

MINUTES OF THE HOUSE INSURANCE COMMITTEE

The meeting was called to order by Chairman Clark Shultz at 3:30 p.m. on January 26, 2010, in Room 152-S of the Capitol.

All members were present except:

Representative Paul Davis - excused

Committee staff present:

Bruce Kinzie, Office of the Revisor of Statutes
Sean Ostrow, Office of the Revisor of Statutes
Melissa Calderwood, Kansas Legislative Research Department
Lauren Douglass, Kansas Legislative Research Department
Sue Fowler, Committee Assistant

Conferees appearing before the Committee:

William W. Sneed, Kansas County Association of Multi-Line Pools
John H. Meetz, Kansas Insurance Department
Luke Bell, Kansas Association of Realtors
Representative Nile Dillmore, District 92

Introduction of Bills:

Representative Dillmore, District 92, requested introduction of a bill which would amend a committee bill regarding insurance scoring statutes. Representative Swenson moved for introduction of the bill. Seconded by Representative Peck. Motion passed.

Representative Peck made a motion to introduce a bill in regard to health insurance plans and coverage for abortion procedures. Seconded by Representative Olson. Motion passed.

Hearing on:

HB 2500 Allowing a municipal pool to apply for a certificate of authority with proof of reinsurance approved by the insurance commissioner.

Sean Ostrow, Office of the Revisor of Statutes, gave a brief overview on **HB 2500**.

Proponents:

William W. Sneed, Kansas County Association of Multi-Line Pools, (Attachment 1), appeared before the committee in support of **HB 2500**.

John H. Meetz, Kansas Insurance Department, (Attachment 2), presented written testimony in support of **HB 2500**.

Hearing closed on **HB 2500**:

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.

Sean Ostrow, Office of the Revisor of Statutes, gave a brief overview on **HB2501**.

Proponents:

William W. Sneed, Mortgage Insurance Companies of America, (Attachment 3), appeared before the committee in support of **HB 2501**.

Luke Bell, Kansas Association of Realtors, (Attachment 4), gave testimony before the committee in support of **HB 2501**.

CONTINUATION SHEET

Minutes of the House Insurance Committee at 3:30 p.m. on January 26, 2010, in Room 152-S of the Capitol.

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

Hearing closed on **HB 2501**.

Representative Grant moved without objection to pass the January 19, 2010 and January 21, 2010 committee minutes as written.

The next meeting is scheduled for January 28, 2010.

The meeting was adjourned at 4:07 p.m.

TO: The Honorable Clark Shultz, Chairman
House Insurance Committee

FROM: William W. Sneed, Legislative Counsel
Kansas County Association of Multi-Line Pools

SUBJECT: H.B. 2500

DATE: January 26, 2010

Mr. Chairman, Members of the Committee: Please be advised that my firm represents the Kansas County Association of Multi-Line Pools ("KCAMP"), and at our request, your Committee introduced H.B. 2500. KCAMP is a member-owned and -funded property liability self-insurance pool. KCAMP was originally formed under the laws of Kansas by the Kansas Association of Counties, for the benefit of counties. Today, KCAMP is not associated with KAC and operates as a stand-alone organization. KCAMP is managed and operated by its members through a Board of Trustees, which is made up of elected officials from member counties. KCAMP is structured with the intent that contributions (premiums) of the member counties will fund operations and expected losses of the pool and produce equity. KCAMP is required by law to have an assessment feature which helps guarantee the financial condition of the pool. To that end, KCAMP is regulated by the Kansas Insurance Department, and in particular, its financial well-being is closely monitored by the Insurance Department.

Currently, K.S.A. 12-2618 details various requirements of the pool. In particular, Kansas law requires that the pool provide specific and aggregate excess insurance. This was put in place as an additional safeguard to the financial integrity of the pool. This requirement may be waived if the insurance commissioner finds that there is an adequate surplus of funds available to the pool. In recent years the Insurance Department, after careful evaluation of the pool's finances, has agreed that specific and aggregate excess insurance was not needed for the additional protection. However, KCAMP's board felt it prudent to provide some additional safeguards to the financial integrity of the pool. Thus, several years ago KCAMP purchased reinsurance as a form of additional protection.

During 2009's financial examination, the Insurance Department pointed out to KCAMP that reinsurance was not specifically allowed under Kansas law. Even though the reinsurance would in essence provide the same protection as specific and aggregate excess insurance, since it was not specifically allowed, the Department informed us that retaining reinsurance, although still providing extra protection, would not be allowed on our statutory financial statement.

Currently in today's marketplace, reinsurance, although expensive, is substantially less expensive than specific and aggregate excess insurance. Thus, the Board of Directors of KCAMP felt it appropriate to come to the Legislature and request a minor change to current law

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that would allow reinsurance to be used by pools. As an additional protection, such reinsurance would only be allowed if approved by the Kansas Insurance Department.

Keeping costs down, particularly for local units of government, is very important, particularly in today's financial world. We believe this is an additional way of helping counties keep costs down, thus ultimately helping the Kansas public.

Therefore, we would respectfully request that at the appropriate time, the House Insurance Committee act favorably on H.B. 2500.

I am available for questions at your convenience.

Respectfully submitted,



William W. Sneed

WWS:kjb

cc:

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Kansas Insurance Department

Sandy Praeger, Commissioner of Insurance

WRITTEN TESTIMONY ON HB 2500 and 2501

HOUSE INSURANCE COMMITTEE January 26, 2010

Mr. Chairman and Members of the Committee:

The Insurance Department would like to offer written testimony in support of both HB 2500 and HB 2501. We did not propose either bill however both bills seek to offer solutions for insurance companies facing unique challenges and we are supportive of both efforts to overcome those challenges.

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

John Meetz
Government Affairs Liaison

House Insurance
Date: 1-26-10
Attachment # 2

TO: The Honorable Clark Shultz, Chairman
House Insurance Committee

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

SUBJECT: H.B. 2501

DATE: January 26, 2010

Mr. Chairman, 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 PrivateMI 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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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

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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.

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

WWS:kjb

cc:

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To: House Insurance Committee

Date: January 26, 2010

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

Chairman Shultz and members of the House 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 public 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 House Insurance 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.

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Attachment # 4



Kansas Insurance Department

Sandy Praeger, Commissioner of Insurance

WRITTEN TESTIMONY ON HB 2500 and 2501

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Mr. Chairman and Members of the Committee:

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

John Meetz
Government Affairs Liaison

House Insurance
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