

Approved:  
Date: March 19, 2002

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 13, 2002 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 Bunten, Committee Secretary

Conferees appearing before the committee:

Matthew All, Kansas Insurance Department  
John C. Gann, Kansas Association of Insurance and Financial Advisors  
David Brant, Kansas Securities Commissioner  
Wiley Kannarr, Office of the Kansas Securities Commissioner  
Terry Humphry, Kansas Trial Lawyers Association  
Doug Head, Executive Director, Viatical & Life Settlement Association of  
America - Orlando

Others attending: See attached list.

**Hearing on HB 2640 - NAIC Model Viatical Settlements Act**

Matthew All, Kansas Insurance Department, testified before the Committee in support of **HB 2640** which would repeal the existing law relating to viatical settlements and enacts the Viatical Settlement Act of 2002. Mr. All noted that the bill contains the same language as 2001 **HB 2306**, but with additional changes as outlined in his written testimony. (Attachment 1) During Committee discussion it was noted that seven states have enacted the new model as referenced in the bill.

John C. Gann, Kansas Association of Insurance and Financial Advisors, testified before the Committee in support of **HB 2640** and outlined several good reasons why the viatical and life settlement transactions should be regulated as shown in his written testimony. (Attachment 2)

David Brant, Kansas Securities Commissioner, also expressed his support for the bill, and noted that his agency has handled thirty-one cases involving viatical investments. 131 Kansans have invested a total of almost \$9.2 million, \$1.5 million had been repaid, and some amounts have been totally lost. He noted that the remainder is at-risk and outstanding with the investors uncertain about if and when they would receive the return on their principal. Mr. Brant further explained that his office has investigated viatical settlement contracts, and to date, they have identified 18 insurance agents who sold risky, unregistered investments to their clients. (Attachment 3) During Committee discussion it was pointed out that viatical and life settlement transactions were started with the influx of AIDS patients in need of cash. Insurance agents are usually paid a 10% commission.

Wiley Kannarr, Office of the Kansas Securities Commissioner, testified in support of **HB 2640** and provided information on the numerous administrative actions taken by the Securities Commissioner's Office since March 1998 as well as regulatory actions in Oklahoma and Arizona. Mr. Kannarr noted that the bill would provide the Securities Commissioner with the ability to adopt the results of the project group formed by NASAA for the purpose of creating a uniform statement of policy to be employed by the states in determining eligibility of viaticals to be sold in each jurisdiction. (Attachment 4)

Terry Humphry, Kansas Trial Lawyers Association, expressed her support for the bill and the amendments, as adopted by the House Insurance Committee and House Committee of the Whole, which would allow records to be released to individuals harmed by such fraudulent acts at the discretion of the commissioner or pursuant to a court order. (Attachment 5)

Doug Head, Executive Director, Viatical & Life Settlement Association of America , Orlando, testified before the Committee in opposition to the bill that related specifically to the amendments offered by the Kansas Trial Lawyers Association and language provided by the NAIC. Mr. Head noted that the legislation does contain some major provisions of which they approve, but they object to issues relating to NAIC model legislation that carry over into the Kansas Proposal as outlined in his written testimony. (Attachment 6)

### **Adjournment**

The meeting was adjourned at 10:30 a.m. The next meeting is scheduled for March 14, 2002.

