

MINUTES OF THE SENATE FINANCIAL INSTITUTIONS AND INSURANCE COMMITTEE

The meeting was called to order by Chairman Ruth Teichman at 9:30 A.M. on January 30, 2008 in Room 136-N of the Capitol.

All members were present.

Committee staff present:

Melissa Calderwood, Kansas Legislative Research Department
Ken Wilke, Office of Revisor of Statutes
Bev Beam, Committee Secretary
Jill Shelley, Kansas Legislative Research Department

Conferees appearing before the committee:

John Meetz, Kansas Insurance Department
Bill Sneed, Polsinelli Law Firm

Others attending:

See attached list.

The Chair called the meeting to order and welcomed State Farm attendees to the meeting.

Introduction of bills

Senator Barbara Allen introduced a bill concerning clinical trials. She said this bill would insure that patients who enroll in a cancer clinical trial will have their routine healthcare costs covered by an insurance company.

Senator Steineger moved introduction. Senator Brungardt seconded. Motion passed.

Hearing on:

SB 442 - concerning insurance; relating to foreign insurance companies doing business in the state.

The Chair asked Melissa Calderwood, Legislative Research, for an overview of the bill. Ms. Calderwood said SB 442 as requested by the Insurance Department, would amend the law governing foreign insurance companies applying to do business in Kansas and would amend the law to give the Insurance Commissioner the authority to require an applicant company to fully disclose the identity of all stockholders, partners, officers, members and employees. The Commissioner would then be permitted to exercise her discretion and could refuse to issue a license if she is not satisfied that any officer, employee or other disclosed representative who materially may influence the applicants conduct has either a good business reputation or is competent and trustworthy and attempts to act in good faith. The fiscal note indicates there would no effect on this bill.

John Meetz testified in support of this bill. Mr. Meetz said the SB 442 would allow the Commissioner of Insurance to have discretion when determining if an insurance company is suitable for admission into the state of Kansas. Mr. Meetz proposed the following balloon amendment to the bill. Mr. Meetz said the current version of the bill would allow the Commissioner to require the applicant to disclose the identity of all stockholders, partners, officers, members and employees. He said the language in the balloon gives the Commissioner of Insurance the authority to require the applicant to disclose the identity of any person with a "controlling" interest in the applicant. He noted a controlling interest exists if any person, directly or indirectly, owns, controls, holds with the power to vote, or holds proxies representing 10% or more of the voting securities of any other person. Mr. Meetz also noted that the current version of the bill would allow the Commissioner to deny admission of an applicant if any of the stockholders, partners, officers, members and employees do not possess a good business reputation or are not competent and trustworthy and intend to act in good faith. The balloon only requires that "controlling" interests are held to such standards, he said.

CONTINUATION SHEET

MINUTES OF THE Senate Financial Institutions and Insurance Committee at 9:30 A.M. on January 30, 2008 in Room 136-N of the Capitol.

Mr. Meetz continued that the bill would give the Commissioner some additional latitude in determining which companies should be admitted to operate in the state of Kansas. He noted, however, that the Department makes every effort to allow financially viable entities of good character to operate in Kansas.

(Attachment 1)

Bill Sneed, Polsinelli Law Firm, testified in opposition to SB 442. Mr. Sneed said SB 442 deals with the requirements for non-domestic insurance companies and their ability to gain admission to transact the business of insurance in Kansas. He noted the law is one formulated by the NAIC and has been on the books in some form for many years. He said the Insurance Department wishes to add another requirement. He said it is the new language that is over-broad in scope and criteria, and thus fraught with problems the State of Kansas should not encourage. He said the new language purports to allow the Commissioner the authority, at any time, to require an applicant to fully disclose the identity of all stockholders, partners, officers, members and employees. The only limitation on this requirement would be if such a stockholder, partner, officer, member or employee may materially influence the applicant's conduct. Mr. Sneed noted that it is his understanding that the Department is considering amendments to this proposal. Mr. Sneed requested that the Committee not take action on this bill. (Attachment 2)

Written testimony in opposition to SB 442 was submitted by Larry Magill, Kansas Association of Independent Agents. (Attachment 3)

The Chair said the Committee would not work this bill at this time and closed the hearing on SB 442.

The Chair said she had previously announced that Senator Steineger would be a member of the Subcommittee for the credit union/financial institution issue; however, because Senator Steineger is also on Ways & Means and has a lot of other subcommittees, he now will be replaced on that committee with Senator Barone.

The Chair announced there would be no meeting Thursday, January 31. The meeting adjourned at 10:30 a.m.

**SENATE FINANCIAL INSTITUTIONS & INS. COMMITTEE
GUEST LIST**

DATE: 1-30-08

NAME	REPRESENTING
Gennie Shiver-decker	State Farm INS
Harold Mann	State Farm Ins
Penny Hardesty	State Farm Ins
Marsha Adams	State Farm Ins.
Jim Fulk	STATE FARM INS
VANDA EASLEY	STATE FARM INS.
Loretha Hayden	State Farm Ins
Eddie Sermons	STATE FARM INS
Scott Miller	State Farm INS
Stella Spiking	State Farm Ins.
Darryl Boddie	STATE FARM INS
Bill Speed	Folsinelli
Paul Jones	UHG
John Wills	STATE FARM
Rex Hoy	State Farm
John Meete	KID
Ken Abitz	KID
Janie Slack	fed. Consulting
Tamara O'Connor	State Farm

**SENATE FINANCIAL INSTITUTIONS & INS. COMMITTEE
GUEST LIST**

DATE: _____

NAME	REPRESENTING
Sue Zientara	STATE FARM INSUR.
FRED THURLOW	STATE FARM INSURANCE
DAVID LAWRENCE	STATE FARM INSURANCE
Bob Jones	STATE FARM INS.
Andrew Stowe	State Farm Ins.
David Kemp	State Farm Ins.
Eddie Moore	state farm Ins
Cindy Wright	State Farm Ins.



Kansas Insurance Department

Sandy Praeger, Commissioner of Insurance

TESTIMONY ON SB 442

SENATE FINANCIAL INSTITUTIONS AND INSURANCE COMMITTEE January 30, 2008

Madam Chair and Members of the Committee:

Thank you for the opportunity to appear before you today in support of SB 442. This bill would allow the Commissioner of Insurance to have discretion when determining if an insurance company is suitable for admission into the state of Kansas. With the permission of the committee I would like to propose a balloon amendment that was drafted at the request of the industry.

The current version of the bill would allow the Commissioner to require the applicant to disclose the identity of all stockholders, partners, officers, members and employees. The language in the balloon gives the Commissioner of Insurance the authority to require the applicant to disclose the identity of any person with a "controlling" interest in the applicant. A controlling interest exists if any person, directly or indirectly, owns, controls, holds with the power to vote, or holds proxies representing 10% or more of the voting securities of any other person, as defined by K.S.A. 40-3302(c).

The current version of the bill also allows the Commissioner to deny admission of an applicant if any of the stockholders, partners, officers, members and employees do not (A) possess a good business reputation, or (B) are not competent and trustworthy and intend to act in good faith. The balloon only requires that we hold the "controlling" interests to such standards.

Much of the language for this bill was taken directly from language that currently exists in the admission of viatical settlement providers and brokers (K.S.A. 40-5003 f and h).

This bill would give the Commissioner some additional latitude in determining which companies should be admitted to operate in the state of Kansas. We believe that we have an obligation to conduct a complete due diligence of the operations and owners of an insurance entity. Currently, we may only make a misconduct related denial of an admission if it is determined that the controlling person, including key management, is convicted of criminal activity involving fraud, embezzlement or offenses of a similar nature. We have on occasion noted that an owner had a history of behavior which appeared to be unacceptable. An example includes an owner who had a close business relationship with an individual who was convicted of a felony.

The Department makes every effort to allow financially viable entities of good character to operate in Kansas and this bill is a request for some additional latitude to continue doing that job.

John Meetz
Government Affairs Liaison

*FI & I Committee
January 30, 2008
Attachment 1*

(e) The commissioner shall have authority, at any time, to require the applicant to fully disclose the identity of ~~all stockholders, partners, officers, members and employees~~ any person with a "controlling" interest in the applicant defined in K.S.A. 40-3302(c). In the exercise of the commissioner's discretion, the commissioner may refuse to issue a license to an applicant if the commissioner is not satisfied that any ~~officer, employee, stockholder, partner or member~~ person with a "controlling" interest in the applicant, as defined by K.S.A. 40-3302(c), thereof who may materially influence the applicant's conduct:

(1) Has a good business reputation; or

(2) is competent and trustworthy and intends to act in good faith.

Polsinelli

Shalton | Flanigan | Suelthaus PC

Memorandum

TO: THE HONORABLE RUTH TEICHMAN
CHAIR, SENATE FINANCIAL INSTITUTIONS AND INSURANCE
COMMITTEE

FROM: WILLIAM W. SNEED
POL SINELLI SHALTON FLANIGAN SUELTHAUS PC

RE: S.B. 442

DATE: JANUARY 30, 2008

Madam Chair, Members of the Committee: My name is Bill Sneed and I am a member of the law firm of Polsinelli Shalton Flanigan Suelthaus pc. We are a 300+ attorney law firm with offices in Kansas City, Missouri, Johnson County, Kansas, Topeka, Chicago, New York, St. Louis and Washington, D.C. Our firm has many areas of expertise, including the representation of insurance companies in regulatory matters. It is in this capacity that we respectfully submit the following comments regarding S.B. 442. As a side note, I would like to inform the Committee that I have met with the Insurance Department regarding these concerns, and it is our understanding that they are taking these concerns under advisement.

S.B. 442 is an amendment to K.S.A. 40-209, which deals with the requirements for non-domestic insurance companies and their ability to gain admission to transact the business of insurance in Kansas. The law is one formulated by the NAIC and has been on the books in some form or fashion for many, many years.

The Insurance Department wishes to add another requirement found on page two, lines 24-30. It is this new language that we believe is over-broad in scope and criteria, and thus fraught with problems the State of Kansas should not encourage. In today's world of fostering speed to market and inspiring companies to do business in this state, Kansas should be creating an atmosphere of less bureaucracy.

The new language purports to allow the Commissioner the authority, at any time, to require an applicant to fully disclose the identity of ALL stockholders, partners, officers, members and employees. The only limitation on this requirement would be if such a stockholder, partner, officer, member or employee may "materially influence the applicant's conduct."

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*FI&I Committee
January 30, 2008
Attachment 2*


We believe it is important to remember that the Commissioner's regulatory authority is based on what is in the best interest of the policyholders. We are uncertain how this policy is promoted by disclosing the identity of all these individuals.

The Department wishes to make certain there are no individuals within the company structure who, once the company has gained admission, might be in a position to manipulate how that company does business in the state. We believe that this issue is undeserving of this bill inasmuch as the NAIC standardized company admission (which Kansas uses) provides ample information on all individuals who have "control" or who are officers and directors. This redundant use of regulatory power will simply create a barricade for companies considering entering the Kansas marketplace.

It is our understanding that the Department is considering amendments to this proposal, and as such we will limit our comments at this time, but based upon the current language of S.B. 442, we would respectfully request that the Committee not take action on this bill.

I am available for additional questions or comments at your convenience.

Respectfully submitted,



William W. Sneed

WWS

Kansas Association of Insurance Agents



Testimony on Senate Bill 442
Before the Senate Financial Institutions & Insurance Committee
By Larry Magill
January 30, 2008

Thank you madam Chair and members of the Committee for the opportunity to submit written testimony in opposition to Senate Bill 442. My name is Larry Magill and I'm representing the Kansas Association of Insurance Agents. We have approximately 520 member agencies and branches throughout the state and our members employ approximately 2,500 Kansans.

The insurance industry has seen a great deal of consolidation of insurers, which inevitably leads to fewer competitors. Our business is cyclical as well and various lines of insurance, such as medical malpractice or dwelling property insurance, can experience a lack of carriers willing to write the insurance from time to time. We have always felt that attracting new insurance companies to Kansas is in the best interest of the consumer as it fosters competition, and competition lowers costs.

The Department has always done an admirable job of applying the existing standards to a carrier wishing to enter the state and our past results reflect that. Of course, if the Optional Federal Charter idea passes in Congress, the Department will become somewhat irrelevant, as a carrier that can obtain a federal charter would be allowed to operate in all 50 states without approval from those states' insurance departments. One reason carriers favor an OFC is undue restrictions on entering new states.

We are extremely concerned that the bill grants the Department unprecedented power to prevent a new market from entering the state for whatever reason they might choose. It does not define what is meant by stockholders, partners, officers, members and employees who "materially influence" an applicant's conduct but that is an extremely broad group and a vague standard.

In addition, it allows the Department to be the sole judge of "good business reputation" and the power to decide if all these types of people: stockholders, partners, officers, members, and employees are "competent and trustworthy and intend to act in good faith". We do not think these terms can be defined well enough to provide a bright line between acceptable and unacceptable insurers and avoid at least the appearance that a company is being kept out of the state for other, unspoken, reasons. Current federal regulation (18 USC Section 1033-1034) prohibits anyone who has been convicted of a crime involving dishonesty, breach of trust or a violation of the Act, from being involved in the business of insurance unless they have received written consent from an insurance regulatory official. Thus there are current, objective standards that govern who may be involved in the insurance business and there is regulatory oversight governing exceptions to the prohibition.

We have heard one reason for asking for the legislation is to prevent people who are under indictment, and presumably, are in a position to materially influence a carrier, from entering the

*FI&I Committee
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Attachment 3*

state. Aside from the fact that we are innocent until proven guilty in our country, this limited situation can be dealt with in a more straightforward way.

We respectfully submit that there are existing statutes and regulations that afford appropriate scrutiny and opportunity for assuring that those involved in the insurance industry are of the highest integrity and professionalism, and that this bill is not necessary.

