

Approved: 3-30-01  
Date

MINUTES OF THE SENATE COMMITTEE ON FINANCIAL INSTITUTIONS AND INSURANCE.

The meeting was called to order by Chairperson Sandy Praeger at 9:30 a.m. on March 20, 2001 in Room 234-N of the Capitol.

All members were present except:

Committee staff present: Dr. Bill Wolff, Kansas Legislative Research Department  
Ken Wilke, Office of the Revisor of Statutes  
JoAnn Bunten, Committee Secretary

Conferees appearing before the committee:

Kevin Glendening, Consumer and Mortgage Lending, Office of State Bank Commissioner  
Melissa Walker, President, Kansas Association of Mortgage Brokers  
David A. Hanson, National Association of Independent Insurers  
Brad Smoot, Blue Cross/Blue Shield and American Insurance Association  
Larrie Ann Lower, Executive Director, Kansas Association of Health Plans  
Chris Collins, Director of Government Affairs, Kansas Medical Society  
Rebecca Wempe, Assistant VP and Counsel, Security Benefit Life Insurance Company  
Matthew All, Kansas Insurance Department

Others attending: See attached list.

**Hearing on HB 2481 - Kansas mortgage business act; regulation of**

Kevin Glendening, Consumer and Mortgage Lending, Office of State Bank Commissioner, testified before the Committee in support of **HB 2481** which would authorize the agency to establish continuing education and testing requirements for individuals engaged in mortgage brokering as well as other changes which he noted represents a shift in the way they propose to license mortgage lenders and brokers and to broaden the focus on areas relating to how this kind of business is conducted in the state. Mr. Glendening requested an amendment that would reinsert language on page 3, lines 33 to 36 of the bill which would become another exemption from the licensing requirements of the act. (Attachment 1)

Melissa Walker, President, Kansas Association of Mortgage Brokers, presented testimony in support of the bill. She noted they believe it is important for mortgage representatives that have dealings with the general public to be not only licensed but also have required continuing education. (Attachment 2) It was pointed out during Committee discussion that brokers who are licensed now would still be required to participate in the continuing education and not be grandfathered in.

There were no opponents to the bill.

Senator Barnett made a motion to amend the bill by reinserting language on page 3, lines 33 to 36, seconded by Senator Feleciano. The motion carried.

Senator Barnett made a motion that the Committee recommend **HB 2481 as amended** favorable for passage, seconded by Senator Teichman. The motion carried.

**Continued hearing on HB 2480 - Adoption of model regulation concerning privacy of financial and health information of consumers**

David A. Hanson, National Association of Independent Insurers, testified before the Committee in strong opposition to **HB 2480**. He pointed out several concerns that his organization that represents numerous independent insurers have with the bill. A brief summary of his concerns included: (1) The Privacy Model Act as created by NAIC includes a number of provisions that are beyond the scope established by GLBA and are potentially at odds with Kansas laws created last year through land mark compromise between the insurance industry and regulators; (2) The Privacy Model Act is stretching beyond its necessary scope, includes a number of provisions that will unfairly subject Kansas insurers to dual regulation by federal and

## CONTINUATION SHEET

state entities when the federal programs that were designed to protect this material goes into effect just one year after the proposed effective date of the NAIC Act; (3) The overly broad steps of including workers compensation information in a bill designed primarily to protect the information of individuals by the adoption of the Privacy Model Act would unnecessarily increase the costs of doing business in Kansas by requiring purchasers of workers compensation insurance to comply with the complicated provisions of the act; and (4) The opt-in requirements for health information in the NAIC Model Act creates needless complications to the system and drives up the cost to the insurer which is eventually carried over to the insured. (Attachment 3) Mr. Hanson urged the Committee to delay action to see what other states are going to do and to recommend the bill for interim study.

Mr. Hanson called the Committee's attention to written testimony in opposition to the bill from Lee Wright, Farmers' Insurance Group, (Attachment 4); Kevin R. Davis, American Family Insurance Group, (Attachment 5); Tony Kimmi, Farm Bureau Mutual Insurance company, (Attachment 6) and Rick Wilborn, Farmers Alliance Companies, (Attachment 7).

Brad Smoot, representing Blue Cross/Blue Shield and American Insurance Association, expressed his support for the bill, (Attachments 8 and 9); and Larrie Ann Lower, Executive Director, Kansas Association of Health Plans, expressed her support and offered an amendment which would replace the effective date of the NAIC Model to February 1, 2003, as shown in a balloon of the bill, (Attachment 10). Chris Collins, Director of Government Affairs, Kansas Medical Society and Rebecca Wempe, Assistant VP and Counsel, Security Benefit Life Insurance Company, also expressed support for **HB 2480**, (Attachments 11 and 12).

Matthew All, Kansas Insurance Department, addressed some of the concerns expressed by David Hanson. He noted that after the federal regulations made clear that Title V of GLBA applied to health information, insurance commissioners and most in the industry agreed a Model Regulation was needed, and that the Model Regulation should provide more protection for health information. He felt that a majority of states will adopt either the NAIC Model or something even more protective. Colorado, Texas, Oklahoma and Nebraska have reported that they intend to implement the NAIC Model Regulation. Mr. All pointed out the claim by some that the "Kansas model" or the NCOIL Model would provide uniformity is false. He noted that any amendment to the definition of consumer or to exempt so-called "commercial" insurers would defeat the purpose of the regulation and leave working Kansans without the protection they deserve. Mr. All also supplied written testimony to the Committee from American Investors in support of the bill. (Attachment 13)

### **Approval of Minutes**

Senator Brungardt made a motion to approve the Committee minutes of March 13, 14 and 15, seconded by Senator Barnett. The motion carried.

### **Adjournment**

The meeting was adjourned at 10:30 a.m. The next meeting of the Committee is scheduled for March 21, 2001.

# SENATE FINANCIAL INSTITUTIONS & INSURANCE COMMITTEE GUEST LIST

DATE: 3-20-01

NAME	REPRESENTING
LARRY MAGILL	KAIA
Kevin Davis	Am. Family Ins
David Hanson	NATI
Ron Gaches	KAMB
Chuck Stones	KBA
Rebecca Wompp	SBL
Brenda deLorsney	KS Ins. Dept
Kevin Blendinging	OSBC
Franklin Wilson	OSBC
Julie Nummick	Federico
MATT ALL	KID
Jeremy Anderson	KS Ins Dept
Chris Collins	KMS
Colleen Mull	Kathy Damon + Assoc
Kathy Olsen	KS Bankers Assoc.
Matt Goddard	HCBA
ERNEST Kutclay	AARP

BILL GRAVES  
GOVERNOR



Franklin W. Nelson  
Bank Commissioner

Sonya L. Allen  
General Counsel

Judi M. Stork  
Deputy Bank Commissioner

Kevin C. Glendening  
Deputy Commissioner  
Consumer and Mortgage

OFFICE OF THE  
STATE BANK COMMISSIONER

Senate Committee on Financial Institutions and Insurance

March 20, 2001

Testimony on HB 2481

Kevin Glendening  
Deputy Commissioner  
Consumer and Mortgage Lending  
Office of the State Bank Commissioner

Madam Chair and members of the committee, the amendments contained in House Bill 2481 represents somewhat of a shift in the way we propose to license mortgage lenders and brokers, and I think also continues the movement, since the Mortgage Business Act's enactment in 1996, to broaden its focus to areas relating to how this kind of business is conducted in our state. Three issues are central to these amendments. First, the large number of companies engaged in this business and relatively low start-up cost equate to a sizable range in ability and experience levels of those participants. Consumers have a right and expectation that the individuals handling their mortgage transaction have at least a minimum level of expertise. The amendments beginning on page 8, line 28 of the bill would authorize our agency to establish continuing education and testing requirements for individuals engaged in mortgage brokering. Education has been strongly supported by the Kansas Association of Mortgage Brokers, and we intend to seek their continued input in developing the specific criteria in this area. The second issue pertains to our proposed changes to the current bonding alternatives contained in the law. Some elements of the existing bonding alternatives for in-state companies, have proven to be cumbersome and difficult, if not impossible to enforce. Therefore, we have proposed a simplified arrangement applied to all in-state companies. While several different alternatives were considered, I believe the proposed \$50,000 bond for in-state companies accomplishes our objective of requiring a financial stake by the company that will assist in enforcement activities and is at the same time easily identifiable. The third issue addressed by the amendments pertains to the establishment of what could be described as a laundry list of prohibited business practices, as well as some additional clarification on

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advertising and related matters. Most of these are probably self-explanatory and generally deal with possible deceptive and/or predatory types of activities. We have also proposed to extend the existing criminal penalties to the entire act and thus make those prohibited activities subject to criminal as well as administrative action.

In summary, I believe the bill will enhance the protections afforded consumers and be beneficial from the perspective of enforcement, without creating unnecessary burden for the industry. Madam Chair, I will be happy to answer any questions from the committee.

Testimony of Melissa Walker, President  
Kansas Association of Mortgage Brokers

Submitted to  
Senate Financial Institutions and Insurance Committee

HB 2481 Regarding  
~~Senate Bill 50~~— The Kansas Mortgage Business Act

Tuesday, March 20, 2001

Senate Financial Inst. & Insurance  
Date: 3-20-01  
Attachment No. 2



## Kansas Association of Mortgage Brokers

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The Kansas Association of Mortgage Brokers is the State Trade Association that represents mortgage brokers throughout the State of Kansas. The Association consists of two Chapters (Greater Kansas City Chapter and the South Central Chapter) with approximately 200 members. The Association's purpose is to advance the knowledge and understanding of the mortgage profession and the valuable services we provide through the education of professionals of the mortgage industry and the public.

It is the position of the Kansas Association of Mortgage Brokers that the revised Kansas Mortgage Business Act <sup>HB 2481</sup> ~~(SB 50)~~ would be crucial to the mortgage industry.

We believe that it is very important for mortgage representatives that have dealings with the general public to be not only licensed but also have required continuing education.

This not only increases professionalism throughout our industry but also insures that all parties to the transaction, especially the general public, are dealing with a qualified originator. The purchase of a home is the single most important and largest transaction that a family will encounter in their lifetime. All parties involved, from the Realtor to the home inspector, must be licensed, with the exception of the mortgage originator. It is our hope that you will take this information into consideration when reviewing this bill.

**National Association of Independent Insurers**  
2600 River Road  
Des Plaines, IL 60018

**Senate Financial Institutions and Insurance**  
**Testimony on HB 2480**  
**Presented by David A. Hanson**  
**March 15, 2001**

**Madam Chairperson and Members of the Committee:**

I am David Hanson and am appearing on behalf of the National Association of Independent Insurers with 675 member insurance companies nationwide and with 294 member companies doing business in Kansas.

As an organization that represents numerous independent insurers, we have a number of concerns about this bill, as reflected in the testimony of Ann Weber.

A brief summary of these concerns includes:

- The Privacy Model Act as created by the NAIC includes a number of provisions that are beyond the scope established by the Gramm-Leach-Bliley Act and potentially at odds with Kansas laws created last year through land mark compromise between insurance industry and regulators.
- The Privacy Model Act in stretching beyond its necessary scope, includes a number of provisions that will unfairly subject Kansas insurers to dual regulation by federal and state entities when the federal programs that were designed to protect this material goes into effect just one year after the proposed effective date of the NAIC Act.
- The overly broad steps of including workers compensation information in a bill designed primarily to protect the information of individuals by the adoption of the Privacy Model Act would unnecessarily increase the costs of doing business in Kansas by requiring purchasers of workers compensation insurance to comply with the complicated provisions of the act.
- The opt-in requirements for health information in the NAIC Model Act creates needless complications to the system and drives up the cost to the insurer which is eventually carried over to the insured.

As you can see, HB 2480 presents a multitude of problems affecting everyone. With the number of significant issues and concerns still unresolved, we must request that this bill not be reported favorably for passage.

Respectfully,



DAVID A. HANSON



sponsor, group or blanket insurance policyholder or group annuity contractholder, workers' compensation plan participant, and further provided that the licensee does not disclose to a nonaffiliated third party nonpublic personal financial information about such an individual other than as permitted under Sections 14, 15 and 16 of this regulation, an individual is not the consumer of the licensee solely because he or she is:

- (i) A participant or a beneficiary of an employee benefit plan that the licensee administers or sponsors or for which the licensee acts as a trustee, insurer or fiduciary;
- (ii) Covered under a group or blanket insurance policy or group annuity contract issued by the licensee; or
- (iii) A beneficiary in a workers' compensation plan.

**Drafting Note:** Regulators may wish to urge their workers' compensation state insurance fund (or other applicable agency) to promulgate a regulation similar to this regulation in order to ensure parity in treatment of workers' compensation plans and to ensure that all workers covered by such plans have privacy protections.

- (f) (i) The individuals described in Subparagraph (e)(i) through (iii) of this Paragraph are consumers of a licensee if the licensee does not meet all the conditions of Subparagraph (e).
- (ii) In no event shall the individuals, solely by virtue of the status described in Subparagraph (e)(i) through (iii) above, be deemed to be customers for purposes of this regulation.
- (g) An individual is not a licensee's consumer solely because he or she is a beneficiary of a trust for which the licensee is a trustee.
- (h) An individual is not a licensee's consumer solely because he or she has designated the licensee as trustee for a trust.

G. "Consumer reporting agency" has the same meaning as in Section 603(f) of the federal Fair Credit Reporting Act (15 U.S.C. 1681a(f)).

H. "Control" means:

- (1) Ownership, control or power to vote twenty-five percent (25%) or more of the outstanding shares of any class of voting security of the company, directly or indirectly, or acting through one or more other persons;



FARMERS®

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March 15, 2001

To: Senator Sandy Praeger  
Senate Financial Institutions & Insurance Committee

From: Lee Wright, GCA

Subject: House Bill 2480

Thank you for this opportunity to provide written testimony on HB2480, the NAIC Privacy Model bill requested by the Kansas Insurance Department.

Farmers is opposed to HB2480 in its current form. Our reasons include the following:

- The NAIC model requires insurers to obtain written permission from policyholders, i.e. "opt-in", for the sharing of all health information with a third party for any reason. This goes beyond the requirements of the Gramm-Leach-Bliley federal legislation. We would suggest the "opt-in" provision for sharing policyholders health information with a third party be limited to that information being used for marketing purposes.
- The NAIC model requires insurers to send annual privacy notices which reflect their privacy policies and practices to policyholders, beneficiaries and claimants. This also goes beyond requirements set out in Gramm-Leach-Bliley. To avoid additional and unnecessary costs which will ultimately be borne by the consumer, we would recommend limiting the annual privacy notice requirement to policyholders only.

Thank you for this opportunity to express these concerns of Farmers on HB2480.

Lee Wright, GCA  
Governmental Affairs Representative - Kansas

LW:pk

Senate Financial Inst. & Insurance  
Date: 3-20-01  
Attachment No. 4

American Family Insurance Group  
1300 SW Arrowhead Road  
PO Box 4384  
Topeka, Kansas 66604-0384  
Phone (785) 273-5120



Kevin R. Davis  
Government Affairs Counsel

March 15, 2001

**Senator Sandy Praeger and  
The Senate Financial Institutions and Insurance Committee**

**Subject: Kansas House Bill 2480**

We take the position that the existing law is perfectly adequate to implement the mandates of the federal government due to the passage of the Gramm-Leach-Bliley (GLB) act of 1999. We believe that the requested amendment and the referenced NAIC model regulation go far beyond the requirements of the GLB act, and is therefore inconsistent with the stated goal of making the laws of the various states uniform.

It is our understanding that few states are adopting the NAIC model act without substantive amendments. Among the reasons for this is that the model act includes a section on health privacy (Article V of the model regulation). Health privacy has been addressed on the federal level with the adoption of rules and regulations by the U.S. Department of Health and Human Services. The Bush administration is reviewing the regulations and there may be further changes in federal requirements. As a result, many states are deleting the health section of the model until the federal government has resolved this issue.

Additionally, the NAIC model includes the application of this law to workers compensation and other commercial insurance. Our reading of the GLB act is that it is intended to apply to products obtained for personal, family or household purposes, which would clearly exclude workers compensation and other commercial policies which are issued to an employer or business owner and are not obtained for personal purposes.

Further, the NAIC model appears to include in the definition of consumer certain third party claimants. We believe that the GLB act was intended to focus on the individual who "seeks to obtain, obtains or has obtained" a personal insurance product. The NAIC definition is over-broad and, therefore, inconsistent with the intent of the GLB act.

We think that the existing law adopted last year has the necessary language to fulfill the requirements of the GLB act, and no further legislation is warranted or necessary at this time. I might note that other states, notably Missouri, are using the current Kansas law as a model to comply with GLB.

Kevin R. Davis  
American Family Insurance Group

Senate Financial Inst. & Insurance  
Date: 3-20-01  
Attachment No. 5



Chairperson Sandy Praeger  
Senate Financial Institutions and Insurance Committee  
State Capitol Building  
Topeka, KS 66612

March 13, 2001

Subject: HB 2480

Madame Chair,

We believe strongly in the protection of individual privacy. We also support efforts to comply with the Gramm-Leach-Bliley act of 1999. However, we believe the above referenced bill is not an appropriate vehicle to obtain either goal for the following reasons:

- ◆ The NAIC Privacy Model contains many provisions that are not required by GLB. We believe efforts should be focused on compliance with GLB. Additional provisions complicate efforts to comply with GLB and may be contrary to legislation passed in Kansas last year.
- ◆ By including broad provisions regarding health information, that are not required by GLB, the NAIC Privacy Model subjects insurers to duplicative regulation by federal entities. This will increase the cost of doing business and result in higher prices to insurance consumers.
- ◆ We believe GLB is intended to protect the privacy of private individuals along with their households and families. By including provisions that will include workers' compensation coverage the NAIC Privacy Model will subject insurers to privacy requirements for businesses that purchase workers compensation insurance. Besides unnecessarily increasing insurers' costs of doing business, this will increase paperwork burdens and reduce the productive efficiency of Kansas businesses.
- ◆ The NAIC Privacy Model appears to require insurers to provide privacy notices and "opt out" procedures to third party claimants. We believe that this requirement is inconsistent with the provisions of GLB. These procedures will unnecessarily increase insurers' costs of doing business.

We appreciate the opportunity to comment on this legislation and we respectfully request that the committee consider our concerns.

Sincerely,

Tony Kimmi  
Research and Development Analyst

Senate Financial Inst. & Insurance  
Date: 3-20-01  
Attachment No. 6



# FarmersAlliance

Insuring Rural America Since 1888

March 15, 2001

Madam Chairman Sandy Praeger  
Senate Financial Institution and Insurance Committee  
State House  
Topeka, Kansas 66612

Re: HB 2480

Dear Madam Chairman Praeger,  
Members of the Committee:

I am Rick Wilborn, Vice President of Government Affairs with the Farmers Alliance Companies of McPherson, Kansas. We are a Kansas Domestic insurer providing property/casualty coverage to families, farms and businesses since 1888. We operate in ten (10) west central states. We appreciate the opportunity to make a few brief comments about House Bill 2480.

The Farmers Alliance Companies recognize legitimate consumer and customer concerns about the privacy of their personal identifiable financial and health information. We are committed to complying with the letter and spirit of the financial privacy requirements of the Gramm-Leach-Bliley (GLB) Act. We also believe that the ability of an insured to disclose personally identifiable health information about a consumer or customer to an affiliate or non-affiliated for marketing purposes should be limited.

There are some improvements that we think should be made to the proposed Model.

- Explicitly exclude commercial lines, including workers' compensation, from the scope of the regulation.
- Remove "claimants" from the scope of the regulation.
- Remove or defer action on health information privacy.

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620.241.226  
Farmers Alliance Mutual Insurance Company • Alliance Administratc  
Alliance Insurance Company, Inc. • Blakely Crop Hail, In

Senate Financial Inst. & Insurance  
Date: 3-20-01  
Attachment No. 7

Congress specifically exempted "processing insurance claims" from the scope of GLB. Claimants do not "obtain" any product from an insurer. Thus, they are not subject to GLB. Insurers do not have an on-going or continuing business or contractual relationship with third-party claimants. An insurers only duty is to adjust their claims in good faith.

We believe Congress intended that GLB should apply only to policies for "personal, family or household purposes"; thus, in the property/casualty insurance context that means personal lines policies.

We think that workers' compensation should be excluded from the regulation. However, we suggest language along the lines: "to the extent that the commissioners' regulations address workers' compensation beneficiaries or workers' compensation plan participants, they shall be promulgated jointly with the Kansas Division of Workers' Compensation".

H.B. 2480 would sunset the health regulations when the HHS regulations become effective. We think a delayed effective date on the front end is better than a sunset on the back end. If the health provisions of the Kansas Privacy Regulation go into effect 2/26/02, companies are going to have to go through the expense of complying with them, only to have them sunset or be superceded by the HHS Regulations in 2003, or possibly even later, as the Bush Administration has now indicated it may tinker with those federal privacy regulations.

The bottom line is that a sunset provision may solve some of the problems, but it still leaves the insurance industry with the compliance problem of gearing up with the Kansas Law, and retooling for the HHS Regulations, or going to the expense of compliance, only to have it all sunset in a year or two. Delaying the effective date until HHS regulations go into effect would make more sense.

Again, thank you for this opportunity to make these brief comments.

Sincerely,



Richard E. Wilborn, CPCU  
Vice President, Government Affairs  
js

# BRAD SMOOT

ATTORNEY AT LAW

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STATEMENT of BRAD SMOOT  
LEGISLATIVE COUNSEL  
BLUE CROSS BLUE SHIELD OF KANSAS  
and  
BLUE CROSS BLUE SHIELD OF KANSAS CITY

SENATE FINANCIAL INSTITUTIONS AND INSURANCE COMMITTEE  
2001 HOUSE BILL 2480

• March 15, 2001

Madam Chair and Members,

Blue Cross Blue Shield of Kansas is a Topeka-based health insurer serving 103 Kansas counties and Blue Cross Blue Shield of Kansas City serves western Missouri and Johnson and Wyandotte Counties in Kansas. Together, they provide insurance coverage for 1 million of your fellow Kansans. We support 2001 House Bill 2480, authorizing the Kansas Insurance Department to promulgate the NAIC model regulations governing consumer health information privacy pursuant to the Graham-Leach-Bliley Act. As health insurers, BCBS plans have jealously guarded the privacy of their insureds and we all want our customers to have complete confidence that their personally identifiable health information is protected. To that end, we are making plans to meet the extensive requirements of new federal regulations recently promulgated pursuant to the Health Insurance Portability and Accessibility Act of 1996, which will require us to develop computer systems, contract provisions and administration procedures to assure continued health information privacy.

The NAIC GLBA model regulation recognizes these federal HIPAA obligations of health insurers and H 2480 should "dovetail" with the implementation schedules for state and federal regulation. We support the Legislature and Commissioner in their efforts to assure Kansans that their health information will be protected. H 2480 is an important step toward that assurance. Thank you.

Senate Financial Inst. & Insurance

Date: 3-20-01

Attachment No. 8

# BRAD SMOOT

ATTORNEY AT LAW

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STATEMENT OF BRAD SMOOT  
LEGISLATIVE COUNSEL  
AMERICAN INSURANCE ASSOCIATION

SENATE FINANCIAL INSTITUTIONS AND INSURANCE COMMITTEE  
2001 HOUSE BILL 2480

March 15, 2001

Madam Chair and Members:

The American Insurance Association is a trade association representing more than 300 property and casualty insurers, most of whom do business in Kansas. AIA member companies provide auto, homeowners, business liability and workers compensation insurance. We are pleased to support 2001 House Bill 2480.

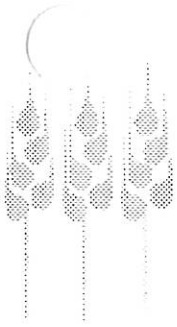
The American Insurance Association (AIA) believes that the NAIC model privacy regulation strikes an appropriate balance between consumer privacy concerns and the consumer benefits that flow from necessary information sharing by insurers. Last year, Kansas led the nation in authorizing the Kansas Insurance Department to promulgate the NAIC model regulation governing privacy of consumer financial information. We encourage the legislature to further authorize the Kansas Insurance Department to promulgate the NAIC regulation with regard to consumer health information pursuant to Title V of the Graham-Leach-Bliley Act.

We support the enactment of these privacy protections through the regulatory process in the interests of nationwide uniformity which is of substantial interest to our carriers who must develop systems to operate under the laws of many states. We believe the regulatory process will promote uniformity and allow states to more quickly respond to any future changes required by federal law.

Again, we encourage the Committee to act favorably on H 2480 and applaud the Committee and the KID for their work in developing the privacy implementation schedule contained in this bill. Thank you.

Senate Financial Inst. & Insurance  
Date: 3-20-01  
Attachment No. 9





# Kansas Association of Health Plans

1206 SW 10th Street  
Topeka, KS 66604

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Fax 785-233-3518  
kahp@kansassenatehouse.com

**Testimony before the  
Senate Financial Institutions and Insurance Committee  
Hearings on HB 2480  
March 15, 2001**

Madam Chairman and members of the Committee. Thank you for allowing me to appear before you today. I am Larrie Ann Lower, Executive Director of the Kansas Association of Health Plans (KAHP).

The KAHP is a nonprofit association dedicated to providing the public information on managed care health plans. Members of the KAHP are Kansas licensed health maintenance organizations, preferred provider organizations and others who support managed care. KAHP members serve all of the Kansans enrolled in a Kansas licensed HMO. KAHP members also serve the Kansans enrolled in HealthWave and medicaid HMO's and also many of the Kansans enrolled in PPO's and self insured plans. Thank you for the opportunity to provide comment on and appear in support of HB 2480.

We have appreciated the opportunity to work with the Legislature, the Kansas Insurance Department and other parties interested in the issue of Privacy. We have participated in many meetings and conference calls concerning this issue and believe the legislation before you satisfies the concerns of most of the interested parties. The members of the KAHP recognize the desire to assure Kansans that their financial and medical records are kept confidential, and are willing to help with that assurance. The members of the KAHP are beginning the process of coming into compliance with the complicated, lengthy and expensive HIPAA regulations and appreciate the Legislature, the Commissioner and the Committee recognizing this enormous task.

We would like to offer a balloon amendment that has been approved by the Kansas Insurance Department. As some of you may know, since this bill was passed by the House, the compliance date for the federal HIPAA Privacy regulations has been delayed from February 26, 2003 to April 14, 2003. The balloon replaces the effective date of the NAIC Model to February 1, 2003 since February 26 is no longer a relevant date and replaces the second reference to February 26, 2003 to April 14, 2003 to be consistent with the HIPAA regulations.

I will be happy to answer any questions you may have.

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10-2

1 out the provisions of this act.

2 (15) *Disclosure of nonpublic personal information.* (a) No person  
3 shall disclose any nonpublic personal information to a nonaffiliated third  
4 party contrary to the provisions of title V of the Gramm-Leach-Bliley act  
5 of 1999 (public law 106-102). The commissioner may adopt rules and  
6 regulations necessary to carry out this section. Such rules and regulations  
7 shall be consistent with and not more restrictive than standards contained  
8 in regulations promulgated under title V of the Gramm-Leach-Bliley act  
9 of 1999 (public law 106-102) by federal regulatory agencies governing  
10 financial institutions doing business in Kansas the model regulation  
11 adopted on September 26, 2000, by the national association of insurance  
12 commissioners entitled "Privacy of consumer financial and health infor-  
13 mation regulation".

14 (b) Any rules and regulations adopted by the commissioner which  
15 implement article V of the model regulation adopted on September 26,  
16 2000, by the national association of insurance commissioners entitled "Pri-  
17 vacy of consumer financial and health information regulation" shall be-  
18 come effective on and after February 20, 2002.

1

19 New Sec. 2. (a) Any person subject to this act shall be deemed to be  
20 in compliance with the rules and regulations adopted by the commis-  
21 sioner which implement article V of the model regulation adopted on  
22 September 26, 2000, by the national association of insurance commis-  
23 sioners entitled "Privacy of consumer financial and health information  
24 regulation" upon such person's demonstration of a good faith effort to  
25 comply with:

26 (1) The rules and regulations adopted pursuant to paragraph (15) of  
27 K.S.A. 40-2404 and amendments thereto; or

28 (2) the health insurance portability and accountability act of 1996,  
29 public law 104-191, and any regulations adopted thereunder.

30 (b) The provisions of this section shall expire on February 26, 2003.

31 Sec. 3. K.S.A. 40-2404 is hereby repealed.

32 Sec. 4. This act shall take effect and be in force from and after its  
33 publication in the statute book.

April 14 5



**TO:** Senate Committee on Financial Institutions and Insurance

**FROM:** Chris Collins *Chris Collins*  
Director of Government Affairs

**DATE:** March 15, 2001

**RE:** HB 2480: Financial and Health Information Privacy

The Kansas Medical Society appreciates the opportunity to submit written testimony today in favor of HB 2480, which enables the Kansas Insurance Commissioner to enact regulations that create protections for private consumer health and financial information.

HB 2480 is a well reasoned bill that creates a very specific delegation of authority to the Kansas Insurance Commissioner, ensuring its constitutionality. The bill effectively and fairly balances the interests of all affected parties and comports well with the upcoming federal HIPAA regulations. Consumers' private health and financial information will be protected. Health insurers and financial institutions will have a reasonable amount of time to ensure that their internal operations are compliant with new requirements. Health care providers will be able to alter their operating systems accordingly. The Insurance Commissioner maintains effective enforcement mechanisms to ensure the regulations are complied with.

For the foregoing reasons, the KMS urges this committee to recommend HB 2480 as favorable for passage. Thank you for your time and consideration.

Date: March 20, 2001

To: Members of the Financial Institutions and Insurance Committee

From: Rebecca Wempe  
Assistant Vice President and Assistant Counsel  
Security Benefit Life Insurance Company

Subj: House Bill 2480

Madame Chairperson, members of the Committee, Security Benefit Life Insurance Company is pleased to support House Bill 2480.

The Security Benefit Group of Companies ("Security Benefit") offers fixed and variable annuities, money management services, employee benefit plans and a family of mutual funds. Security Benefit offers its annuity products through Security Benefit Life Insurance Company, a Kansas life insurance company located in Topeka, Kansas, and First Security Benefit Life Insurance and Annuity Company of New York, a New York insurance company located in White Plains, New York. Security Benefit has approximately \$10 billion in assets under management.

The regulation of the privacy of consumer financial information will impact the various lines of Security Benefit's business. Security Benefit supports the approach to financial privacy in House Bill 2480 and the National Association of Insurance Commissioners' ("NAIC") model regulation entitled "Privacy of Consumer Financial and Health Information." The insurance industry is uniquely situated among its competitors in the financial services industry, in that it is regulated by the individual states. Uniformity in the area of consumer privacy is therefore critical to ensure the success of state regulation on this important issue -- the failure of the states to adopt a uniform approach could prompt Congress to preempt state regulation of privacy. Uniformity will also guarantee that insurers and their customers are not disadvantaged by the added costs of compliance with a myriad of state privacy laws. Furthermore, Articles II-IV of the NAIC model regulation contain essentially the same requirements as Title V of the Gramm-Leach Bliley Act and the regulations issued by the various federal regulators. Compliance is therefore streamlined for companies like Security Benefit that are subject to state regulation of their insurance business and SEC regulation of their securities business. In summary, Security Benefit believes that the NAIC model regulation efficiently satisfies the needs of both consumers and insurers by permitting insurers to protect their customers' privacy in a cost-effective manner.

Senate Financial Inst. & Insurance

Date: 3-20-01

Attachment No. 12



February 26, 2001

The Honorable Kathleen Sebelius  
Kansas Insurance Commissioner  
420 SW 9<sup>th</sup> Street  
Topeka, KS 66612

**Re: Request For Public Comments  
Proposed K.A.R. 40-1-46**

Dear Commissioner Sebelius:

This letter is written on behalf of American Investors Life Insurance Company, Inc. ("American Investors"), a Kansas domiciled life insurance company based in Topeka, Kansas.

We appreciate the opportunity to comment on proposed K.A.R. 40-1-46 governing the privacy of consumer financial and health information.

First, let us applaud and highly commend you, your NAIC staff and the Kansas Insurance Department staff for their efforts on drafting the NAIC Model Consumer Privacy Regulation. We believe that this Model Regulation achieves parity between insurers and other financial institutions by making its model regulation as consistent as possible with the federal regulations.

American Investors fully supports adoption of proposed K.A.R. 40-1-46. The proposed regulation adopts by reference the substantive portions of the NAIC Model Consumer Privacy Regulation. We believe that consumers need national privacy standards to ensure equal protections nationwide. Furthermore, adoption of the NAIC Model Regulation will best ensure that insurers will operate in and customers will benefit from uniform privacy laws and regulations across the country.

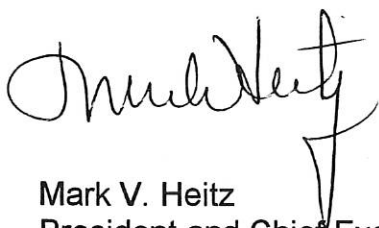
American Investors adamantly supports the need for uniformity because we believe it is critical for states to take uniform action in the area of privacy. A patchwork of varying state laws and regulations would prove to bear a significant expense for insurers and its customers. The NAIC Model Regulation would best achieve uniform privacy regulations. Proposed K.A.R. 40-1-46 will implement the Model Regulation and support efforts towards achieving a uniform, national approach to privacy compliance and protection.

Page Two  
Commissioner Kathleen Sebelius  
February 26, 2001

Additionally, our competitors in the banking, mutual funds and securities industries are subject to federal uniform standards of privacy protection. We believe these privacy protections are warranted, yet state privacy standards for insurers must be uniform from state to state so insurers are placed on similar competitive ground. We believe that proposed K.A.R. 40-1-46 will best reach those interests and permit consumers a standardized set of privacy protections in the financial services marketplace.

The proposed regulation in Kansas will achieve the optimal opportunity for uniformity among insurers and consumers alike.

Sincerely,

A handwritten signature in cursive script, appearing to read "Mark V. Heitz". The signature is written in dark ink and is positioned above the printed name and title.

Mark V. Heitz  
President and Chief Executive Officer

Contact  
Herb Perone (202) 624-2416  
HerbPerone@acli.com  
Jack Dolan (202) 624-2418  
JackDolan@acli.com  
for further information, visit  
www.acli.com

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## ACLI SUPPORTS NAIC PRIVACY MODEL REGULATION

### *Model Promotes Equal Consumer Protections Nationwide*

**Washington, D.C. (September 27, 2000)** – The American Council of Life Insurers (ACLI) today praised the National Association of Insurance Commissioners (NAIC), an organization of state insurance commissioners, for adopting a Model Act aimed at protecting consumers' personal information, regardless of where they live and which financial entity collects the information.

The NAIC's Model Consumer Privacy Regulation sets standards for the protection of consumer information. It follows the privacy protection framework established last year by Congress in the Gramm-Leach-Bliley Financial Services Modernization Act, which U.S. House Banking Committee Chairman Jim Leach called the greatest expansion of privacy protections in history.

"The ACLI will support adoption of the NAIC's Model Consumer Privacy Regulation in the states, because consumers need national privacy standards to ensure equal protections nationwide," said ACLI President and CEO Carroll Campbell.

"A uniform, national approach would also ensure that life insurers and our customers are not disadvantaged by a costly patchwork of differing state laws," Campbell said. "Our competitors in the banking, mutual funds and securities industries are subject to strong – and uniform – federal standards of privacy protection. We believe we should be subject to strong standards as well, but standards that are identical from one state to the next.

"The bottom line is that the NAIC model balances consumers' competing demands for financial and medical information privacy and the benefits resulting from responsible information sharing," Campbell said.

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The American Council of Life Insurers is a Washington, D.C.-based trade association. Its more than 400 member companies offer life insurance, annuities, pensions, long-term care insurance, disability income insurance and other retirement and financial protection products.

The Council of Insurance Agents + Brokers  
Independent Insurance Agents of America  
National Association of Insurance and Financial Advisers  
National Association of Professional Insurance Agents

September 26, 2000

The Honorable Kathleen Sebelius  
Chair, Privacy Working Group  
Department of Insurance  
State of Kansas  
420 S.W. 9<sup>th</sup> St.  
Topeka, KS 66612-1678

Dear Commissioner Sebelius,

The undersigned organizations wanted to take this opportunity to voice our support for the NAIC's Model Privacy of Consumer Financial and Health Information Regulation with the proposed change to the definition of licensee, which deleted the examples in Section 4(Q)(2)(b). We commend the Privacy Working Group for the amount of time and effort that that was spent in drafting this regulation.

With the implementation deadline for the Gramm-Leach-Bliley privacy regulations fast approaching, we are thankful that the regulation has been completed so that the states may begin the process of promulgating these regulations. We also appreciate your willingness to work with the industry to draft a product that not only provides meaningful protections for consumers private financial and health information, but that also still allows the industry to able to perform the services and functions that are necessary to the sale and servicing of insurance policies for consumers. We believe that this regulation represents a thoughtful and balanced approach

Sincerely,

The Council of Insurance Agents + Brokers  
Independent Insurance Agents of America  
National Association of Insurance and Financial Advisers  
National Association of Professional Insurance Agents

cc: John Fielding

13-4



DRAFT 9/21/00

STATEMENT OF THE AMERICAN INSURANCE ASSOCIATION  
BEFORE THE NATIONAL CONFERENCE OF INSURANCE LEGISLATORS  
REGARDING MODEL LEGISLATION TO PROTECT  
CONSUMER FINANCIAL INFORMATION PRIVACY

September 28, 2000

The American Insurance Association (AIA) appreciates the intention of the National Conference of Insurance Legislators (NCOIL) to provide model legislation to guide states toward protection of consumer financial information pursuant to the Title V of the federal Gramm Leach Bliley Act. However, current proposals before NCOIL to legislate the details of such protections will undermine the ability of the states to adopt uniform regulation in this important area. The failure of the states to adopt a uniform approach will frustrate their ability to perform as functional regulators equal to their federal counterparts -- increasing the likelihood that Congress will move to preempt state functional regulation of financial information privacy altogether.

There is a simple solution to the federal challenge, providing NCOIL an opportunity to perform an enlightened leadership role in the states. The solution would recognize the achievement of the National Association of Insurance Commissioners (NAIC) in fashioning a practical model regulation addressing privacy protection in detail, but address the vulnerability still existing for the states, i.e., the lack of uniform *statutory* authority to adopt the NAIC model regulation.

That is, the NAIC Privacy of Consumer Financial and Health Information Regulation approved on September 26, 2000 would provide Title V consumer protections in a manner that can be practically implemented by insurers and other insurance licensees without compromising current legitimate business practices. What is missing in many states is insurance commissioner authority to adopt such a regulation.

Any legislation intended to protect consumer financial information in detail -- including current NCOIL draft model bills -- will be too complex and too varied to



achieve broad consumer and industry support. Without appropriate NCOIL leadership, the result will be a bewildering variety of state enactments and regulatory promulgations. Indeed, without appropriate NCOIL leadership, NCOIL will contribute to rather than lessen the problem. The sheer variety and volume of such dissonant laws and regulations will frustrate consumer realization of meaningful protections, impede insurer compliance with privacy mandates, place state-regulated entities at a competitive disadvantage to federally-regulated entities, and invite federal preemption of state law in the area.

However, uniform state adoption of a simple statute clearly authorizing insurance regulation consonant with the unanimously approved NAIC model regulation would propel uniform state rulemaking forward. Further, the model legislation, if tailored correctly as suggested by the AIA, would allow flexibility to the states to delete certain controversial sections, e.g., health information disclosure regulation, in a manner still consistent with the NAIC model regulation.

Thus NCOIL will step forward to solve the problem looming before the entire industry: how to acquire statutory authority in the states for adoption of a uniform Title V privacy rule without encouraging diverse legislation frustrating practical regulatory guidance. It allows the NAIC to address rulemaking in detail as appropriate for the regulators, while allowing NCOIL to rise to appropriate legislative modeling in a manner to lead all states to a solution to the federal legislative challenge.

AIA offers its services to NCOIL in this approach and provides draft, model legislation toward this end. Please direct any questions regarding this matter to AIA Assistant General Counsel Michael Lovendusky (202-828-7158) or Assistant Vice President Patricia Holden (847-470-1070).

Attachment