

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 9, 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, KID
Judi Stork, OSBC
Doug Wareham, KBA

Others attending:

See attached list.

Madam Chair announced today's business would be hearings on **SB 102** and **SB 114**.

Madam Chair opened the hearing on **SB 102**.

SB 102 - Insurance; closing a block of business; notice to policyholders required

Melissa Calderwood provided an overview of **SB 102**.

Jarrold Forbes, Kansas Insurance Department, testified before the committee in support of **SB 102**. (Attachment 1) Jarrold explained the bill requires a written notice of the carrier's decision to close a block of business to each existing policyholder. **SB 102** also places a 60-day time limit for the consumer to purchase like coverage. Chair Teichman offered her understanding that some do notify but not in writing. Jarrold stated that is correct. Senator Brungardt questioned the like coverage, if a person has major medical with Company A and they are no longer going to write me, do they have to tell about Company B's policy? Jarrold answered no, there is a negotiation conference between the company and the department to determine if the company they were with still has like coverage and the department and the companies agree that there is not like coverage in that company, they do not have to recommend it to their competitors.

Chair Teichman stated that the only change in what the law is right now is to notify by writing the policyholder. Ken Wilke, asked if this allows a company to change the coverage during the contract agreed policy? Chair Teichman asked if in Company A, B & C an agent drops C and they have no like coverage, do they have to continue it? Jarrold answered most times when a company closes a block of business it is effective at the renewal dates of the policyholders. Ken stated that the closed block takes effect when it comes time for renewal.

Madam Chair asked for other questions, there were none and the hearing on **SB 102** was closed.

Madam Chair opened the hearing on **SB 114**.

SB 114 - Banks and banking; civil penalty authority for state bank commissioner.

Melissa Calderwood, Kansas Legislative Research Department, provided an overview.

Judi Stork, Deputy Bank Commission, offered testimony in favor of **SB 114**. (Attachment 2) Judi stated that the office of the bank commission's primary goal is for the protection of the consumer. The civil money penalties would deter the individual employees and officers as well as banks and trust companies from violating the law. Judi stated that 36 states have the power to levy civil money penalties and it is only to be used to enforce compliance or very wrongful conduct.

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Judi provided written testimony from Richard D. Rucker, President of Home Bank & Trust Company, in favor of **SB 114** (Attachment 3). Also, testimony from Neil Milner, Conference of State Bank Supervisors, in favor of **SB 114**. (Attachment 4)

Madam Chair offered as a matter of clarification when the banking commissioner's office is talking about the banking board, they are talking about the state banking board, not a local banking board. Judi offered further clarification stating the banking board is made up of nine members. There were no other questions.

Doug Wareham, KBA, testified on **SB 114** by taking a formal position as neutral. (Attachment 5) The KBA does agree that the commissioner does need the appropriate tools to enforce the banking laws to insure that he banks are safe and sound. One concern is the possibility of multiple fines by multiple regulators being imposed for the same violation. Doug provided a balloon amendment (attached) that adds language in line 29. Also, lines 37 through 39 have been stricken. Doug stood for questions.

Chair Teichman asked if Doug's balloon, by replacing lines 37 through 39, would clarify what the OSBC banks will do. Doug believes that the KBA's proposal is much clearer. Ken Wilke questioned if the KBA's proposed amendment would prevent the bank commissioner's office from imposing the civil penalty for something that may have been considered a violation of other acts. Does this prevent stacking by other agencies? Doug deferred comments to their associate general counsel, Kathy Olsen.

Chair Teichman asked if when you have multiple agencies looking to fine banks, would it not be acceptable for them to do their own fining? Ken stated that they do their own fining. Chair Teichman stated in that case, a bank or financial institution deserves to have a fine from the other regulatory agencies, the bank or other financial institutions. Ken stated the current language allows the bank commissioner to take those other factors into consideration.

Senator Wysong asked if the FDIC is first in fining, does this mean they cannot stack and will there be stacking after them? Ken answered that this would prevent the FDIC from stacking on to what the other has already done, but does not prevent the others from stacking. Chair Teichman asked if it would be advisable to add the balloon and add language back into lines 37 through 39? Ken stated, if you leave the language in lines 37 through 39, giving the bank commissioner discretion, it would basically bar them from doing anything at all if another agency has an action.

Senator Barone asked what the other states have done? Ms. Stork answered, 6 out of the 7 states they looked into, do not have the balloon provision in their law and this particular law is modeled after the Colorado law. Doug Wareham stated the Banking Commissioner's office has given some level of comfort that there would not be multiple fines for the same violation. Chair Teichman asked Ms. Stork, how many banks are affected today with this problem and was it a fund raising effort by the commissioner's office? Ms. Stork answered, none. They already have a fee fund, an education fund and a separate consumer education fund. Chair Teichman asked if this bill was an intermediate move made before the commission would pull a charter? Ms. Stork stated, that this is the enforcement action that exists.

Commissioner Norris stated two things of importance. The commissioner cannot go wild, there has to be approval by the Banking Board. Secondly, the bank fee account would be set up from fines collected because we felt this money could be used for enforcement costs and for their education program. It was not to be spent on whatever.

Ken Wilke, in following up on Senator Barone's comments. stated that he has been involved in civil penalties in various situations. The state has some statutes directing where it goes into fee funds. Some go into the general fund and one or two that go into the education fund. Ken stated that they could deal with that issue.

Madam Chair directed the committee to think about **SB 114** and closed the hearing on **SB 114**.

Madam Chair reopened the hearing **SB 101**.

SB 101 - Banks and banking; prohibition of employment of officers or directors who have been

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removed for cause.

Questions, there were none.

Senator Wysong moved to pass **SB 101** out favorable, seconded by Senator Steineger. The motion carried.

Madam Chair announced next the committee would have action on **SB 104**;

SB 104 -Banks and banking; examination of certain business entities affiliated with banks or trust companies.

Senator Wysong questioned the definition of what was grandfather affiliate relationship and were there any problems with the actual intent of the parent and its affiliates. Madam Chair pointed out that this will give the same ability that national banks have now at the state level.

Senator Brownlee moved to pass **SB 104** out favorable, seconded by Senator Wysong. The motion carried.

Meeting adjourned at 10:06 a.m.