

Approved: Feb. 21, 1996  
Date

MINUTES OF THE HOUSE COMMITTEE ON FINANCIAL INSTITUTIONS AND INSURANCE.

The meeting was called to order by Chairperson Bill Bryant at 3:30 p.m. on February 19, 1996 in Room 527S-of the Capitol.

All members were present except: Representative Tom Sawyer  
Representative Phill Kline  
Representative Delbert Crabb  
Representative Carol Dawson  
Representative Clyde Graeber

Committee staff present: Bill Wolff, Legislative Research Department  
Bruce Kinzie, Revisor of Statutes  
Nikki Feuerborn, Committee Secretary

Conferees appearing before the committee: William Sneed, AmVestors  
Linda De Coursey, Kansas Insurance Department  
Marlyn Burch, Life Division, Kansas Insurance Department

Others attending: See attached list

**Hearing on SB 412 - Life insurance companies investments in tax lien certificates**

William Sneed, representing AmVestors, stated that the bill would amend the statute which sets out the types of investments in which Kansas life insurance companies may participate (Attachment 1). This amendment would allow a domestic life insurance company in Kansas to invest in tax lien certificates issued by taxing authorities nationwide. Approximately 28 states (not Kansas) have implemented a statutory procedure that enables counties to sell the accrued taxes, plus interest and penalties in a public auction either through competitive bidding on the lien's interest rate or on the amount of the lien plus an overage satisfactory to the bidder. Tax lien certificates have an average net return of 10 to 12 percent, offer exceptional collateral security due to superior priority status of tax liens over all existing first mortgages, and have the protection that tax liens are rarely settled through foreclosure. This bill would allow Kansas life insurance companies to invest in the profitable tax lien certificates in a more liberal way while having the investment more effectively regulated by the Insurance Department as a separate statutory investment.

Linda De Coursey, representing the Kansas Insurance Department, presented testimony in support of the bill which would expand the investment flexibility of life insurance companies (Attachment 2).

**Hearing on SB 442 - Medicare insurance supplement policies**

Linda De Coursey, Kansas Insurance Department, explained that the original legislation granting authority to the Kansas Insurance Department to develop regulations for the sale of Medicare supplement insurance policies stated that they could not exceed the minimum standards set out in federal law (Attachment 3). The Legal Division of the Department has requested a clarification that the Kansas rules for the sale of Medicare supplement policies may exceed the minimum standards of the Social Security Act as well as correcting a statutory citation to the federal law in the current law. Though there are not plans for changes at this time, this would allow standards to become more stringent in the future.

**Hearing on SB 449 - Group life insurance policies insure persons financially dependent on employees**

Linda De Coursey, Kansas Insurance Department, explained the amendment which adds additional persons to be considered as an insurable interest to group life policies (Attachment 4). This bill would expand the definition of an insurable interest to include any child of the employee or their spouse under 21 years of age and any person over 21 years of age who relies primarily on the insured employee for financial support and maintenance. Under current statute a group policy may provide for an insurable interest in the employee, the

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON FINANCIAL INSTITUTIONS AND INSURANCE,  
Room 527S-Statehouse, at 3:30 a.m. on February 19, 1996.

employee's spouse, the employee's children who are under 21 years of age, or the employee's children over 21 years of age who are attending an educational institution and rely upon the employee for financial support. The intent of the bill is to allow step-children to be considered as insurable interests.

The Committee was questioned how the notification procedures would be conducted in cases where the insurable interest changed often e.g. dependent significant others. Marlyn Burch, Life Division of the Kansas Insurance Department, informed the Committee that the insuring companies could set whatever rules they chose regarding notification of change of status for insureds. If the bill was amended to include "married" in the definition of an insured interest, it might be challenged regarding constitutionality.

Representative Smith moved for the approval of the minutes of February 13 and 14, 1996. Representative Welshimer seconded the motion. Motion carried.

The meeting was adjourned at 4:15 p.m. The next meeting is scheduled for February 20, 1996.

HOUSE FINANCIAL INSTITUTIONS AND INSURANCE  
COMMITTEE GUEST LIST

DATE: Feb. 19, 1996

NAME	REPRESENTING
David Hanson	Ks Insur Assoc
Linda DeCoursey	KS Insurance Dept
Markum Burr	Ks. Insurance Dept.
Bill Sneed	Am Vector
John C. BOTTENBERG	AMER INVESTORS LIFE
Melissa Wargemann	Hein Ebert & Weir

## MEMORANDUM

TO: The Honorable Bill Bryant, Chairman  
House Financial Institutions and Insurance Committee

FROM: William W. Sneed, Legislative Counsel  
AmVestors Financial Corporation  
American Investors Life Insurance Company

DATE: February 19, 1996

RE: S.B. 412

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Mr. Chairman, Members of the Committee: My name is Bill Sneed and I represent AmVestors Financial Corporation and its wholly-owned subsidiary, American Investors Life Insurance Company. S.B. 412 amends K.S.A. 40-2b09, which sets out the types of investments in which Kansas life insurance companies may participate. This amendment would allow a domestic life insurance company in the State of Kansas to invest in tax lien certificates issued by taxing authorities nationwide.

S.B. 412 passed out of the Senate Committee with an amendment, which I will explain in a moment, and was again amended on the Senate floor. I will save explanation of these amendments until later in my testimony, however, suffice it to say that the bill in its current form is before you today for your consideration.

K.S.A. 40-2b09 in its present form allows Kansas life insurance companies to invest in bonds, notes, obligations or other evidence of indebtedness, generally including

- ▶ mortgages or deeds of trust which constitute first liens on real property
- ▶ loans or credit advances guaranteed or issued by the federal government or otherwise insured by an insurance company

*W. W. Sneed*  
*Feb. 19, 1996*  
*Attachment 1*

- ▶ contracts of sale, purchase money mortgages or deeds of trust secured by property obtained through foreclosure
- ▶ participation in mortgage lending

The amendment we offer would allow domestic life insurance companies another investment option: the tax lien certificate. A tax lien is a lien placed by a county or municipality on real property for nonpayment of taxes. Approximately 28 states have implemented a statutory procedure that enables counties to sell the accrued taxes, plus interest and penalties, in a public auction. Kansas does not have such a procedure. (See Attachment 1.) Tax certificates representing these sales are awarded in two ways. The first method involves competitive bidding on the lien's interest rate, with a maximum rate set by the county. Essentially, the bidder agrees to pay the property owner's real estate taxes to the county, after considering the property value, at an interest rate that compensates the bidder for potential risks. The second method involves competitive bidding on the amount of the lien plus an overage, resulting in a flat amount that the bidder believes fully covers his investment and any risks.

There is a statutory holding period that varies by state during which the owner of the property may extinguish the lien by paying the outstanding tax amount plus penalties (on average, a 10% flat fee) and interest at the stated rate. If the property owner redeems (pays the amount owed in full), the tax certificate holder is made whole by the county. However, if the property owner fails to pay taxes by the end of the holding period, the tax certificate holder can file for a tax deed or follow alternative procedures necessary to obtain title to the property. In many counties, this action may be taken only if all subsequent tax liens are paid in full. Once a judgment extinguishing all subsequent liens has been granted, either absolute title is vested in the tax certificate holder or the property is auctioned. If the property is auctioned, either an investor buys the real estate and pays

off the tax certificate holder, the holder is awarded the property, or the property owner pays off the taxes and retains the property.

The reality is that tax liens are rarely settled through foreclosure. This is because the lien to value ratio is high. In other words, the amount of the lien is small compared to the value of the property. Nearly half of tax liens offered for sale by local governments involve property owners whose failure to pay taxes is a first-time offense. These “first-timers” usually pay off the lien with penalties within six months of the tax lien auction.

In sum, tax lien certificates have unique and desirable investment characteristics:

- ▶ net returns of 10% to 12% on average
- ▶ exceptional collateral security due to superior priority status of tax liens over all existing first mortgages
- ▶ tax liens are rarely settled through foreclosure

We have been involved in discussions with the Insurance Department for some time regarding investments by life insurance companies in tax lien certificates. The Insurance Code contains what is called a “leeway clause,” which allows life insurance companies to invest in items not specifically permitted by statute in an aggregate amount not to exceed 10%. In other words, Kansas life insurance companies may currently invest in tax lien certificates to a limited extent. Our amendment, by specifically allowing investment in tax liens, does two things: (1) allows life insurance companies greater opportunities to take advantage of a profitable investment vehicle; and (2) allows the investment to be more effectively regulated by the Insurance Department as a specific, separate statutory investment rather than one lumped together with other “leeway” investments.

The Senate Committee on Financial Institutions and Insurance, presented with the bill in its original form, discussed whether some sort of limit should be set on the amount an

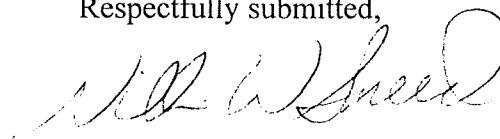
insurance company would be allowed to invest in tax lien certificates, as there were limits elsewhere in the insurance/investment code pertaining to mortgage-type securities. Staff pointed to language contained in K.S.A. 40-2b26 relating to a 2% limit on investments in mortgage-related securities. The Senate Committee then adopted a 2% limit on investment in tax liens as an amendment to the original bill.

Upon reflection, it was noted that the statute cited by staff for comparison purposes limits the amount invested in any one issue of such securities to 2% of a company's admitted assets. It does not limit total investment in mortgage-based securities to 2%. On that basis, an amendment was offered on the Senate floor by Senator Bond, committee chairman, raising the total investment limit for tax lien certificates to 10% of a company's admitted assets. The amendment, and the bill as amended, passed the Senate.

We submit that passage of this legislation will open new avenues of profitability for Kansas life insurance companies. This in turn contributes to a healthy statewide economy which benefits all Kansans. Thus, we respectfully request your favorable action on S.B. 412.

We appreciate the opportunity to present our testimony. If you have any questions about the content or impact of this legislation, please feel free to contact me.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "William W. Sneed".

William W. Sneed





## Tax Lien Flow Chart

1. Property owner fails to pay property taxes prior to statutory due date.



2. Tax lien arises by operation of statute. In most states, a delinquent penalty attaches, and statutory interest begins to accrue.



3. County agency records tax lien certificate in local district court. Certificate lists amount and kind of tax due, amount of interest, penalties, and costs.



4. Judgment entered against taxpayer.



5. Tax lien judgment sold at county auction.



6. Investor buys bundled liens at auction.



7. Investor or county government, depending on jurisdiction, issues notice to taxpayer indicating that the lien has been sold.



8A. Taxpayer pays lien in 40-50% of cases.\*



9A. Investor receives funds, lien is extinguished.

Taxpayer pays lien. Investor receives funds, lien is extinguished.



8B. Taxpayer does not pay.



9B. Investor or county government, depending on the jurisdiction, continues with the collections process. This process may span two years or more. For example, Arizona allows a taxpayer 3 years from the date of the sale of the tax lien to redeem, or pay off the lien. During this period, nearly all remaining liens are paid.\*



10B. If all else fails, investor forecloses on property. This occurs in approximately 1% of cases.\*



11B. Property is sold. Investor receives amount of lien.

\*These figures reflect investment in standard residential liens.

**Note:** Taxpayer can redeem at any point in the process prior to foreclosure.



**Kathleen Sebelius**  
Commissioner of Insurance  
**Kansas Insurance Department**

**MEMORANDUM**

To: House Committee on Financial Institutions and Insurance  
From: Linda De Coursey, Coordinator of Government and Public Affairs  
Re: SB 412 (Investment in Tax Lien Certificates)  
Date: February 19, 1996

Mr. Chairman and members of the committee:

Senate Bill 412 allows life insurance companies to invest in tax lien certificates. These certificates are evidence of tax liens which local governments have on real property for unpaid taxes. The tax liens are usually "bundled" by tax authorities and then sold on the public market for an amount less than the value of the combined tax liens. The tax lien certificates can, in some instances, be a better investment than a mortgage on the real estate since a tax lien has priority over all other claims against the property.

The Kansas Department of Insurance supports the passage of SB 412. Real estate investments of various types are currently permitted for life insurance companies under the Insurance Code. The addition of tax lien certificates to the list of such investments would expand the investment flexibility of life insurance companies.

Thank you for the opportunity to appear before you on SB 412.

*House F&I  
Attachment 2  
Feb. 19, 1996*



Kathleen Sebelius  
Commissioner of Insurance  
**Kansas Insurance Department**

**MEMORANDUM**

To: House Committee on Financial Institutions and Insurance

From: Linda De Coursey, Coordinator of  
Government and Public Affairs

Re: S.B. 442 (Medicare Supplement Regulations)

Date: February 19, 1996

Mr. Chairman and members of the committee:

Senate Bill 442 amends K.S.A. 40-2221 which grants authority to the Kansas Insurance Department to develop regulations for the sale of Medicare supplement insurance policies in the state. These policies are governed by standards set out in federal law under the Social Security Act. That law permits states to establish rules for the sale of Medicare supplement policies. The federal statute also provides that state regulations may exceed the standards and requirements set out in the Social Security Act.

The Kansas statute, which was first passed in 1981, was incorrectly drafted because it states the regulations passed by the Insurance Department may not exceed the minimum standards set out in federal law. The amendment set out in Senate Bill 442 was prepared at the request of the Legal Division to clarify that the Kansas rules for the sale of Medicare supplement policies may exceed the minimum standards of the Social Security Act. In addition, the bill corrects an incorrect statutory citation to the federal law in the current statute.

Thank you for the opportunity to appear before you on SB 442. We respectfully ask for your favorable consideration of SB 442.

*House F&I*  
*Attachment 3*  
*Feb. 19, 1996*



**Kathleen Sebelius**  
Commissioner of Insurance  
**Kansas Insurance Department**

**MEMORANDUM**

To: House Financial Institutions  
and Insurance Committee

From: Linda De Coursey, Coordinator,  
Government and Public Affairs

Re: S.B.449 (Group Life Insurance/Insurable Interest)

Date: February 19, 1996

Mr. Chairman and members of the Committee:

Thank you for the opportunity to appear before you on SB 449. This bill amends the group life insurance statute to add additional persons who may be considered as an insurable interest under such insurance policies. An "insurable interest" is the person whose life is insured. Under the current statute (K.S.A. 40-433), a group policy may provide for an insurable interest in (a) the employee, (b) the employee's spouse, (c) the employee's children who are under 21 years of age or (d) the employee's children over 21 years of age who are attending an education institution and who rely upon the employee for financial support. This statute is permissive and life insurers who sell group life insurance are not required to provide for an insurable interest in anyone other than the employee unless they want to have such provision in their policies.

The provisions of Senate Bill 449 would expand the definition of insurable interest to include any child of the employee or their spouse under 21 years of age and any person over 21 years of age who relies primarily on the insured employee for financial support and maintenance. There have been a number of life insurance companies who have wanted to sell group life policies which are excluded under the current statutory

*House FD&D  
Attachment 4*

*Feb. 19, 1996*

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definition. For example, one company provides coverage for an insurable interest in a child over 21 years of age who is away from home on a church mission. Because the child is not attending an educational institution, that policy does not comply with our statute. There are also policies which allow an insurable interest in a disabled child who is over 21 years of age but still living with their parents. The changes set out in S.B. 449 will provide more flexibility to life insurance companies which offer group life insurance in Kansas. The amendments are patterned after similar statutes in other states.

Some questions were raised when the bill was heard before the Senate Committee on Financial Institutions and Insurance about whether certain living arrangements would be covered under this language, for example, two persons living together that are unmarried. The language we used is broad and would encompass these situations, although that was not our intent. We were trying not to leave out groups and have to come back every year to add someone we forgot to include. Again, I would like to stress that the amendment is permissive. Those who sell group life are not required to provide for an insurable interest in anyone other than the employee, unless they have such provision in their policies.

Again, thank you for this opportunity to speak to you about SB 449 and respectfully ask that you favorably pass the bill out of Committee.

*Rep. Step  
Chick*