

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 15, 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 Buntun, Committee Secretary

Conferees appearing before the committee:

  Kathleen Sebelius, Kansas Commissioner of Insurance  
  Matthew D. All, Assistant Commissioner, Kansas Insurance Department  
  Reynold E. Becker, Vice President, Alliance of American Insurers  
  Ann M. Weber, General Counsel, National Association of Independent Insurers

Others attending: See attached list.

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

Kathleen Sebelius, Kansas Commissioner of Insurance, testified before the Committee in support of **HB 2480**. She pointed out that passage of the bill would protect the privacy of financial and health information of the consumer. The bill would also amend the Insurance Commissioner's authority to adopt privacy rules and regulations regarding the disclosure of nonpublic personal information described in Title V of the Gramm-Leach-Bliley Act of 1999. Commissioner Sebelius emphasized the fact that privacy belongs to the consumer and not the insurance companies, and she would like to see universal language adopted throughout the country to protect such privacy.

Matthew D. All, Assistant Commissioner, Kansas Insurance Department, by way of a power-point presentation, also testified in support of **HB 2480** and emphasized that this legislation would allow the Insurance Department to adopt strong, effective, privacy standards to protect consumers. He noted that insurance commissioners across the country determined that it would be important to develop a Model Regulation to deal with new challenges in privacy. The NAIC put together a working group last year which developed a Model Regulation which was passed by all insurance commissioners throughout the country. The Model Regulation would be (1) uniform from state to state; (2) generally uniform with the federal regulations; (3) translate Title V into insurance terminology and the realities of the insurance market; and (4) provide enhanced protection for health information, since insurers, unlike banks, are likely to have health information. Other facts relating to the Model Regulation were outlined in his written testimony. (Attachment 1) During Committee discussion KID noted that approximately 41 states may consider adopting the NAIC model, and that the privacy regulation is preferred by insurance commissioners throughout the country in order to keep uniformity state by state rather than by statute.

Speaking in opposition to **HB 2480** was Reynold E. Becker, Vice President, Alliance of American Insurers, who felt that this legislation would go far beyond the scope of GLBA, and the bill would explicitly sanction the use of the recently adopted National Association of Insurance Commissioners Model Privacy Regulation. He noted that the Alliance of American Insurers and its member companies oppose this explicit designation of the NAIC model regulation by name for three reasons: (1) the legislation would cede authority to KID; (2) should the NAIC amend their model regulation in the future, this would have the effect of bypassing constitutional roles in the process; and (3) the NAIC model regulation will place insurers writing in Kansas at a competitive disadvantage compared to banks and securities firms doing business in the state. (Attachment 2) Mr. Becker also provided a copy of the *Privacy of Consumer Financial and Health Information Regulation* to the Committee. (Attachment 3)

## CONTINUATION SHEET

Ann M. Weber, General Counsel, National Association of Independent Insurers, also expressed her opposition to the bill. She noted that GLBA does not include health information privacy and therefore does not require any action on the state's part on this issue. Ms. Weber pointed out that the NAIC Model Privacy Regulation includes health information privacy provisions that are inconsistent with and not required for compliance with GLBA, and this is of grave concern to the NAI which could result in dual compliance standards for property/casualty insurers and confusion and frustration for the consumer. She further pointed out that workers' compensation coverage is included in the Model, and that the definition of "consumer" expressly references workers' compensation. GLBA excludes workers' compensation coverage in that it is limited to products or services used primarily for personal, family or household purposes. She felt that the Model goes beyond GLBA and adoption of the Model in Kansas would subject workers' compensation carriers and the businesses they insure to new privacy practices and procedures. Other concerns with the bill were outlined in her written testimony. (Attachment 4)

Ms. Weber also provided the Committee with a copy of a letter from D. Joseph Olson, Vice President and General Counsel of Amerisure Companies, to Commissioner Sebelius that expressed his concerns with the NAIC Model Privacy Regulation. (Attachment 5)

The Chair noted that because of the time, hearing on **HB 2480** would be continued next week.

### **Adjournment**

The meeting was adjourned at 10:30 a.m. The next meeting of the Committee is scheduled for March 20 2001.