

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 22, 2005 in Room 234-N of the Capitol.

All members were present.

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:

Jarrold Forbes, Kansas Insurance Department
Callie Denton, Kansas Trial Lawyers Association
Brad Smoot, American Insurance Associations

Others attending:

See attached list.

Madam Chair called the meeting to order.

Madam Chair opened the hearing on **HB 2138**.

HB 2138 - Amusement rides; insurance requirements

Melissa Calderwood, Kansas Legislative Research Department, presented an overview of **HB 2138**. **HB 2138** amends K.S.A. 40-4802 to provide that the insurance policy for amusement rides be written by an insurance company doing business in Kansas. Under current law it is written by an insurance company authorized to do business in Kansas. The House committee heard from a home owned carnival organization that the organization is having increases on policies written each year by out of state carriers and have a number of increase costs associated with those policies.

Senator Wysong asked if there were any insurance companies in Kansas writing these policies? Ms. Calderwood stated, that is "authorized."

Jarrold Forbes, Kansas Insurance Department, testified in support of **HB 2138**. When the language was drafted, it said "authorized carrier." There is no carrier admitted through the KID offices that writes these policies. The change will state an insurance policy shall be written by an insurance company doing business in Kansas. (Attachment 1)

Senator Wysong asked, how old is this law? The Insurance Department stated it was three years old. Senator Wysong stated that the one million-dollar cap seems low. Senator Brungardt said this issue was dealt within Fed and State a couple of years in a row.

Ken Wilke stated this statute was part of a bill put together by Rep. Sloan about three or four years ago. It was run through the local government committees and it stalled and he ended up bringing it to a conference committee. Rep. Sloan was able to talk the conference committee into putting the bill into the conference committee report and that is how it got passed.

Senator Wilson asked if **HB 2138** does not pass, how would that effect the state fair? Mr. Forbes stated that it would not affect the state fair.

Senator Barone asked, why can an insurance company not be authorized in Kansas? Mr. Forbes answered that they can, but there are no insurance companies presently in Kansas that are authorized that choose to write these policies. Senator Barone asked, by not be authorized in Kansas, are they not escaping certain regulations. The Kansas Insurance Department stated that the two different types of companies are basically the authorized companies and the non-authorized companies. The authorized are ones that are admitted and are issued a

CONTINUATION SHEET

MINUTES OF THE Senate Financial Institutions and Insurance Committee at 9:30 A.M. on March 22, 2005 in Room 234-N of the Capitol.

certificate of authority through the insurance department. The non-authorized carriers are the ones such as Lloyds of London which are on a white list measured by virtue of a statute. They have financial backing to put on a white list, but within that statute it also says that those carriers do not have to be regulated by the insurance department. So a non-authorized insurer can write this type of business whereas an authorized insurer is not willing to write this type of business. There were no further questions.

Madam Chair closed the hearing on **HB 2138**.

Madam Chair announced she would like the committee to work **HB 2138**.

Senator Barnett moved to pass **HB 2138** out favorably, Senator Brungardt seconded the motion. The motion carried.

Madam Chair opened the hearing on **HB 2172**.

HB 2172 - Insurance agents; revocation of license

Melissa Calder, Kansas Legislative Research Department, presented an overview on **HB 2172**. **HB 2172** was requested by the Insurance Commissioner and would remove the citations of K.S.A. 40-241 and K.S.A. 40-246. **HB 2172** passed the House 121 - 0.

Jarrod Forbes, Kansas Insurance Department, presented testimony in support of **HB 2172**. **HB 2172** would now reference K.S.A. 40-4909 in this law. (Attachment 2)

There were no questions.

Madam Chair closed the hearing on **HB 2172**.

Madam Chair announced that the committee would now deal with some of the issues that are on going in the House.

Madam Chair's first action was to recommend to the committee that the contents of **SB 2172** be removed and amended into **SB 2203** which the committee heard yesterday. **SB 2172** would become an open vehicle for other bills.

HB 2203 - Medical and hospital service corporations; termination of coverage for cause approved by commissioner of insurance

HB 2203 would permit Blue Cross and Blue Shield of Kansas City to refuse coverage if there is fraud involved.

Senator Steineger confirmed that the provisions of **HB 2172** would be moved into **HB 2203**.

Senator Schmidt made a motion to amend the contents of **HB 2172** into **HB 2203**. Senator Brownlee seconded the motion. The motion carried

Madam Chair announced that **HB 2172** is now empty.

Madam Chair reopened the discussion on **HB 2357**.

HB 2357 -Establishing a self audit program for insurance

The committee has before them the proponents' balloon amendments to **HB 2357** that were presented yesterday. (Attachment 3)

There was discussion on the first amendment and at Senator Brownlee's suggestion the name was changed

CONTINUATION SHEET

MINUTES OF THE Senate Financial Institutions and Insurance Committee at 9:30 A.M. on March 22, 2005 in Room 234-N of the Capitol.

to “Division of Legislative Post Audit”

Senator Brownlee moved to adopt the balloon amendment with the changes discussed on page 2, line 28 of the bill. Senator Steineger seconded the motion. The motion carried.

Senator Brownlee moved to adopt the balloon amendment inserting language on page 2, line 38 of the bill. Senator Schmidt seconded the motion. The motion carried.

There was discussion on the third amendment on page 4, line 41 of the bill regarding the language proposed to be inserted concerning privileged documents. Mr. Wilke, Revisor, offered alternate language which the committee appeared to prefer.

Senator Wysong moved to adopt the balloon amendment inserting language on page 4, line 41 of the bill. Senator Barnett seconded the motion. The motion carried.

There was discussion on the fourth amendment on page 5, line 16 of the bill regarding language taken from the Environmental Audit law.

Senator Brownlee moved to adopt the amendment inserting language on page 5, line 16 of the bill. Senator Schmidt seconded the motion. The motion carried.

Callie Denton, Kansas Trial Lawyers Association, presented their amendments to **HB 2357** for consideration. Their major change is on page 2 that would strike the lines 29 through 32 and replace them with a new section 2. There were other minor changes on page 4 and 5. (Attachment 4)

Madam Chair stated since the committee had not had an opportunity to review the KTLA amendments, she would wait until the end of the meeting to address the amendments.

HB 2366 - Accident and health insurance; removal on limitation on deductibles, coinsurance and similar payments

Madam Chair made a statement about **HB 2366**. It has been the decision not to run **HB 2366** at this time. In deference to the fact that there were so many questions from Committee, Madam Chair is asking for an interim study.

Madam Chair once again informed the committee that **SB 100**, **SB 102** and **SB 140** have been gutted in the House Insurance Committee and will be put into **SB 176**.

The House Insurance Committee still has not passed **SB 103**, **SB 175**, **SB 207**, **SCR 1602** or **SB 176**. Madam Chair’s concern is about the HIPAA bill.

Madam Chair announced the committee has a vehicle open which is **HB 2172**. The House has put together into **SB 223** the following bills, **SB 196** and **HB 2145**. Given that the contents of House Substitute for **SB 223** will be amended into the shell of **HB 2172**.

House Substitute Bill SB 223 contains the contents of: **HB 2145 - Consumer credit code, regulations, penalties; SB 196 - Kansas mortgage business act amendments; and SB 223 - Payday loans; changes affecting fees and military personnel**

There was some discussion regarding concerns over mixing these bills together. Mr. Wilke, Revisor, offered an explanation that satisfied the committee.

Senator Barone moved to put the contents of **House Substitute SB 223** into **HB 2172** and designate the amended bill as a substitute bill. Senator Brungardt seconded the motion. The motion carried.

Senator Steineger asked if this rolled together all three of the bills? Chair Teichman, yes. Senator Steineger announced that he had a motion to add an amendment to **HB 2172**. This amendment would address the car

CONTINUATION SHEET

MINUTES OF THE Senate Financial Institutions and Insurance Committee at 9:30 A.M. on March 22, 2005 in Room 234-N of the Capitol.

title loan industry by putting 120% per annum cap on the amount the industry can charge the consumer on a title loan. This would bring the car title loan people under further regulation by the bank commissioner. The amendment is called the "Loan Max Amendment."

There was much discussion about Senator Steineger's timing in bringing this issue before the committee between the committee. Senator Brungardt and Senator Wilson stood in opposition of the amendment because there was never a hearing for discussion.

The committee took a vote and the amendment dies.

Senator Steineger moved to add the Loan Max Amendment to **HB 2172**. Senator Barone opposed the motion. The motion failed.

Senator Brownlee moved to pass **HB 2172** as amended out favorably. Senator Schmidt seconded the motion. The motion carried.

Madam Chair readdressed **HB 2357**.

Brad Smoot, American Insurance Associations, stated that at a glance, he has many concerns about the KTLA amendments, mostly because of the assertion that much of this amendment comes from the existing environmental law. The language the KTLA is proposing to strike is directly out of the current state's environment audit law. Then there is other language that cannot be found anywhere.

Senator Brownlee suggested leaving the language the way it already is.

Callie Denton, Kansas Trial Lawyers Association, stated that they have concerns if their language is not adopted.

Senator Brownlee moved **HB 2357** be passed as amended, Senator Schmidt seconded the motion. There was a show of hands vote and the motion passed five to three with Senator Wilson, Senator Barone and Senator Steineger voting no.

Madam Chair announced the remaining four sets of committee minutes would be delivered to each committee member for approval within three days of the time they received them.

The meeting was adjourned.