

MINUTES OF THE SENATE FINANCIAL INSTITUTIONS AND INSURANCE COMMITTEE

The meeting was called to order by Chairman Ruth Teichman at on March 25, 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:

Brad Smoot, First American Title Insurance Co.
John Meetz, Kansas Insurance Department
John Peterson, Kansas Land Title Association (written only)

Others attending:

See attached list.

The Chair called the meeting to order.

Hearing on

HB 2505 - concerning title insurance; pertaining to unearned premium reserves

Melissa Calderwood gave an overview of HB 2505. She stated the substitute for HB 2505 deleted all the original contents of the bill and included HB 2865, which was a bill heard by the committee and was requested by First American Title Insurance Company. At the hearing, the bill was supported by the Insurance Department and written comments were later received from the Kansas Land Title Association in support of the bill. She said this bill would amend a statute governing the unearned premium reserves of title insurance companies and remove a requirement that a foreign title insurance company maintain unearned premium reserves in an amount no less than the amount that would be required of a domestic title insurance company.

Brad Smoot, First American Title Insurance Company, testified in support of HB 2505. He said the amendment to HB 2505 governs the requirements for maintaining unearned premium reserves by foreign, out of state, title insurers. He said enacted in 1971, the foreign reserve requirements must be equal to or higher than the requirements for a Kansas domiciled title insurance company as specified in K.S.A. 40-234b. He said while that standard has some parochial appeal, it does create real problems for multi-state insurers like First American, by forcing the insurer to maintain unique reserve arrangements, including the creation of a subsidiary title insurance company specific to each state with such requirements. He continued, stating for that reason, most states do not impose such requirements. Instead, they rely on the reserve requirements of the state of domicile, he said. He noted the Kansas Insurance Department has reviewed this proposed legislation and is supportive of the changes made by House Substitute for HB 2505. Mr. Smoot said by striking the proviso language of K.S.A. 40-234c, it will reduce unnecessary costs for all concerned and bring Kansas in line with the majority of other states. (Attachment 1)

John Meetz, Kansas Insurance Department appeared in support of HB 2505. He said this bill simply provides that non-domestic title companies maintain a statutory premium reserve based on the title companies' domestic state's requirements. He said it eliminates the need for non-domestic companies to file a Special Title Insurance Exhibit showing the unearned premium reserve based on Kansas requirements. (Attachment 2)

John C. Peterson, on behalf of Kansas Land Title Association, presented written testimony only. (Attachment 3)

CONTINUATION SHEET

MINUTES OF THE Senate Financial Institutions and Insurance Committee at on March 25, 2008 in Room 136-N of the Capitol.

The Chair closed the hearing on HB 2505.

Hearing on

HB 2688 - concerning insurance; relating to the property and casualty actuarial opinion letter law

Melissa Calderwood gave an overview of HB 2688. She stated this bill was introduced by the Kansas Insurance Department. She noted the bill would enact the Property and Casualty Actuarial Opinion Letter Law, a law requiring every property and casualty insurance company doing business in the state of Kansas, unless exempted by the Insurance Commissioner, to annually submit to the Commissioner the opinion of an appointed actuary entitled "Statement of Actuarial Opinion." She noted that the Department will make every attempt to prevent the regulatory environment in Kansas from becoming overly burdensome on small domestic companies.

John Meetz, Kansas Insurance Department, testified in support of HB 2688, stating the Insurance Department will make every attempt to prevent the regulatory environment in Kansas from becoming overly burdensome on small domestic companies. (Attachment 4)

The Chair closed the hearing on HB 2688.

The Chair asked Senator Wysong, Chair of the F I & I Subcommittee on SB 601, for a report of that Subcommittee. Senator Wysong said a meeting was held Monday, March 24, at 12:22 p.m. He said there was a balloon amendment to make Substitute SB 601, which included most of the NCOIL language, including the two year instead of the five year moratorium on entering into a viatical settlement after the date of the issuance of the policy. He said on top of that, there were two other amendments accepted by the subcommittee that John Peterson brought forward. He said the stumbling block was basically the definition of STOLI. After a motion was made to approve the substitute bill and the two amendments, the parties were directed to get together and try to come up with a final compromise. He said it was his understanding that they have done so.

Ken Wilke then presented an overview of the balloon amendments to Substitute for SB 601.

Final action

Following discussion, and further clarification, the Chair called for final action on Substitute for SB 601 which would move SB 601 into HB 2110.

Senator Wysong moved to pass HB 2110 out favorably. Senator Steineger seconded. Motion passed.

Final action

HB 2505 - concerning title insurance; pertaining to unearned premium reserves

Senator Wysong moved to pass HB 2505 our favorably. Senator Brungardt seconded. Motion passed.

Final action

HB 2688 - concerning insurance; relating to the property and casualty actuarial opinion letter law

Senator Brungardt moved to pass HB 2688 out favorably. Senator Wysong seconded. Motion passed.

The meeting adjourned at 10:30 a.m.

BRAD SMOOT

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Statement of Brad Smoot
Legislative Counsel
First American Title Insurance Company
Senate Financial Institutions and Insurance
Regarding 2008 Substitute for House Bill 2505
March 25, 2008

Madam Chair and Members:

On behalf of First American Title Insurance Company, I want to thank you for hearing House Substitute for HB 2505 today. First American Title is one of the largest insurers of real estate titles in the world, operating in forty-nine states and the District of Columbia. Indeed, it is this scope of operation which gives rise to this recommended amendment to K.S.A. 40-234c which governs the requirements for maintaining unearned premium reserves by foreign (out of state) title insurers. Enacted in 1971, the foreign reserve requirements must be equal to or higher than the requirements for a Kansas domiciled title insurance company as specified in K.S.A. 40-234b.

While that standard has some parochial appeal, it does create real problems for multi-state insurers like First American by forcing the insurer to maintain unique reserve arrangements, including the creation of a subsidiary title insurance company specific to each state with such requirements. For this reason, most states do not impose such requirements. Instead, they rely on the reserve requirements of the state of domicile. For us, that is California. In addition, the National Association of Insurance Commissioners (NAIC) has developed a model bill for use by the states to create some semblance of uniformity in reserve standards. Kansas has not yet adopted the NAIC model for domestic or foreign companies.

You can be confident that the reserve requirements of other states, including California, are sufficient since your colleagues and insurance regulators in those states have the same interest in maintaining the financial integrity of companies doing business in their state, whether domestic or foreign. In addition, the Kansas Insurance Department has reviewed this proposed legislation and is supportive of the changes made by House Substitute for HB 2505. You may also want to note that there are no domestic title insurance companies in Kansas except First American Title Insurance of Kansas, a subsidiary of First American, created for the sole purpose of complying with Kansas' unusual reserve law.

We think that such unique laws and the measures that must be taken to comply with them add unnecessary costs to the title insurance business, which as you might expect, must get passed along to real estate purchasers who acquire title insurance to protect their important investments. Striking the proviso language of K.S.A. 40-234c, will reduce those unnecessary costs for all concerned and bring Kansas in line with the majority of other states. The Committee should also have received letters of endorsement from our competitors and the Kansas Title Insurance Association. Thank you for your time and we urge the Committee to approve House Substitute for HB 2505.

*FI&I Committee
March 25, 2008
Attachment 1*



Kansas Insurance Department

Sandy Praeger, Commissioner of Insurance

TESTIMONY ON HB 2505

SENATE FINANCIAL INSTITUTIONS AND INSURANCE March 25, 2008

Madam Chairman and Members of the Committee:

I would like to thank the committee for the opportunity to appear today in support of HB 2865.

This bill provides that non-domestic title companies will maintain a statutory premium reserve (i.e., unearned premium reserve) based on the title companies domestic state's requirements. It eliminates the need for non-domestic companies to file a "Special Title Insurance Exhibit" showing the unearned premium reserve based on Kansas requirements. It reduces the administrative time of the title company and the Department regarding the preparation and review of the "Special Title Insurance Exhibit."

The Insurance Department supports this legislation in an effort to eliminate a redundant regulatory burden for title companies wishing to enter the state. We feel this legislation will encourage more title companies to enter our marketplace, thus creating more competition. More competition means a cheaper and better product for Kansans.

Thank you for the opportunity to appear today and I would be happy to answer any questions.

John Meetz
Government Affairs Liaison

*FI&I Committee
March 25, 2008
Attachment 2*



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TESTIMONY OF JOHN C. PETERSON
KANSAS LAND TITLE ASSOCIATION
SENATE FINANCIAL INSTITUTIONS & INSURANCE
HB 2685 2505
MARCH 25, 2008

Madame Chairwoman, members of the Committee. My name is John Peterson and I am pleased to appear today on behalf of the Kansas Land Title Association.

The Kansas Land Title Association supports HB 2685. We believe that it will provide companies an appropriate level of flexibility when they engage in business in Kansas.

Thank you for your consideration and support.

*FI & I Committee
March 25, 2008
Attachment 3*



Kansas Insurance Department

Sandy Praeger, Commissioner of Insurance

TESTIMONY ON HB 2688

SENATE FINANCIAL INSTITUTIONS AND INSURANCE COMMITTEE March 25, 2008

Madam Chair and Members of the Committee:

Thank you for the opportunity to appear before you today in support of HB 2688. This bill will require property and casualty companies to annually submit an opinion of an appointed actuary on their reserves. This opinion shall be filed in accordance with the NAIC property and casualty annual statement instructions. A yearly annual opinion is important to determine if a company is in a sound financial state.

While most companies already employ actuaries capable of meeting this requirement, we are aware that this will be a financial burden for a few smaller companies in the state. The NAIC recognized this potential problem when they drafted this model act so they allowed for certain exemptions to the model act.

Exemption for Small Companies: Insurer with less than \$1,000,000 direct plus assumed written premiums, and less than \$1,000,000 direct plus assumed loss and loss adjustment expense reserves.

Exemption for Insurers under Supervision or Conservatorship

Exemption for Nature of Business: Insurer otherwise subject to the requirement and not eligible for an exemption as noted above may apply to the commissioner for an exemption based on the nature of the business written.

Financial Hardship Exemption: Insurer otherwise subject to the requirement and not eligible for an exemption as noted above may apply to the commissioner for a financial hardship exemption, which is presumed to exist if the projected reasonable cost of the Actuarial Opinion would exceed the lesser of:

- (i) One percent of the insurer's capital and surplus...; or
- (ii) Three percent of the insurer's direct plus assumed premiums written.

Using the exemptions, the Insurance Department will make every attempt to prevent the regulatory environment in Kansas from becoming overly burdensome on small domestic companies. Additionally, the property and casualty annual statement instructions also provide that if a person does not meet the definition of a "qualified actuary," but are considered to be qualified to give the opinion then that person may complete the requirement. The company will annually attach a letter with the annual statement from the commissioner indicating that the individual meets the requirements for rendering the opinion.

*FI&I Committee
March 25, 2008
Attachment 4*

Most importantly, we request favorable passage of this bill because of the requirements of the NAIC Accreditation Standards regarding laws and regulations. The Actuarial Opinion Standard requires a statute or regulation containing a requirement for an opinion on reserves and loss and loss adjustment expense reserves by a qualified actuary on an annual basis for all domestic insurance companies.

John Meetz
Government Affairs Liaison