

MINUTES OF THE SENATE FINANCIAL INSTITUTIONS AND INSURANCE COMMITTEE

The meeting was called to order by Chairperson Ruth Teichman at 9:30 a.m. on February 23, 2004 in Room 234-N of the Capitol.

Senator Adkins-Absent
Senator Buhler-Absent
Senator Barnett-Excused
Senator Helgerson-Absent
Senator Brungardt-Excused

Committee staff present:

Bill Wolff, Legislative Research
Ken Wilke, Office of the Revisor of Statutes
Nancy Shaughnessy, Committee Secretary

Conferees appearing before the committee:

Jarrold Forbes, Kansas Insurance Department
Larry Bruning, Kansas Insurance Department
Dave Hanson, Kansas Property and Casualty Life Insurance Companies

Others attending:

See Attached List.

The Chair announced that she had several bills that she wanted to work today and if the Committee did not have a quorum, she would call a meeting later in the day at the rail.

Jarrold Forbes of the KID was introduced and testified as a proponent of **SB508-Standard nonforfeiture law for individual deferred annuities.** (Attachment 1) The legislation would apply to companies offering individual deferred annuities. It would lower the current maximum surrender rate from 35% to 12.5 % and would allow companies to index the guarantee rate to the five-year treasury rate.

Larry Bruning stated that the guaranteed interest rate that accumulates the premium deposits that a policyholder would deposit into their annuity was guaranteed at 3% in the old law. The guarantee was revisited after 9-11-2002 and even a 3% was difficult to guarantee due to the economic climate. At that time the legislative body put in a sunset provision that lowered the guarantee to 1 ½ %. That guarantee is due to expire in June 30th of 2005 and will revert back to 3%. One area of the new legislation would allow a company to tie that guaranteed interest rate to a 5 yr.cost of maturity treasury and it will revert back to the 3%.

The Chair questioned if the interest rates would fluctuate as the economic times improved? Mr. Bruning replied that 3% was the minimum that a customer could receive.

Dave Hanson of the Kansas Property and Casualty Life Insurance Companies that they were in support of the bill and appreciated the Department bringing this bill forward. Written testimony was also presented by James Hall, the American Council of Life Insurers. (Attachment 2)

The Chair closed the hearing on **SB 508.** She stated that since there was no quorum there would be a meeting at the rail and they would work **SB508,**

SB509-Credit service organizations inclusion of debt management services. The chair explained that this bill had been brought by Kevin Glendening of the Kansas bank Commission and it's purpose was primarily to change some of the definitions of debt management and is a consumer friendly bill.

SB 392-Authorizing the committee on surety bonds and insurance to competitively negotiate certain contracts. The Chair stated that the bill was brought to the Committee by Senator Oleen and asked Bill Wolff to comment. The two existing statutes have been reconciled and there is some additional language added to assure this bill only applies to those agencies that have the authority to purchase insurance. The Chair stated that Senator Oleen was very interested in this bill because it would create some savings for

CONTINUATION SHEET

MINUTES OF THE SENATE FINANCIAL INSTITUTIONS AND INSURANCE COMMITTEE at 9:30 a.m. on February 23, 2004 in Room 234-N of the Capitol.

the Universities and all higher education in their ability to bid. Insurance and surety bonds. (Attachment 3)

SB 367—**Removal of capitated managed care requirement.** Dr. Wolff stated that a new balloon had been received from SRS which puts the word capitated back into the bill and addresses the issues of prescription drugs and transportation only. The changes add in the three exceptions dental, prescription and transportation. (Attachment 4)

Ken Wilke indicated there was some minor language change in **SB509** and the chair decided to work that bill in the next day's committee meeting rather than at the rail meeting she had called for later today.

Meeting adjourned at 10:00am.

The next Meeting was scheduled at the rail for today's date immediately upon adjournment of the session.

SENATE FINANCIAL INSTITUTIONS & INSURANCE

Date: MONDAY

Name:

Representing:

FEB 23 2004

Natalie Hrag

Security Benefit

David A. Hanson

K's Life Assn.

[Signature]

KID



Kansas Insurance Department

Sandy Praeger COMMISSIONER OF INSURANCE

COMMENTS
ON
SB 508—NONFORFEITURE RATES
SENATE FINANCIAL INSTITUTIONS AND INSURANCE
February 23, 2004

Madam Chair and Members of the Committee:

Thank you for the opportunity to visit with you on behalf of the Kansas Insurance Department. This legislation would apply to companies offering individual deferred annuities. It would lower the current maximum surrender rate from 35% to 12.5%. In addition, this legislation would also allow companies to index the guarantee rate to the five-year treasury rate.

We believe these changes are appropriate and necessary. The current nonforfeiture rates are due to sunset on June 30, 2005. We believe this bill is responsible given the current insurance climate and we urge you to support this legislation.

Along with me today is Larry Bruning, the Department's resident expert in this area. We would be happy to answer any questions you may have.

Jarrold Forbes
Legislative Liaison

Senate F I & I Committee

Meeting Date: FEB 23, 2004

Attachment No.: 1



February 23, 2004

The Honorable Ruth Teichman
Chair, Senate Financial and Institutions Committee
State Capitol
Topeka, KS

Re: **S. B. 508**

Dear Senator Teichman:

This letter is written on behalf of the American Council of Life Insurers ("ACLI"), a national trade association of 368 life insurance companies whose assets approximate 70% of the life insurance business written in the United States. Three hundred two ACLI members are licensed to do business in Kansas, accounting for 73 percent of the ordinary life insurance in force in the state. Thank you for the opportunity to offer comments in support of S. B. 508.

General Overview

The Standard Nonforfeiture Law for Individual Deferred Annuities, created in the mid 1970's, originally contained a minimum nonforfeiture rate of 3%. This mandate had become incompatible with actual market rates by the close of 2001. By then, the Federal Reserve Board had lowered short-term interest rates an historic eleven consecutive times in a single year. Short-term rates fell below 2%.

The National Association of Insurance Commissioners (NAIC) took action in early 2002. The NAIC recognized that continuing to force a 3% minimum would likely result in either of two scenarios: (1) Unrealistic financial demands and resultant distress upon insurers; and/or (2) The withdrawal of various annuity products which were no longer financially prudent to offer, resulting in loss of important consumer choice.

The NAIC endorsed a two part state legislative action:

1. An immediate, interim reduction of the minimum nonforfeiture rate from 3% to 1½%, while
2. Regulatory actuaries worked with insurers and other interested parties to create a long-term solution revising the entire annuity nonforfeiture law, resulting in annuities which can respond to actual market fluctuations.

Individual states' broad support resulted in 29 jurisdictions passing laws dropping the

Senate F I & I Committee

Meeting Date: FEB 23 2004

Attachment No.: 8

minimum from 3% to 1 ½% during 2002 and 2003

In March 2003, the NAIC approved the revised nonforfeiture law, which provides for reasonable minimum nonforfeiture rates by balancing companies' need for relief in times of low interest rates and protection of the consumer through an appropriate minimum rate guarantee. The long-term solution provides for the rate to be determined using the five-year Constant Maturity Treasury Rate reported by the Federal Reserve less 125 basis points. In addition it establishes a cap of 3% and a minimum floor of 1%.

It is an index-based solution that has already been adopted in 14 states. In some of those states, it has replaced the interim drop to 1.5%.

In addition to implementing a more responsive minimum guarantee, the revised law further protects consumers by **reducing** both the allowable expense percentages and maximum annual policy fees available to the insurer.

The New Nonforfeiture Law with the Index is Important Because:

- It improves the ability of insurers to match its contractual promises to available investment opportunities, which, in turn, promotes the availability of a wide range of benefit designs. The 3% mandate caused some insurers to withdraw certain popular product features from their portfolio. In particular, some companies withdrew the fixed sub account from their variable annuity offerings. The fixed sub account offers consumers protection from stock market turbulence. Some companies also withdrew short-term products from the marketplace. This further limited the ability of consumers to safely place their money during the stock market downturn.
- The index design results in the 3% minimum being retained in all but low interest rate environments. At the same time, the required nonforfeiture benefit is based on a calculation of 87-½ % of first year considerations – increased from 65% for fixed and flexible consideration contracts. This is an important consumer benefit. It ensures that consumers have earlier access to more of their money.
- This index design is a “durable solution” in that if market rates rise, the minimum requirement will return back up 3%, the rate which has been in place since 1970s.
- Adoption of the new Model law across the states ensures uniformity. The index language applies the same methodology to all fixed rate deferred annuities and adds a provision dealing with equity-indexed annuities. It provides for a consistent set of rules among all the adopting jurisdictions. This is an important consideration for insurers faced with the daunting task of implementing and tracking benefits across 51 jurisdictions. Efficient/uniform laws help lower costs of products available to consumers.

More and more Americans are being called on to fund their own retirements. Annuities are an important part of that toolkit. It is important that a broad array of annuity products remain widely available.

Very truly yours,

A handwritten signature in black ink that reads "James D. Hall". The signature is written in a cursive style with a large, prominent initial "J".

James D. Hall
Senior Counsel & Director, Central States

SENATE BILL No. 392

By Committee on Financial Institutions and Insurance

1-29

AN ACT relating to the committee on surety bonds and insurance; authorizing competitive negotiation for certain contracts.

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

Section 1. (a) The committee on surety bonds and insurance is hereby authorized to negotiate and enter into contracts with qualified insurers and sureties for the purpose of purchasing insurance, surety coverage and similar coverages and the acquisition of consulting and other services necessary therefor. The committee shall advertise for proposals, shall negotiate with not less than three firms or other parties submitting proposals, and shall select from among those submitting proposals the firm or other contracting party to contract with for the purpose of entering into contracts. The division of purchases shall: (1) Maintain records of the requests for proposals; (2) handle the receipt of proposals; and (3) assist the committee in negotiating procedures and the award of contracts.

(b) The provisions of K.S.A. 75-4317 through 75-4320a, and amendments thereto, shall not apply to meetings of the committee when the committee meets solely for the purpose of discussing and preparing strategies for negotiations for such contracts.

(c) Contracts entered into pursuant to this section, shall not be subject to the provisions of K.S.A. 75-3738 to 75-3740, inclusive, and amendments thereto. Such contracts may be for terms of not more than three years and may be renegotiated and renewed. All such contracts shall be subject to the limits of appropriations made or available therefor and subject to the provisions of appropriations acts relating thereto.

(d) The provisions of this section shall be a complete alternative to other procurement procedures available to the committee pursuant to law.

; amending K.S.A. 75-4105 and 75-4109 and repealing the existing sections

, including the purchase of insurance, surety coverage and similar coverage for any state agency authorized by law to make such purchase,

Sec. 2. K.S.A. 75-4105 is hereby amended to read as follows:

75-4105. Purchase of surety bonds and insurance contracts; approval; bids; proration of cost of premiums or rates. [All] surety bonds and insurance contracts purchased pursuant to this act shall be purchased by the committee in the manner prescribed for the purchase of supplies, materials, equipment or contractual services under K.S.A. 75-3738 to 75-3744, inclusive, and amendments thereto. The director of accounts and reports shall not pay any premium or rate on any surety bond or insurance contract until the purchase of such surety bond or contract shall have been approved by the secretary of the committee. Surety bonds or insurance contracts having a premium or rate in excess of \$500 purchased hereunder shall be purchased on sealed bids as provided by law for the purchase of other materials, equipment or contractual services. Where more than one state agency is covered by any bond or insurance contract, the committee shall prorate the cost of premiums or rates on any and all such bonds or contracts, except as provided in K.S.A. 75-4114, and amendments thereto, purchased as charges upon the funds of the state agency wherein any covered state officers or employees are employed or covered property is located or controlled. Such prorated charges shall constitute a lawful charge by the committee upon the funds available to any such state agency and shall be paid by each such state agency to the committee, or to the surety or insurance carrier if the committee requires it, in the manner provided by law for the payment of other obligations of such state agency.

History: L. 1965, ch. 458, § 43; L. 1969, ch. 406, § 7; L. 1970, ch. 364, § 1; L. 1971, ch. 282, § 1; L. 1972, ch. 335, § 2; L. 1976, ch. 390, § 1; L. 1979, ch. 293, § 3; L. 1984, ch. 329, § 15; L. 1986, ch. 329, § 3; July 1.

Except as provided in section 1, and amendments thereto, all

Senate FI & I Committee
February 23, 2004
Attachment 3

Senate FI & I Committee

Meeting Date: FEB 23 2004

Attachment No.: 03

Sec. 3. K.S.A. 75-4109 is hereby amended to read as follows:

75-4109. Property and casualty insurance; coverages required; approval of coverages. (a) The committee, at least once every three years, shall approve the property and casualty insurance coverages that shall be purchased by each state agency.

(b) The committee shall require that each state agency purchase the insurance coverages prescribed by K.S.A. 74-4703, 74-4705, 74-4707, 75-712e, 75-2728, 76-218, 76-391, 76-394, 76-747 and 76-491, and amendments to these sections, and shall prescribe the terms, conditions and amounts of such coverage giving due regard to the operations and requirements of the agencies involved.

(c) The committee shall, in addition to the coverages specified in subsection (b), designate the insurance coverages to be purchased by each state agency that are deemed by the committee to be necessary to protect the state for property of others that may be in the possession or control of such state agencies.

(d) Such coverages as are specified in subsections (b) and (c) may also include coverages on property of the state that are deemed by the committee to be incidental to the basic coverages herein required, and the committee shall prescribe the terms, conditions and amounts of all insurance coverages purchased pursuant to this section. Property of the state board of regents of any university or college which is referred to in subsection (b) may be self-insured as provided under this act.

(e) No property insurance coverage may be purchased by the committee, except as provided herein or specifically required by other Kansas statutes or appropriations.

or by section 1, and amendments thereto,

History: L. 1969, ch. 406, § 6; L. 1971, ch. 279, § 11; L. 1974, ch. 204, § 9; L. 1979, ch. 186, § 28; L. 1983, ch. 293, § 3; L. 1985, ch. 253, § 5; L. 1986, ch. 329, § 4; L. 1987, ch. 346, § 1; L. 1991, ch. 261, § 3; July 1.

Revisor's Note:

Sec. 4. K.S.A. 75-4105 and 75-4109 are hereby repealed.

By Committee on Financial Institutions and Insurance

AN ACT relating to the committee on surety bonds and insurance; authorizing competitive negotiation for certain contracts.

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

Section 1. (a) The committee on surety bonds and insurance is hereby authorized to negotiate and enter into contracts with qualified insurers and sureties for the purpose of purchasing insurance, surety coverage and similar coverages and the acquisition of consulting and other services necessary therefor. The committee shall advertise for proposals, shall negotiate with not less than three firms or other parties submitting proposals, and shall select from among those submitting proposals the firm or other contracting party to contract with for the purpose of entering into contracts. The division of purchases shall: (1) Maintain records of the requests for proposals; (2) handle the receipt of proposals; and (3) assist the committee in negotiating procedures and the award of contracts.

(b) The provisions of K.S.A. 75-4317 through 75-4320a, and amendments thereto, shall not apply to meetings of the committee when the committee meets solely for the purpose of discussing and preparing strategies for negotiations for such contracts.

(c) Contracts entered into pursuant to this section, shall not be subject to the provisions of K.S.A. 75-3738 to 75-3740, inclusive, and amendments thereto. Such contracts may be for terms of not more than three years and may be renegotiated and renewed. All such contracts shall be subject to the limits of appropriations made or available therefor and subject to the provisions of appropriations acts relating thereto.

(d) The provisions of this section shall be a complete alternative to other procurement procedures available to the committee pursuant to law.

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

SENATE BILL No. 367

By Committee on Financial Institutions and Insurance

1-27

9 AN ACT concerning the state children's health insurance program;
10 amending K.S.A. 38-2004 and K.S.A. 2003 Supp. 38-2001 and repeal-
11 ing the existing sections.
12

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

14 Section 1. K.S.A. 2003 Supp. 38-2001 is hereby amended to read as
15 follows: 38-2001. (a) The secretary of social and rehabilitation services
16 shall develop and submit a plan consistent with federal guidelines estab-
17 lished under section 4901 of public law 105-33 (42 U.S.C. 1397aa *et seq.*;
18 title XXI).

19 (b) The plan developed under subsection (a) shall be a capitated man-
20 aged care plan covering Kansas children from zero to 19 years which:

capitated

21 (1) Contains benefit levels at least equal to those for the early and
22 periodic screening, diagnosis and treatment program;

23 (2) provides for presumptive eligibility for children where applicable;

24 (3) provides continuous eligibility for 12 months once a formal de-
25 termination is made that a child is eligible subject to subsection (e);

26 (4) has performance based contracting with measurable outcomes in-
27 dicated age appropriate utilization of plan services to include, but not
28 limited to, such measurable services as immunizations, vision, hearing and
29 dental exams, emergency room utilization, annual physical exams and
30 asthma;

31 (5) shall use the same prior authorization standards and requirements
32 as used for health care services under medicaid to further the goal of
33 seamlessness of coverage between the two programs; and

34 (6) will provide targeted low-income children, as defined under sec-
35 tion 4901 of public law 105-33 (42 U.S.C. 1397aa, *et seq.*), coverage sub-
36 ject to appropriations.

37 (c) The secretary is authorized to contract with entities authorized to
38 transact health insurance business in this state to implement the health
39 insurance coverage plan pursuant to subsection (a) providing for several
40 plan options to enrollees which are coordinated with federal and state
41 child health care programs, except that when contracting to provide man-
42 aged mental health care services the secretary shall assure that contracted
43 entities demonstrate the ability to provide a full array of mental health

Language w/
Prescription Drugs
Transportation
Dental Services
Exemption

Senate FI & I Committee
February 23, 2004
Attachment 4

Senate FI & I Committee

Meeting Date: FEB 23 2004

Attachment No.: 4

1 services in accordance with the early and periodic screening, diagnosis
2 and treatment plan. The secretary shall not develop a request for proposal
3 process which excludes community mental health centers from the op-
4 portunity to bid for managed mental health care services.

5 (d) When developing and implementing the plan in subsection (a),
6 the secretary to the extent authorized by law:

7 (1) Shall include provisions that encourage contracting insurers to
8 utilize and coordinate with existing community health care institutions
9 and providers;

10 (2) may work with public health care providers and other community
11 resources to provide educational programs promoting healthy lifestyles
12 and appropriate use of the plan's health services;

13 (3) shall plan for outreach and maximum enrollment of eligible chil-
14 dren through cooperation with local health departments, schools, child
15 care facilities and other community institutions and providers;

16 (4) shall provide for a simplified enrollment plan;

17 (5) shall provide cost sharing as allowed by law;

18 (6) shall not count the caring program for children, the Kansas health
19 insurance association plan or any charity health care plan as insurance
20 under subsection (e)(1); and

21 (7) may provide for payment of health insurance premiums, including
22 contributions to a medical savings account if applicable, if it is determined
23 cost effective, taking into account the number of children to be served
24 and the benefits to be provided.

25 (e) A child shall not be eligible for coverage and shall lose coverage
26 under the plan developed under subsection (a) of K.S.A. 38-2001, and
27 amendments thereto, if such child's family has not paid the enrollee's
28 applicable share of any premium due.

29 If the family pays all of the delinquent premiums owed during the year,
30 such child will again be eligible for coverage for the remaining months
31 of the continuous eligibility period.

32 (f) The plan developed under section 4901 of public law 105-33 (42
33 U.S.C. 1397aa *et seq.*, and amendments thereto) is not an entitlement
34 program. The availability of the plan benefits shall be subject to funds
35 appropriated. The secretary shall not utilize waiting lists, but shall monitor
36 costs of the program and make necessary adjustments to stay within the
37 program's appropriations.

38 Sec. 2. K.S.A. 38-2004 is hereby amended to read as follows: 38-
39 2004. The secretary in contracting for ~~capitated~~ managed health care for
40 children shall include in the pool of persons to be covered those eligible
41 children covered by the Kansas medicaid program as law allows.

42 Sec. 3. K.S.A. 38-2004 and K.S.A. 2003 Supp. 38-2001 are hereby
43 repealed.

(8) may provide that prescription drugs, transportation services and dental services are purchased outside of the capitated managed care plan to improve the efficiency, accessibility and effectiveness of the program.

capitated

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