

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. ~~xxx~~ on April 25, 1984 in room 529-S of the Capitol.

All members were present except:

Senators Hess, Reilly, Gannon, and Pomeroy - Excused

Committee staff present:

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

Conferees appearing before the committee:

Representative Dale Sprague

The hearing began on HB 2943 which permits the nonforfeiture value of a life insurance policy purchased on or within one year of the filing of a bankruptcy petition to be considered part of the property of the person filing for bankruptcy which would allow creditors to lay claim to the policy.

The author of the bill, Rep. Dale Sprague, gave testimony on the bill. He explained that HB 2943 would eliminate a problem which has occurred in bankruptcy proceedings in Kansas where the cash value of a life insurance policy can be declared as exempt property. The person filing for bankruptcy can buy a large life insurance policy on one day and then file for bankruptcy the next day. The policy is exempt property in the bankruptcy proceedings and can be returned to cash later by the bankrupt. Rep. Sprague noted that insurance companies do not like to be part of what seemingly is a fraudulent practice. He continued that the bill speaks to this problem by providing that if the bankrupt has obtained a life insurance policy within one year prior to the filing for bankruptcy, the court can determine if it was done to defraud his creditors. The court would have the authority to say that the policy is not exempt if it is found that the policy was purchased to defraud creditors.

Committee discussion followed regarding a suggested \$5000 cap on the exemption for life insurance policies purchased. It was the consensus of the committee that this would not be acceptable.

Sen. Werts inquired as to how this asset (life insurance) is discovered. Rep. Sprague answered that it must be listed as an asset on the bankruptcy petition. He added that he, as an attorney, is obligated to inform his clients that it is legal to purchase this insurance before filing for bankruptcy and that it will be exempt.

Sen. Feleciano asked what would happen if the bankrupt died during the bankruptcy proceedings. Rep. Sprague said that the burden of proof that the policy was purchased with the intent to defraud would be on the creditor which would be difficult to do.

Sen. Werts asked if the bill would apply to Chapter 11 bankruptcy cases only. Rep. Sprague said that it would apply to all bankruptcy proceedings except Chapter 11.

Sen. Gordon made a motion to recommend HB 2943 favorably. Sen. Harder seconded, and the motion carried.

The meeting was adjourned.