

Approved February 12, 1987
Date

MINUTES OF THE SENATE COMMITTEE ON FINANCIAL INSTITUTIONS AND INSURANCE

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

9:00 a.m./~~xxxx~~p.m. on February 11, 1987 in room 529-S of the Capitol.

All members were present except:

Committee staff present:

Bill Wolff, Legislative Research
Myrta Anderson, Legislative Research
Bill Edds, Revisor of Statutes

Conferees appearing before the committee:

Stan Lind, Kansas Association of Financial Services
Ron Todd, Kansas Insurance Department
Richard Schutz, Department of Social and Rehabilitation Services
Wayne Morris, American Council of Life Insurance

The minutes of February 10 were approved.

Stan Lind, Kansas Association of Financial Services, appeared to request the introduction of a bill which would amend the Kansas Investment Certificate Act.
(See Attachment I.)

Sen. Werts made a motion to introduce the bill and refer it back to committee, Sen. Reilly seconded, and the motion carried.

The hearing began on SB 103 dealing with the health care provider insurance availability act. Ron Todd, Kansas Insurance Department, testified in support of the bill. Mr. Todd explained that the bill removes the sunset provision which will expire July 1, 1987. Removal of the sunset provision would allow the program to continue permanently.

The chairman asked Mr. Todd if there is much usage of this plan, and Mr. Todd said it varies. At one time, this was about the only place chiropractors could get insurance; then it was at eight or nine hundred. Now it is around one hundred, and it looks as if there will be less written because companies are renewing existing business but not taking any new. Sen. Gannon followed with questions concerning the rates for specialties. Mr. Todd said these rates are based on loss experience. Committee questions followed regarding how this plan is funded and the status of the fund in dollars.

Sen Reilly made a motion to report SB 103 favorable for passage, Sen. Gordon seconded, and the motion carried with Sen. Kerr voting "no".

Attention was turned to SB 105 regarding discrimination in insuring the blind or partially blind. Richard Schutz of the Department of Social and Rehabilitation Services testified in support of the bill. (See Attachments II and III.)

Sen. Burke asked why just this particular handicap is included. Mr. Schutz could not answer that question. Sen. Harder asked for a specific example of discrimination. Mr. Schutz noted that there was one testimony on this last session, but he has no others to cite today. Mr. Todd added that a lot of it had to do with disability and life insurance where it was found that the blind were refused solely because they were blind. Sen. Burke asked why "physical and mental handicap" is not used rather than just "blind". Mr. Todd said other handicaps are covered in the unfair practices act. Sen. Burke asked Mr. Todd if he would have any problem with amending the bill to read "mental and physical handicap". Mr. Todd answered that it may cause the bill not to be enacted.

Sen. Kerr questioned Mr. Todd as to if an actuarial study shows a good reason for discrimination, would the bill prevent higher rates being charged. Mr. Todd said it would not. Staff explained that discrimination is allowed but not unfairly. Sen. Werts said it sounds like the applicability is to life and health, and the chairman explained

Unless specifically noted, the individual remarks recorded herein have not been transcribed verbatim. Individual remarks as reported herein have not been submitted to the individuals appearing before the committee for editing or corrections.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON FINANCIAL INSTITUTIONS AND INSURANCE,
room 529-S, Statehouse, at 9:00 a.m./~~p.m.~~ on Feburay 11, 1987.

that is where it was applied originally, but the bill applies to all areas.

Wayne Morris, American Council of Life Insurance, testified in support of the bill.
(See Attachment IV.)

Sen. Karr made a motion to report SB 105 favorable for passage, Sen. Gannon seconded, and the motion carried.

The chairman reminded the committee that it would meet on Friday, February 13, for discussion of bills previously heard, however, final action will not be taken on SB 72 since some of the members will not be able to be present at this meeting.

The meeting was adjourned.

SENATE COMMITTEE

ON

FINANCIAL INSTITUTIONS AND INSURANCE

OBSERVERS
(Please print)

DATE	NAME	ADDRESS	REPRESENTING
2/11	WALTER DARLING	TOPKA	DIVISION OF BUDGET
2/11	Jurie Zepman	Topka	Kansas Bar Assoc.
"	S. L. Lind	KCK	Kans. Assn. of Dist. Serv.
2-11-87	RICHARD SCHUTZ	Topka	SRS
	Wayne D. Morris	Topka	Security Benefit Life Ins. Co.
2-11	John Myers	Topka	Kaiser Permanente
2-11	Paul G. Hamilton	Lawrence	KS N.O.W.

AN ACT amending the Kansas Investment Certificate Act; relating to the regulation and standards of operation; amending K.S.A. 1986 Supp. 16-601 and repealing the existing section.

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

Section 1. K.S.A. 16-601 is hereby amended to read as follows:

16-601. Registration of investment certificates of investment companies; membership in guaranty fund corporation; regulations and standards of operation; unlawful acts; penalties. Application for registration of investment certificates by investment companies under the provisions of this act, shall be directed to the consumer credit commissioner as designated under K.S.A. 16-403, and acts amendatory thereof or supplemental thereto, who shall administer the provisions of this act as it applies to investment companies as defined by K.S.A. 16-630, and amendments thereto. When investment certificates are registered under this or any other provision of this act, the following standards of operation shall be required and maintained by the issuer:

(1) All evidences of indebtedness issued hereunder shall be called investment certificates.

(2) The investment certificate shall state or provide for: (a) The name and address of the issuer; (b) the name and address of the certificate owner; (c) the dollar amount of the certificates; (d) the stated rate of interest or method of declaring rate of interest; (e) a provision that the certificates may be repurchased by the issuer at the desire of the issuer or of the certificate owner in the same manner as prescribed for savings and loan associations shares in K.S.A. 17-5114, and amendments thereto; (f) a provision as to

the manner in which the certificate may be assigned; (g) the priority of claim or right that the certificate shall have in relation to the other obligations of the issuer; (h) each certificate shall state that a copy of the prospectus of the issuing company shall be available to each certificate holder upon request; and (i) investment certificates authorized hereunder shall have printed thereon the words: "Funds in investment certificates owned by a single investor are protected up to an aggregate maximum of \$10,000 by the Kansas investment certificate guaranty fund corporation, a private corporation which is not an agency of the state of Kansas or of the federal government."

~~(3)~~ The amount of investment certificates outstanding at any time shall not exceed the amount prescribed in this subsection based upon the total paid in and unimpaired capital, undivided profit and surplus of the issuing company as follows: (a) For companies up to \$300,000, the ratio shall not exceed 4½ times; (b) for companies between \$300,001 and \$500,000, the ratio shall not exceed 6.638 times; (c) for companies over \$500,000, the ratio shall not exceed 10 times.

~~(4)~~ Each issuing company shall maintain and have on hand at all times the equivalent of 10% of all outstanding certificates in: (a) Cash; (b) securities of the federal government or agency thereof or securities insured or guaranteed by the federal government or agency thereof; or (c) securities of the state of Kansas or agency thereof or general obligation bonds of any subdivision of the state of Kansas.

~~(5)~~ Each company shall file with the commissioner a complete audit annually, and within 90 days after the close of the company's fiscal year, which shall be prepared by an independent certified public accountant in accordance with generally accepted accounting procedures.

~~(6)~~ No issuing company shall advertise nor give any premium, discount, gift or rebate in excess of an amount prescribed by regulation of the commissioner to induce the purchase of its certificates.

~~(7)~~ No issuing company shall make any loan, directly or indirectly, to any director or officer of the issuing company in an aggregate of more than \$2,500, nor shall any director or officer of such issuing company become obligated to such issuing company as a comaker, endorser, guarantor or in other capacity other than as set out above.

Sec. 2.

by an investment company

investment

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Sec. 3.

investment

Sec. 4.

investment

Sec. 5.

investment

Sec. 6.

investment

Sec. 7.

~~(8)~~ No investment company shall make any loan, purchase any installment sales contract or buy or enter into any lease of personal property, directly or indirectly, to, from or with any person or company, corporation or firm, including in the liabilities of the company or firm, the liabilities of the several members thereof, in an amount in excess of 10% of the unimpaired capital ~~and surplus~~ of the issuer, except that this restriction shall not apply to any loan to any majority-owned affiliate or subsidiary Kansas corporation of the issuer or its parent which is also an investment company as that term is defined in K.S.A. 16-630, and any amendments thereto, except that loans secured by mortgages on real estate located in Kansas or in a state adjacent to Kansas where the total mortgage indebtedness is not more than 85% of appraised value may be made in an amount not in excess of 15% of the paid-in and unimpaired capital ~~and surplus~~ of the issuer. The percentage limitation ~~stated in this subsection~~ shall not apply to the purchase of commercial paper which has a quality rating by Moody's Investor's Service of not less than prime-1 or prime-2 or Standard and Poor's Corporation of A1 or A2.

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loans secured by real estate mortgages when the total mortgage indebtedness is in excess of 85% of appraised value to the extent that the loan is insured against the default of the mortgagor by the federal or state government or an agency thereof or by a private mortgage insurance company

or to a real estate mortgage that is eligible for purchase by the Federal National Mortgage Association, the Government National Mortgage Association, or the Federal Home Loan Mortgage Corporation, or if the investment company has a commitment to sell the said note and mortgage.

~~(9)~~ No company shall allow the investment of funds obtained from the sale of certificates to be made that is not inherent to the principal business of a licensed lender under the Kansas uniform consumer credit code, except that this restriction shall not apply to: (a) Any majority-owned affiliate or subsidiary company of the issuer which does not issue certificates but which is engaged in the same type of business in Kansas; (b) loan contracts when the proceeds of the loan are used for business or agricultural purposes, installment sales contracts or leases of personal property when used for agricultural or business purposes; ~~or~~ (c) the purchase of commercial paper as described and limited in subsection (8) of this section.

~~(10)~~ Before the commissioner may authorize a company to issue investment certificates, it must have a minimum capitalization of \$150,000, ~~except that this subsection shall not apply to any supervised lender corporation authorized to issue investment certificates prior to July 1, 1982.~~

~~(11)~~ All statutes, rules, regulations and restrictions pertaining to the issuance of investment certificates shall apply equally to any majority-owned affiliate or the subsidiary of any company or corporation as well as to the parent.

~~(12)~~ Each investment company shall maintain a blanket fidelity bond upon all officers, employees and directors when performing the duties of an officer or employee of the company in a sum not less than \$25,000. Notwithstanding the foregoing the fidelity bond upon the managing and executive officers of the issuing company shall not be in an amount less than 1/10 of the amount that the total of the outstanding certificate exceeds the net worth of the company as of December 31 of the preceding calendar year, or \$1,500,000, whichever is lesser.

~~(13)~~ For all purposes the issuer shall be permitted to have outstanding at all times an amount of investment certificates not to exceed the amount of the aggregate authorization without regard to the subsequent repurchase of investment certificates.

~~(14)~~ A written opinion from an attorney licensed to practice in Kansas shall accompany each application in reference both to the legality of the requested issuance and also in reference to the status of the certificate obligation as to priority of creditors.

Sec. 8.

investment

or to loans secured by real estate mortgages

(7) of this act

Sec. 9.

an investment

Sec. 10.

investment

Sec. 11.

Sec. 12.

investment company

Sec. 13.

for an authorization to issue investment certificates

~~(15)~~ Each application shall include a prospectus which shall be updated within three months after the close of the fiscal year of each company. Such updated prospectus must be approved by the commissioner.

Sec. 14.

for an authorization to issue investment certificates

~~(16)~~ The total amount of all outstanding certificates of the company shall not at any time exceed the total amount of unpledged notes and contracts receivable, cash, cash equivalent instruments, securities of the federal government or agency thereof or securities insured or guaranteed by the federal government or agency thereof and securities of the state of Kansas or agency thereof or general obligation bonds of any subdivision of the state of Kansas.

Sec. 15.

an investment

~~(17)~~ No company issuing investment certificates shall provide or allow the certificates to be subordinated to any other obligation of the issuer, except that the pledging of collateral shall not be deemed as subordination.

Sec. 16.

~~(18)~~ Any director, officer or employee of an investment company who asks for or receives, or consents or agrees to receive any commission, emolument, or gratuity or any money, property or thing of value for procuring or endeavoring to procure for any person any loan from such company, or the purchase or discount of any note, contract, or other obligation or property by such company, upon conviction, shall be guilty of a class C felony.

Sec. 17.

, other than as a part of the compensation for the officer, employee or director,

~~(19)~~ Any director, officer or employee of any investment company who knowingly receives or possesses any of its property otherwise than in payment of a just demand, or with intent to defraud, omits to make or cause to be made a full and true entry thereof in its books and accounts or concurs in omitting to make any material entry thereof, upon conviction, shall be guilty of a class C felony.

Sec. 18.

Sec. 19.

~~(20)~~ Any director, officer or employee of an investment company who knowingly makes or concurs in making or publishing any false entry in its books or records, any written report, exhibit or statement of its affairs or pecuniary condition containing any material statement which is false, or having the custody of its books willfully refuses or neglects to make any proper entry in such books as required by law, or to exhibit or allow the same to be inspected or extracts to be taken therefrom by the commissioner or the commissioner's deputies or investigators, upon conviction, shall be guilty of a class C felony.

~~(21)~~ No director, officer or employee of an investment company shall purchase, directly or indirectly, or be interested in the purchase of, any of the company's assets for amount less than the then current market value thereof and any such purchase may not be made without the express approval of the board of directors of the company. Every person violating this section shall be liable to the company for twice the market value of the assets so purchased.

Sec. 20.

~~(22)~~ Every director of an investment company who: (a) In case of the fraudulent insolvency of such company, shall have participated in such fraud; or (b) willfully does any act as director which is expressly forbidden by law or willfully omits to perform any duty imposed by law, upon conviction, shall be guilty of a class A misdemeanor. The insolvency of a company is deemed fraudulent for the purposes of this section, unless its affairs appear upon investigation to have been administered clearly, legally, and with the same care and diligence that agents receiving a compensation for their services are bound, by law, to observe.

Sec. 21

an investment

~~(23)~~ A director, officer or employee of an investment company, who concurs in any vote or act by which it is intended to make a loan or purchase a contract in violation of this law, upon conviction, shall be guilty of a class A misdemeanor.

Sec. 22.

Sec. 23.

~~(24)~~ Any director, officer or employee of any investment company, who makes or maintains, or attempts to make or maintain, a deposit of such company's funds with any other person on condition, or with the understanding, express or implied, that the person receiving such deposit make a loan or advance, directly or indirectly, to any director, officer, or employee of the company so making or maintaining or attempting to make or maintain such deposit, upon conviction, shall be guilty of a class A misdemeanor.

Sec. 24.

~~(25)~~ Every officer or employee of any investment company who sells investment certificates knowing that the company is insolvent, upon conviction, shall be guilty of a class A misdemeanor.

investment

~~(26)~~ Any director, officer, agent or employee of any investment company, who willfully makes a false or untrue entry in any book or record or in any report, or statement of the business, affairs, or condition, or in connection with any transaction of such company, with intent to deceive any officer, director or employee thereof, or any agent or examiner, private or official, employed or lawfully appointed to examine into its condition or any of its affairs or transactions, or to any public officer who has authority to examine into its affairs or transactions, or who, with like intent, willfully omits to make new entry of any matter particularly pertaining to the business property condition, affairs, transactions, assets or accounts of such company in any book, record, report, statement of such company, or who with like intent alters, abstracts, conceals, or destroys any book, record, report, statement of such company made, written, or kept, or required to be made, written, or kept by such person or under such person's direction, upon conviction, shall be guilty of a class C felony.

Sec. 25

~~(27)~~ The investment company shall become a member of the Kansas investment certificate guaranty fund corporation and qualify as a member before the issuance of any investment certificates.

Sec. 26. Every

~~(28)~~ The investment company shall be incorporated in the state of Kansas as a corporation for profit.

Sec. 27. Every

~~(29)~~ The authority to issue investment certificates shall be nontransferable, except with the prior written consent of the commissioner and the investment certificate guaranty fund corporation.

Sec. 28.

~~(30)~~ The authority to issue investment certificates shall not be acquired by the purchase of the common stock, or the stock which exercises voting control of a company authorized to issue investment certificates without the prior written consent of the commissioner and the investment certificate guaranty fund corporation.

Sec. 29.

History: L. 1961, ch. 117, § 2; L. 1981, ch. 90, § 1; L. 1982, ch. 91, § 1; L. 1983, ch. 77, § 1; July 1.

Sec. 30. K.S.A. 16-601 is hereby repealed.

Sec. 31. This act shall take effect and be in force from and after its publication in the statute book.

State Department of Social and Rehabilitation Services

Testimony in Support of S.B. 105

Mr. Chairman and Members of the Committee:

I appear today in support of S.B. 105 which prohibits discrimination in the insurance industry against blind or partially blind persons solely on the basis of blindness or partial blindness. Without the bill, discrimination can occur through refusing to insure or continue to insure; limiting the amount, extent or kind of coverage available to an individual; or charging a different rate solely because of blindness or partial blindness. SRS supports any action which will prevent discrimination in the insurance industry or elsewhere against blind, partially blind, or other disabled individuals solely on the basis of respective disabilities. SRS urges passage of S.B. 105.

Richard Schutz, Director
Division of Services for the Blind
Rehabilitation Services
Social and Rehabilitation Services
296-4454
February 11, 1987

State Department of Social and Rehabilitation Services

Statement Regarding S.B. 105

1. Title -- An act relating to insurance; defining certain acts or omissions in regard to insuring blind or partially blind individuals to be unfair or deceptive acts or practices; amending K.S.A. 40-2404 and repealing the existing section.
2. Purpose -- The purpose of this bill is to prevent discrimination in the insurance industry against blind or partially blind persons solely because of blindness or partial blindness.
3. Background -- Discrimination can occur in the insurance industry against blind or partially blind persons solely on the basis of blindness or partial blindness. Discrimination includes refusal to insure or continue to insure; limiting the amount, extent or kind of coverage; or charging a different rate for the same coverage solely because of blindness or partial blindness.
4. Effect of Passage -- The effect of passage will be to prohibit discrimination by the insurance industry against blind or partially blind persons solely because of blindness or partial blindness.

Robert C. Harder
Secretary
Social and Rehabilitation Services
296-3271
February 11, 1987



Security Benefit Life Insurance Company

A Member of The Security Benefit Group of Companies

Date: February 10, 1987

To: The Honorable Neil Arasmith, Chairman, and
Honorable Members, Senate Committee on Financial
Institutions and Insurance

From: Wayne Morris (LG)

Re: S.B. 105 -- Blindness Discrimination

I am Wayne Morris, Assistant Counsel for Security Benefit Life Insurance Company.

I am appearing here today on behalf of the American Council of Life Insurance (ACLI). The ACLI consists of over 600 legal reserve life insurance companies which account for 95 percent of the life insurance in force in the United States. Security Benefit Life is a member of the ACLI.

The ACLI does wish to express its support for S.B. 105. The ACLI seeks the adoption of this National Association of Insurance Commissioners (NAIC) model law on unfair discrimination on the basis of blindness or partial blindness in all 50 states. This support is based on both the substance of the legislation and the belief that any legislation in this area should be enacted on the state, rather than the federal, level.

Thank you for the opportunity to make the statement, and please let me know if you have any questions.

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