Approved: 3-9-10
Date

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 February 24, 2010, in Room 152-S of the Capitol.

All members were present except:
Senator Dick Kelsey- excused
Senator Ty Masterson- excused

Committee staff present:
Ken Wilke, Office of the Revisor of Statutes
Melissa Calderwood, Kansas Legislative Research Department
Terri Weber, Kansas Legislative Research Department
Beverly Beam, Committee Assistant

Conferees appearing before the Committee:
Senator Faust-Goudeau,
Kamilah Ford,
Bill Sneed, Mortgage Insurance Co. Assn.
Luke Bell, Kansas Association of Realtors
John Meetz, Kansas Insurance Department

Others attending:
See attached list.

Senator Faust-Goudeau, (Attachment 1)
Kamilah Ford, (Attachment 2)
Bill Sneed, Mortgage Insurance Co. Assn. (Attachment 3)
Luke Bell, Kansas Association of Realtors (Attachment 4)
John Meetz, Kansas Insurance Department (Attachment 5) (written only)

The Chair called the meeting to order.

Hearing on

SB 517 - Kansas automobile injury reparation act, penalties, reinstatement fees.

Melissa Calderwood, Researcher, gave an overview of the bill. Ms. Calderwood stated that SB 517 would amend the Kansas Automobile Injury Reparation Act. She said under current law, vehicle owners who fail to maintain liability insurance are required to pay a fee of $100 to have their registration or driving privileges reinstated. She said if the vehicle owner's driving privileges are revoked within one year following a prior revocation, the fee is $300. She noted that SB 517 would reduce the initial reinstatement fee to $25 and would reduce the window of time to six months in which a person would be required to pay a reinstatement fee of $300 for a second suspension or revocation. Finally, she said the Department of Revenue estimates that SB 517 would reduce revenue to the State Highway Fund by approximately $750,000 in FY 2011 as a result of the reduction of the $100 reinstatement fee to $25. The Kansas Insurance Department indicates the bill could be implemented within existing resources, she said.

Senator Faust-Goudeau testified in support of SB 517. She stated that the state of Kansas requires that every car have liability insurance. She noted that many individuals have been laid off from work and are having trouble paying the bills. Insurance premiums, she said, fall below food and shelter in a limited budget. She said if they drive without insurance and are stopped by the police, their license is revoked. This bill ends an unjust policy of charging a $300 fee for the reinstatement of the license, she said. Finally, the said the intent of this bill is to ease the financial burden of constituents who are facing financial difficulties during these economic down times. (Attachment 1)

Kamilah T. Ford, gave compelling testimony concerning her own family's financial situation, adding that this statute is unreasonable and intolerant toward those who are financially struggling – the working poor. She offered suggestions to the committee on ways to rectify the injustice. The Chair asked that she keep working on the bill and to return again next year with further proposals. (Attachment 2)

The Chair closed the hearing on SB 517.

Hearing on

HB 2501 - Allowing the insurance commissioner to grant a waiver to mortgage guaranty insurance companies exceeding the liability limit for up to two years.

Melissa Calderwood gave an overview of the bill. Ms. Calderwood stated that under current law, a mortgage guaranty insurance company is not permitted to have outstanding a total liability, net of reinsurance, under its aggregate mortgage guaranty insurance policies exceeding 25 times its capital, surplus, and contingency reserve. She said HB 2501 would authorize the Commissioner of Insurance to waive this requirement for up to two years.

Bill Sneed, representing Mortgage Insurance Company Association, testified in support of HB 2501. Mr. Sneed said the Mortgage Insurance Companies of America (MICA) is tackling a long-standing issue that some of its members are facing with respect to capital and surplus requirements in those states that have adopted requirements similar to those in Kansas. He stated eleven states, including Kansas, currently prohibit an insurer's outstanding total liability under all policies from exceeding 25 times the insurer's policyholders' surplus ("25:1 Test"). He added that MICA is approaching the regulators in the states with this test to seek their support in amending the requirement to give the regulators flexibility and discretion regarding capital and surplus requirements for mortgage guaranty insurers. He noted that MICA is also approaching the insurance departments in four other states that have a "minimum policyholders position" requirement that is an alternative to the 25:1 Test to allow for similar flexibility and discretion.

Continuing, Mr. Sneed said that due to the continuing stress in the housing markets, mortgage guaranty insurers are at risk of falling out of compliance with the 25:1 Test even though they have more than sufficient capital and reserves to meet claims payment obligations. He said the 25:1 Test is a reasonable standard, but by its very nature is inflexible and not responsive to new or special conditions. He said a change is necessary to permit the insurers to continue to operate and support home ownership. Finally, he said MICA does not propose to eliminate the 25:1 Test; rather, it proposes giving the Commissioner of Insurance the discretion to temporarily waive it for good cause when an insurer demonstrates to the Commissioner's satisfaction that it has sufficient resources to continue to write new business and meet its policyholder obligations. Mr. Sneed asked the Committee to consider removing the amendment to this bill and requested that the Committee act favorably on HB 2501. (Attachment 3)

Luke Bell, Kansas Association of Realtors, testified in support of HB 2501. Mr. Bell stated that HB 2501 would increase the affordability and availability of private mortgage insurance and expand the number of Kansas families who are able to purchase a home or refinance an existing mortgage in these difficult economic times. He said this legislation would help revitalize the Kansas housing market and benefit Kansas families across the economic spectrum, providing our state with stronger communities and a stronger economy. He added that while prudent under normal economic circumstances, there is concern that this arbitrary and inflexible limitation will deny many Kansas families the opportunity to purchase their own home over the next few years. He said as a result, passage of HB 2501 is vitally important to the recovery and stability of the Kansas economy and housing market. (Attachment 4)

John Meetz, Kansas Insurance Department presented written testimony only in support of HB 2501. (Attachment 5)

The Chair closed the hearing on HB 2501.

Senator Barnett moved removal of Section 2 in HB 2501 to allow any other technical amendments the

Revisor requires.

Senator Steineger seconded the motion. Motion passed.

Senator Barnett moved to advance HB 2501 to the full Senate. Senator Brownlee seconded. Motion passed.

Senator Steineger moved to approve the F I & I Minutes of February 11, 16 and 23. Senator Taddiken seconded. Motion passed.

The next meeting is scheduled for February 25, 2010.

The meeting was adjourned at 10:20 a.m.

SENATE FINANCIAL INSTITUTIONS & INS. COMMITTEE
GUEST LIST

DATE: 2-24-10

NAME	REPRESENTING
Bill Sneed	MICA
Chris Glgstad	Federico Consulting
TED HENRY	CAPITOL STRATEGIES.
Luke Bell	KS Assoc. of REALTORS
John Meetz	KID
Lori Church	KAPCIC
Alex Kotoyantz	P.I.A.
Marlee Carpenter	KAHP
Kamilah Ford	myself
Jennifer Crow	KSAJ
Kathy Olsen	KS Bankers Assn.
Matthew Goddard	Heartland Community Bankers Assoc.

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TOPEKA

SENATE CHAMBER

COMMITTEE ASSIGNMENTS
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ETHICS AND ELECTIONS
MEMBER: BUSINESS AND LABOR
COMMERCE
LOCAL GOVERNMENT
JOINT COMMITTEES: ARTS AND CULTURAL RESOURCES
CHILDREN'S ISSUES
ECONOMIC DEVELOPMENT

Senator Ruth Teichman, Chair
Senate Financial Institutions and Insurance Committee

February 24, 2010

Good Morning Madam Chair and Senators,

Thank You for the opportunity to speak in support of SB517.

The State of Kansas requires that every car have liability insurance. Many individuals have been laid off from work and are having trouble paying the bills, and insurance premiums fall below food and shelter in a limited budget. If they drive without insurance and are stopped by the police, their license is revoked. SB517 ends an unjust policy of charging a $300 fee for the reinstatement of the license. The intent of this bill is to ease the financial burden of our constituents who are facing financial difficulties during these economic downtimes.

I was extremely touched over a letter I received from a Miss Ford to the Governor on which she CC: me and shared that she personally had to make the difficult choice to pay bills to provide for her children which resulted in her losing her driving privileges.

Thank you for your time and attention regarding this matter and I urge your support for the favorable passage of SB517.

Sincerely,

Oletha

Senator Oletha Faust-Goudeau

F I & I Committee
2-24-10
Attachment 1

Kamilah T. Ford
2520 E. Conquest St.
Wichita, KS 67219
December 29, 2009

To Whom To May Concern:

I am writing in concern over K.S.A. 40-3118, the suspension of vehicle license due to failure to maintain vehicle insurance. It states that driving privileges would be suspended for the discontinuation of vehicle insurance. To keep from experiencing this, you would need to provide proof of insurance during lapsed time OR would have to obtain insurance and send proof of this AND pay $300 for a reinstatement fee. All this has to be done within 30 days of the letter's date.

Let me restate some semantics said in the letter: Driving is NOT a privilege. It is a responsibility and a necessity for several, especially when public transportation is horribly disorganized and limited. Additionally, this statute is unreasonable and intolerant toward those who are financially struggling-- the working poor. The working poor are defined as those who maintain employment yet remain impoverished to high expenses and low pay wage and/or a part-time work status. Many find themselves weighing the priorities of their bills as to which gets paid- rent versus car note, car insurance versus groceries and medicines. Many do not sit on an extra $300 to pay out to the state when their sent the suspension letter. If that was the case, then there would not be a need for this statute because everyone would have the financial means to keep current on their vehicle insurance. My concern is that I'm not the only one suffering from this injustice, yet nothing is being done to rectify it.

For the past nearly three years, my family has endured many financial pitfalls, including loss of employment on both my husband and my part. Coupled with medical bills that we had to pay out of pocket due to lack of insurance (including newborn medical care), being burglarized four times within a year with damage to our home (we paid for the repairs to keep from putting numerous claims on home insurance, which would have lead them to cancel us), unexpected vehicle repairs, being behind on our adjustable rate mortgage, the rising cost of everything and having to pay $300 out to the state at least four times in one year putting us further into debt or bill payment lateness, I do not see how we are justifiably fined for not maintaining insurance. And to think that fining us all began with some inattentive woman rear-ending our vehicle, with my four children in the vehicle.

Furthermore, I would like to achieve employment with Sedgwick County as a School-Based Therapist through Comcare. This dream, which could place my family out of the working poor status and give us the ability to afford our bills easier, has been crushed. Anyone seeking employment with Sedgwick County must have less than three moving violations in order to be considered for employment. Earlier this year, I would have been offered a Children's Case Manager position had it not been for so many 'failure to maintain vehicle insurance' claims on my driving record, which Comcare and Sedgwick

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2-24-10
Attachment 2

County considers as moving violations. You want people to maintain insurance but how can they when this situation happens which prevents gainful employment?

I propose that if you are going to require the people of Kansas to acquire and maintain insurance, then it would be beneficial to offer a state program that offers basic liability coverage or an affordable alternative. Anything upgrades, such as AAA benefits or full coverage for those making payments, would be paid out of pocket by the individual to private insurance companies. California Highway Patrol and the Department of Insurance have done something like this already. I understand the need for insurance and desire it, and think this would be the way for people to have vehicle insurance adequate enough to cover a vehicle collision/ damage AND it is affordable to the State. The money to cover this could come from Federal funding for Social Services programs or a redistribution of money from the state.

It is your duty as Governor of the State of Kansas to hear the people, support what the people want and do what is best for Kansas. That's why we put faith and trust in your leadership skills. Be that leader now and help rectify this statute where it does not play bias toward the working poor.

Sincerely,

Kamilah T. Ford

Polsinelli Shughart PC

Memorandum

TO: The Honorable Ruth Teichman, Chair
Senate Financial Institutions and Insurance Committee

FROM: William W. Sneed, Legislative Counsel
Mortgage Insurance Companies of America

SUBJECT: H.B. 2501

DATE: February 24, 2010

Madam Chair, Members of the Committee: My name is Bill Sneed and I am Legislative Counsel for the Mortgage Insurance Companies of America ("MICA"). MICA is the trade association representing the private mortgage insurance industry. Its members help loan originators and investors make funds available to home buyers for low down payment mortgages by protecting these institutions from a major portion of the financial risk of default. The association also strives to enhance understanding of the vital role private mortgage insurance plays in housing Americans. The private mortgage insurance industry's mission is to help put as many people as possible into homes sooner for less money down, and to ensure that they stay in those homes. By insuring conventional low down payment mortgages, MICA members have made homeownership a reality for more than 25 million families. Please accept this memorandum as my client's request for favorable passage of H.B. 2501.

The Mortgage Insurance Companies of America (MICA) is tackling a long-standing issue some of its members are facing with respect to capital and surplus requirements in those states that have adopted requirements similar to those in Kansas. Eleven states, including Kansas, currently prohibit an insurer's outstanding total liability under all policies from exceeding 25 times the insurer's policyholders' surplus ("25:1 Test").

MICA is approaching the regulators in the states with this test to seek their support in amending the requirement to give the regulators flexibility and discretion regarding capital and surplus requirements for mortgage guaranty insurers. North Carolina, where three of the six active mortgage insurers are domiciled, has already amended its statute to provide its insurance department with such flexibility. MICA is also approaching the insurance departments in four other states that have a "minimum policyholders position" requirement that is an alternative to the 25:1 Test to allow for similar flexibility and discretion.

Background

For over half a century, mortgage insurance has played a critical role in the United States housing industry. Private mortgage insurance has made home ownership a reality for more than

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Attachment 3

25 million families by allowing them to purchase homes with less than a 20% down payment. The current economic situation demonstrates both the value of mortgage guaranty insurance and the need for such insurance to continue to be available.

MICA is seeking the support of the Kansas Legislature in its effort to enable insurers to continue to provide mortgage guaranty insurance. Virtually every economist concurs that a rebound in the housing market is critical to an economic recovery. Without private mortgage insurance, any housing recovery will be stalled or significantly delayed.

25:1 Test

Rising unemployment, falling home values, increasing delinquencies and tighter credit standards are driving higher claims rates, which in turn results in higher losses paid by mortgage insurers. These increased losses result in reduced policyholders surplus, which, together with continuing new insurance written, may force mortgage insurers to stop writing new business in those states like Kansas that require such insurers to abide by the 25:1 Test. The insurers would be forced out of the market despite the fact that they are sufficiently capitalized to meet all policyholder claim obligations.

In the 11 states with the 25:1 Test, laws and regulations governing mortgage guaranty insurers include an automatic trigger, with no exceptions, providing that no new insurance may be written if a company fails to maintain a mandated minimum policyholder surplus that is unique to the industry. This requirement is inconsistent with the financial regulation of other lines of insurance and lacks the flexibility that an insurance department should have during tough economic times such as these.

MICA's goal is to modernize the financial regulation of mortgage guaranty insurers to be more consistent with other regulatory practices. Revisions to the 25:1 Test to allow Department discretion will help insurers continue to offer insurance in Kansas while maintaining adequate safeguards to protect policyholders and ensure the solvency of the industry.

Time for Change

Due to the continuing stress in the housing markets, mortgage guaranty insurers are at risk of falling out of compliance with the 25:1 Test developed in the 1960s, even though they have more than sufficient capital and reserves to meet claims payment obligations. The 25:1 Test is a reasonable standard, but by its very nature is inflexible and not responsive to new or special conditions. A change is necessary to permit the insurers to continue to operate and support home ownership. If change does not occur and mortgage insurance companies are forced to stop writing new business, the potential harm may include:

- Fewer loans will be insured further decreasing the availability of mortgage finance credit as mortgage insurers cut volume, further tighten guidelines, and eventually stop writing new business altogether.

- Fannie Mae and Freddie Mac will be unable to purchase mortgages with lower down payments, rendering them less able to fulfill their public policy mission of facilitating low-cost home ownership.

- Housing recovery could be stalled or delayed, and this, in turn, would adversely affect economic recovery.

- Without a vibrant private sector alternative to FHA insurance, the financial burden of default losses will fall increasingly on the federal government and thus on the taxpayers.

The Keys: Flexibility and Discretion

Over the past few years, mortgage guaranty insurers have planned for the tough economic times that we find ourselves in today. Many companies have already strengthened underwriting guidelines and have raised their rates. New loans that are insured are of higher quality and thus less likely to be subject to losses. As a result, premium income from these new loans will be more profitable and will bolster the industry's capital base.

Loss mitigation efforts such as borrower assistance programs, cooperation with loan servicers, participation in GSE and Treasury programs (Home Affordable Refinance Program and Home Affordable Mortgage Program), mortgage fraud investigations, and other proactive measures are reducing claims while, in many cases, salvaging loans and avoiding foreclosures.

However, these measures are not sufficient by themselves to provide the flexibility mortgage insurers need to continue offering insurance in Kansas. The inflexible 25:1 Test was adopted in the early 1960s when the modern mortgage insurance industry was coming into existence, and there were no statutory risk-to-capital ratio requirements on which to rely. Both the history of the rule and current analysis suggest that flexibility within a range is needed. Such flexibility will allow the Department to examine existing portfolio characteristics in determining necessary and prudent risk-to-capital requirements.

In particular, a mortgage guaranty insurer reaching the limit of the 25:1 Test is likely to be in the midst of a high claims paying cycle (as the industry is now experiencing), but may have more than enough capital to pay expected claims on its insurance in force. If mortgage insurers are compelled to cease writing new business because they have not met the 25:1 Test, those insurers will not likely remain commercially viable and will not be able to write insurance after the end of the high claims-paying cycle. Additionally, for an insurer with sufficient claims paying resources, the additional new business written as the economy and housing markets improve should be profitable and enhance the overall capital position of the insurer and the position of its policyholders.

MICA does not propose to eliminate the 25:1 Test; rather, it proposes giving the Commissioner of Insurance the discretion to temporarily waive it for good cause when an insurer demonstrates to the Commissioner's satisfaction that it has sufficient resources to continue to write new business and meet its policyholder obligations. The Commissioner will be able to determine independently whether an insurer is sufficiently capitalized given its book of business to meet policyholder obligations and continue to write new insurance and to establish the conditions under which such waiver will be granted and remain in effect.

You will note that on the House floor an amendment was added to require the Kansas Insurance Department to notify various legislative members when such waiver has been approved. We are uncertain as to what purpose this amendment will serve, and although my clients are not directly affected by this additional step, we would ask the Committee to consider removing this amendment.

Finally, this bill was strongly supported by the House on a vote of 79-40.

We appreciate the Committee's time and consideration, and we respectfully request that the Committee act favorably on H.B. 2501 by recommending the bill for passage.

I am available to stand for questions at the Committee's convenience.

Respectfully submitted,

William W. Sneed

William W. Sneed

WWS:kjb

KANSAS Association of REALTORS®

Luke Bell
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To: Senate Financial Institutions and Insurance Committee

Date: February 24, 2010

Subject: **HB 2501** -- Increasing the Availability of Mortgage Insurance in Kansas

Chairperson Teichman and members of the Senate Financial Institutions and Insurance Committee, thank you for the opportunity to appear today on behalf of the Kansas Association of REALTORS® to offer testimony in support of **HB 2501**. Through the comments expressed herein, it is our hope to provide additional legal and policy context to the discussion on this issue.

KAR has faithfully represented the interests of the nearly 9,000 real estate professionals and over 700,000 homeowners in Kansas for the last 90 years. In conjunction with other organizations involved in the housing industry, the association seeks to increase housing opportunities in this state by increasing the availability of affordable and adequate housing for Kansas families.

Over the past several years, the credit crisis and the struggling economy have made it increasingly difficult for Kansas families to obtain the necessary mortgage financing to purchase a home or refinance an existing residential mortgage. The affordability and availability of private mortgage insurance is extremely important to the overall stability of our mortgage finance system.

HB 2501 would increase the affordability and availability of private mortgage insurance and expand the number of Kansas families who are able to purchase a home or refinance an existing mortgage in these difficult economic times. In turn, this legislation would help revitalize the Kansas housing market and benefit Kansas families across the economic spectrum, providing our state with stronger communities and a stronger economy.

As we move forward with efforts to reinvigorate the Kansas economy and housing market, we hope that you will give special consideration to the unique role played by private mortgage insurers in making homeownership possible for many moderate income families and first-time homebuyers. Unfortunately, current Kansas regulations require a mortgage insurance company whose risk-to-capital ratio exceeds 25 to 1 to cease writing new business in the state, even though all objective factors indicate that it could continue to write new business safely.

While prudent under normal economic circumstances, we are concerned that this arbitrary and inflexible limitation will deny many Kansas families the opportunity to purchase their own home over the next few years. As a result, we believe the passage of **HB 2501** is vitally important to the recovery and stability of the Kansas economy and housing market.

For all the foregoing reasons, we would urge the committee to strongly support the provisions of **HB 2501**. Once again, thank you for the opportunity to provide comments on **HB 2501** and I would be happy to respond to any questions at the appropriate time.

FI&I Committee
2-24-10
Attachment 4

Kansas Insurance Department
Sandy Praeger, Commissioner of Insurance

WRITTEN TESTIMONY ON
HB 2501

SENATE FINANCIAL INSTITUTIONS AND INSURANCE
February 24, 2010

Madam Chair and Members of the Committee:

The Insurance Department would like to offer written testimony in support of both HB 2501. This bill would allow the Insurance Commissioner to grant a waiver of liability requirements to mortgage guaranty insurers for a brief period of 2 years to allow the market for mortgage guaranty insurers to remain open and competitive.

If the committee has questions we would be happy to answer them at the appropriate time.

John Meetz
Government Affairs Liaison

FI & I Committee
2-24-10
Attachment 5

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