENTAL
"	Ron Kessl	Wichita	Delta Dental
	Don Hartley	Topeka	"
	Harry Christ	Topeka	Ks. Securities Commission



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Attachment

State of Kansas

JOHN CARLIN, Governor



JOHN R. WURTH  
Securities Commissioner

Office of the Securities Commissioner  
109 West 9th, Suite 501

Ph. 913/296-3307  
TOPEKA, KANSAS 66612

February 14, 1984

Senator James L. Francisco  
Kansas Senate  
Capitol Building  
Topeka, Kansas 66612

Dear Senator Francisco:

Re: Senate Bill No. 691

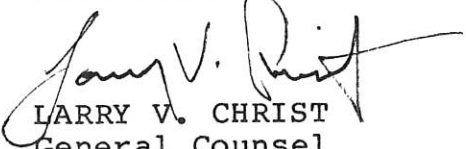
We have noted the introduction of Senate Bill No. 691 regarding contracts to sell and sales of gold and silver bullion. We write to express the support of this office for this legislation.

This office is well aware of the abuse that is so frequently present in the trading of precious metals. We believe that the consideration of this bill would be a good point at which to begin the determination of what, if any, additional legislation may be necessary to help protect investors from the fraud that appears to be so common in this market place.

If there is anything this office can do to assist you, please do not hesitate to contact us.

Sincerely,

JOHN R. WURTH  
Securities Commissioner

  
LARRY V. CHRIST  
General Counsel

LVC:pjl

Attachment II

0081 of Kansas are eligible for membership and as defined by sub-  
0082 section (e) of K.S.A. 17-2231, and amendments thereto, to dis-  
0083 count or sell to such central credit union any obligation of the  
0084 United States government or any agency thereof, or of any state,  
0085 municipality or any agency thereof, if the obligation at the time  
0086 of purchase was a legal investment for credit unions.

0087 (11) It may provide that shares and share certificates may be  
0088 withdrawn for payment to the account holder or to third parties,  
0089 in such manner and in accordance with such procedures as may  
0090 be established by the board of directors.

0091 (12) Every credit union incorporated pursuant to or operating  
0092 under the provisions of this act may exercise such powers,  
0093 including incidental powers, as shall be necessary or requisite to  
0094 enable it to carry on effectively the purposes and business for  
0095 which it is incorporated.

0096 (13) A credit union may receive from the national credit  
0097 union central liquidity facility created by title III of the federal  
0098 credit union act, 12 U.S.C. 1795, et seq., payments on shares  
0099 which may be issued at varying dividend rates, share certifi-  
0100 cates which may be issued at varying dividend rates and ma-  
0101 turities and any other accounts of the credit union. A credit  
0102 union may invest its funds in the capital stock of the national  
0103 credit union central liquidity facility.

0104 Sec. 2. K.S.A. 1983 Supp. 17-2228 is hereby amended to read  
0105 as follows: 17-2228. Any credit union may, with the approval of  
0106 the administrator, merge with another credit union under the  
0107 charter of such other credit union, pursuant to any plan agreed  
0108 upon by the majority of the board of directors of each credit  
0109 union joining in the merger, and approved by the members of  
0110 each such credit union, either by the affirmative vote of a  
0111 majority of those members present at a meeting of its members  
0112 duly called for such purpose or by the affirmative vote in writing  
0113 of a majority of its members who participate in the vote on the  
0114 merger plan without a meeting. In either case, at least 10% of the  
0115 total membership of each credit union shall be required to vote  
0116 before such merger can be approved by the members. After such  
0117 agreement by the directors and approval of the members of each

Attachment III

AMENDMENTS TO

SB 559

Prepared by the  
Kansas Credit Union League

0118 credit union, the president or chairperson of the board and  
0119 secretary of each credit union shall execute in triplicate, a cer-  
0120 tificate of merger, which shall set forth all of the following:

0121 (a) The time and place of the meeting of the board of direc-  
0122 tors at which the plan was agreed upon;

0123 (b) the vote in favor of adoption of the plan;

0124 (c) a copy of the resolution or other action by which the plan  
0125 was agreed upon;

0126 (d) the time and place of the meeting of the members  
0127 which the plan agreed upon was approved;

0128 (e) the vote by which the plan was approved by the mem-  
0129 bers; and

0130 (f) the date the merger was approved by the administrator.

0131 Such certificates, in triplicate, and a copy of the plan of merger  
0132 agreed upon shall be forwarded to the administrator and a copy  
0133 of the certificate, certified by the administrator, shall be returned  
0134 to the merging credit unions within 30 days. Upon any such  
0135 merger so effected, all property, property rights and interest of

0136 the merged credit union shall vest in the surviving credit union  
0137 without deed, endorsement or other instrument of transfer, and  
0138 all debts, obligations and liabilities of the merged credit union  
0139 shall be deemed to have been assumed by the surviving credit  
0140 union under whose charter the merger was effected.

0141 This section shall be construed, whenever possible, to permit  
0142 a credit union chartered under any other act to merge with one  
0143 chartered under this act; or to permit one chartered under this act  
0144 to merge with one chartered under any other act. The charter of  
0145 the terminating credit union shall upon merger be cancelled and  
0146 voided by operation of law.

0147 Sec. 3. K.S.A. 1983 Supp. 17-2204 and 17-2228 are hereby  
0148 repealed.

0149 Sec. 4. This act shall take effect and be in force from a  
0150 after its publication in the statute book.

(a)

(b)

(c) investments in

continuing

Atch. III