

## 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 March 9, 2005 in Room 234-N of the Capitol.

All members were present except:

James Barnett- excused

Jim Barone- excused

Committee staff present:

Melissa Calderwood, Kansas Legislative Research Department

Terri Weber, Kansas Legislative Research Department

Ken Wilke, Office of Revisor of Statutes

Sandy Yingling, Committee Secretary

Conferees appearing before the committee:

Sandy Praeger, Commissioner of Insurance

Andrew J. Beal, General Counsel, National Association of Insurance Commissioners

James D. Hall, Senior Counsel and Director Central States Region, American Council of Life Insurers

Natalie G. Haag, Security Benefit Life Insurance Company

Others attending:

See attached list.

Madam Chair opened the hearing on **SB 268**.

**SB 268 - Interstate Insurance Product Regulation Company.**

Melissa Calderwood, Legislative Research Department, presented an overview of **SB 268**. Ms. Calderwood informed the committee that nine states have already joined the Compact. They are Colorado, Hawaii, Iowa, Main, New Hampshire, Rhode Island, Utah, Virginia and West Virginia.

**SB 268** would have no fiscal effect. (Attachment 1)

Sandy Praeger, Commissioner of Insurance, testified in support of **SB 268**. This Compact will be an agreement among member states to create a streamlined system of regulation for life, long term care and disability insurance, as well as annuities. The Compact will allow for national regulation of certain insurance products, and yet control of that regulation, will remain with the states. The Kansas Legislature will surrender none of its authority over insurance. A bill, known as the SMART Act has been drafted by Congress in an effort to place the regulation of insurance under federal control. (Attachment 2)

Andy Beal, National Association of Insurance Commissioners, testified in support of **SB 268**. Mr. Beal pointed out a number of factors that have influenced the creation of this Compact. One of the more significant factors is the increasing scrutiny by Congress. The enactment of the Gramm-Leach-Bliley Act in 1999 directly impacted certain areas of state insurance regulation, such as the affiliations between banks, securities and insurance entities, as well as the move toward uniformity/reciprocity in the licensing of insurance agents and brokers. In conclusion, Mr. Beal stated, the Interstate Insurance Product Regulation Compact represents a very important initiative that will benefit state insurance regulators, consumers and the insurance industry. (Attachment 3)

Jim Hall, American Council of Life Insurers, testified in support of **SB 268**. Mr. Hall stated the ACLI strongly supports enactment of the Interstate Insurance product Regulation Compact. The interstate compact legislation in **SB 268** will enhance state regulation of insurance by creating a Commission governed collectively by the states. Nebraska is expected to sign on later this week. (Attachment 4) Mr. Hall handed out a bullet-point overview of the Interstate Insurance Product Regulation Compact. (Attachment 5)

Chair Teichman asked, if we were to join the Compact and if we were the 26<sup>th</sup> state and it takes 26 states to enact the Compact and we decide we want to withdraw, what happens to the Compact? Mr. Hall answered

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if only 26 states join there is the feature that states, it is 26 states “or” states comprising 40% of the premium volume.

Senator Wilson’s question was about Commissioner Praeger testimony. If Congress could step in, the language is written so loose, is it going to be tight enough language to starve off whatever Congress might want to do? Mr. Hall said that this particular piece of legislation that creates the Compact is a major addressing of one of the complaints that have been made in Washington. The complaint is that there is no uniformity in these product standards. Therefore, this Compact gives uniformity in the product standard. Mr. Beal added to Mr. Hall’s comments. The way the Compact is set up, it is designed to achieve quality standards put in place and increase efficiencies. So when you look at it from an insurance company’s prospective they can get their product filed and reviewed in a timely manner. Mr. Hall stated, the two key factors are uniformity of the standard and speed of approval.

Senator Wilson asked if an insurance company just wanted to do business in ten of those states, do they still file with the Compact or do they have to go to just those ten states? Mr. Beal said they have the option of either filing with the Compact or making individual filings.

Senator Steineger why property casualty and workman’s compensation excluded from the Compact? Mr. Hall said they were not excluded. They were not included at this time. They are welcome to join. The natures of the products that are covered by the Compact tend to be easier to have a nation wide set of standards. Senator Steineger asked, why have none of the large states adopted the Compact? Mr. Beal answered that New York has joined. Senator Steineger asked if there were any states that were opposed to the Compact or were they just dragging their heels? Mr. Hall said he thinks there are some states that are philosophically opposed to joining the Compact or they have very strong feelings about the product standards. Mr. Beal said he has not heard of any state that is opposed to the Compact. Mr. Hall said there is one state he works with that simply does not feel like they are ready to join the Compact at this time.

Senator Steineger said the Compact seems oriented toward uniformity of standards and speedy approval of new products. Also, the Compact would allow for the national system of form filing. Can the Compact be a vehicle for more standardization of claims forms, paperwork and other things of this type for consumers? Mr. Hall answered, he does not think so. There were no other questions.

Natalie Haag, Security Benefit Life Insurance Company, testified in support of **SB 268**. Security Benefit Life Insurance Company sells its products in all 50 states. Under current law, they must file their products for approval in each of these states separately. (Attachment 6)

Ken Wilke asked the Commissioner if the department had done a survey of the statutes to determine what changes, if any, there would be in allowing the Compact to operate? The Commissioner answered yes. Mr. Wilke asked, with respect to scrutiny of insurance products, if the Compact elects to allow a standard or a product sold in the state, as he reads the Compact that becomes effective immediately until the state takes action to do otherwise? Commissioner Praeger stated they have broad authority, that the whole point is to make sure we have standards in place to protect the consumer and there is an opt-out in place. Mr. Beal stated the technical procedure for the regulatory opt-out, set for in the legislation, is a standard developed that does not become effective for 90 days after its adoption. Further, the legislature can opt-out at anytime it is in session. In the regulatory opt-out, they are required to give 10 days notice after adoption of standard of their intent to opt-out. The state can also lengthen that 90-day implementation period by giving notice of the intent to stay application of that standard in the state while it is pursuing a regulatory opt-out.

Mr. Hall stated of these product standards that are developed, the states at the industry are aware of the standards. It would be unlikely for a product standard to come out of the blue. The states would have lead time notice. Mr. Wilke states, we have several court decisions in this state, many of which prohibit an unlawful delegation of legislative accord with an outside entity. Mr. Wilke asked if the provision in article 16, section 2, subsection d, dealing with the Compact exceeding the constitutional limits, was the safety valve in a situation such as this? Mr. Beal stated, yes. Under most of the compact laws, those commissions created by the Compact are multi state commissions. They are not treated as private entities. They are treated as public bodies. Mr. Wilke asked if any state had amended the Compact after being adopted? Mr. Beal stated,

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no. Iowa had adopted the earlier version of the language and then technical changes were made. Mr. Wilke stated he noticed the provision that exempts the Compact from taxation by the state. Does that include any franchise fees for the nonprofit organization? Mr. Beal stated that the working group did not get into any specific details about the various taxes with any particular state. The general approach was the not-for-profit entity is exempt from taxation. Commissioner Praeger stated it had a built-in inherent check and balance because no compact is going to succeed if the standards that are put forth are exceedingly controversial.

Senator Brownlee asked if any of the national organizations, for instance the National Association of Insurance Commissioners, could do the same tasks as this Compact? Mr. Beal stated that the Compact is designed to address a very narrow area of the state insurance regulation, while the NAIC is continuing efforts to look at other areas of state insurance relations. Commissioner Praeger stated in the national association there was a working group that was a precursor to the Compact and it was looking at how to achieve uniformity within the current state structure, but it would have meant going back to each state and having those uniform standards developed by each state. Mr. Campbell stated that the NAIC could not affect the same goal of achieving uniformity or they would have done it. Senator Brownlee asked if the larger states had more votes than the smaller states, and would that end up diluting our voice? Mr. Beal stated as the larger states come on board, yes, they will have more seats, but the way it was designed with the two-thirds majority both at the management committee level, in order to adopt standards at that level. Also a two-thirds majority as a membership as a whole that save guard was put into place so that the larger states could not take the Compact admission and run away with it. There has to be a legislative process.

Senator Brownlee expressed some confusion on page 11 in paragraph seven concerning the stay? Mr. Beal stated that the stay is designed to help the state prolong the initial period before any standard becomes effective. There were no other questions.

Madam Chair closed the hearing on **SB 268**.

Madam Chair stated that she was going to honor the request made by the Commissioner to work **SB 268** today to get it on the Senate floor and moved over to the House. Senator Wysong asked that since there was a resolution on **SB 268** to move forward two years ago and now that it has happened, why not at this point put it on the consent calendar? Madam Chair said because it needed to be discussed and worked on the Senate floor.

Senator Schmidt moved to pass **SB 268** out favorably, Senator Steineger seconded the motion. The motion carried.

Madam Chair reopened the hearing on **HB 2323**. Asked if there were any questions, there were none.

### **HB 2323 - Insurance company structure; statutory changes compatible with corporation.**

Senator Brownlee moved to pass **HB 2323** out favorably, Senator Brungardt seconded the motion. The motion carried. Senator Wysong will carry **HB 2323**.

Madam Chair reopened the hearing on **HB 2325**. There was no further discussion.

### **HB 2325 - Life insurance; regulation of certain types of contracts.**

Senator Schmidt moved to pass **HB 2325** out favorably, Senator Steineger seconded the motion. The motion carried. Senator Wysong will carry **HB 2325**.

Madam Chair reopened the hearing on **HB 2099**. There was no further discussion.

### **HB 2099 - Credit unions; powers of the administrator.**

Senator Steineger moved to pass **HB 2099** out favorably, Senator Schmidt seconded the motion. The motion carried. Senator Teichman will carry **HB 2099**.

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The meeting was adjourned.