

Approved March 5, 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./p.m. on March 4, 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:

Senator Bill Mulich
David Ross

The minutes of March 3 were approved.

The hearing on SB 232 regarding claims on property damage began with the testimony of Senator Mulich, one of the authors of the bill. Sen. Mulich said the bill really deals with adjusters and that it is similar to one he had two years ago but is better because he had since worked with the industry. There are a lot of problems with adjusters signing a bid with no itemization. He had amendments to offer. (See Attachment I.) With reference to a conversation he had earlier with the chairman about localizing, Sen. Mulich said he had been advised by staff that it would not be constitutional.

The chairman asked if it is customary for an adjuster to make an estimate. Sen. Mulich said that 99 times out of 100 the adjuster does not do this, but he brings in a contractor that he works with. He added that he feels the bill is really needed to address this problem.

Sen. Gannon noted that the bill does not say what the adjuster would do with the estimates. Sen. Mulich said he gives them to the company. The chairman asked if there is any cost to get the estimates, and Sen. Mulich answered that he knew of none.

Sen. Kerr asked who in the present system is being damaged. Sen. Mulich replied, "everyone", indicating that the settlements are inflated which cause rates to increase. Sen. Kerr asked if the problem is that settlements are too low to which Sen. Mulich replied, "No". Sen. Kerr reconfirmed that Sen. Mulich's opinion that insurance rates are increasing because of these high payments.

Sen. Harder asked who is being protected by the bill to which Sen. Mulich replied that it protects the homeowner, the insured, everyone and that it is actually a consumer bill. The chairman asked if the bill is to protect the insured and the insurance companies, why is it that he has gotten so many objections to the bill by insurance companies. Sen. Mulich said only that insurance companies never support anything good.

David Ross, a former employee of the Farmers Insurance Company and who has an interest in a company that repairs damage, testified in support of SB 232. He sees it as a measure of trying to bring in more competition. He supports the suggested amendments because he feels the consumer should have a choice in the matter, and it provides some control. He suggested a further amendment on line 24 adding "itemized" between "independent" and estimates".

Sen. Burke said that he has a hard time with the argument that insurance companies would try to find high estimates and in that regard feels an itemized statement is good. He feels this is a good concept, but he thinks more work is needed than the time available.

The chairman asked Mr. Ross what his former employer's attitude toward the bill is. Mr. Ross answered that from his own experience he knows that adjusters do work with contractors to pad estimates. The chairman asked if insurance companies actually

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 March 4, 1987

hire a contractor to do their work. Mr. Ross said that they are not supposed to and that Farmers Insurance paid the insured, but he feels there are a lot of violations.

Sen. Werts said that some have alluded to collusion by adjusters, but the only collusion he has seen is among contractors with bid fixing. He does not know if this bill would stop that sort of thing. Sen. Mulich said that in the business dealt with in the bill, it is not the contractor but the adjuster, but he agreed with the chairman's statement that it could be the contractor. This concluded the hearing on SB 232, and it was taken under advisement.

The chairman began a discussion of SB 120 regarding bonds which had been previously heard. Staff reported that the information requested from the Attorney General's office had not yet arrived. Short discussion followed regarding the amendments offered by the State Treasurer's office.

The chairman said that he could not understand why notification is not given when the bond owner is known. Sen. Werts noted that anytime he has had a bond that was called, the dealer called and asked first if he still had the bond and then notified him that the bond has been called. He feels any good dealer would do this. Sen. Warren said his dealer was good, but he did not know about the bond being called in his case which indicates that it was not very well advertized.

In a discussion of the fiscal note for the bill, it was determined that the biggest cost involved to the State Treasurer's office would be for the additional cost of sending the letters of notification by certified mail.

Sen. Werts recalled a comment by Steve Hirsch of the State Treasurer's office at the hearing on the bill that the interest earned on funds held by the fiscal agent went to the state general fund. Mr. Hirsch had rechecked his statement and called Sen. Werts saying that this is exactly what happens. Sen. Werts has asked for confirmation by letter.

Staff informed the committee of a conversation with the Attorney General's office by phone where the opinion was given that the proceeds go to the Treasurer or bank at the moment when the relationship between the bank and bondholder ceases which is when the call is executed. Committee discussion followed as to the procedure which is followed in this case and as to who gets the interest although the bill only addresses notification and not who gets the earnings.

Sen. Warren said he supports the Treasurer's amendments. The chairman said there is a question of when and how, in the instance of Sen. Warren's problem, the State Treasurer would have been involved.

Sen. Karr suggested that the bill be taken as is but take out "certified mail" if it would potentially encourage some kind of expense of notification. Staff explained that lines 25 and 26 is the existing law that it be sent by registered mail so it would be changing the law for all notices by the State Treasurer. The certified notice is an important part of the bill because it is important to know the person got the notice. Also, certified is cheaper than registered. How to notify that the law has changed is an issue. Sen. Werts said whoever is handling bonds for the municipality should keep informed of changes in the law. The chairman asked if the change would apply to any bonds after the effect of the date of the act. Staff said it would be after "any call". Sen. Werts stated with reference to subsection (2) (A) that a good bank would send notice of call to the payee along with the payment.

Sen. Karr made a motion to strike "certified mail" on lines 31 and 36 in (A) and (B), Sen. Werts seconded, and the motion carried.

With the thought that it would encourage those who should notify but don't, Sen. Karr made a motion to report SB 120 favorable for passage as amended, Sen. Werts seconded, and the motion carried.

Sen. Gannon said he feels the chairman should contact the Attorney General's office for the information requested. The chairman said he intended to do so and that, hopefully, the information will arrive within the next few days.

The meeting was adjourned.

SENATE COMMITTEE

ON

FINANCIAL INSTITUTIONS AND INSURANCE

OBSERVERS
(Please print)

DATE NAME ADDRESS REPRESENTING

3/5	DANIO Ross	6321 LONGCREW, STAMFORD, K.	
	Row Todd	Topoka	Inv. Dept.
	Kim Neel	Marion	Marion H School
	Raquel Allison	Marion	Marion High School
	Jennifer Stinchcomb	Marion	Marion High School
	Diane Wartyuf	Marion	Marion High School
	Jill Hole	Marion	Marion High School

SENATE BILL No. 232

By Senators Mulich, Anderson, Martin, Steineger and Strick

2-11

0017 AN ACT concerning insurance; relating to settlement of certain
0018 claims for property damage.

0019 *Be it enacted by the Legislature of the State of Kansas:*

0020 Section 1. Any person who investigates, ascertains or deter-
0021 mines on behalf of an insuror the amount of a claim, loss or
0022 damage to property arising under any contract of fire or extended
0023 coverage insurance shall, prior to the settlement of any such
0024 claim, obtain at least three independent estimates of such dam-
0025 age, a copy of which shall be provided by such person to the
0026 insured.

0027 Sec. 2. This act shall take effect and be in force from and
0028 after its publication in the statute book.

insurance adjuster

in an amount exceeding \$5,000

two

Any such insurance adjuster so acting on the behalf of an insuror shall be authorized to set the scope of the necessary repairs and settle the insured's claim on the basis thereof.