



Testimony in Support of SB 166:

“An Act pertaining to the Insurers Supervision, Rehabilitation and Liquidation Act”

By

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House Insurance Committee

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Chairman Shultz and members of the Committee, the American Council of Life Insurers ("ACLI") thank you for this opportunity to express support for SB 166.

The ACLI is a national trade association with more than 300 life insurer and fraternal benefit society member companies operating in the United States. ACLI members represent more than 90 percent of the assets and premiums of the life insurance and annuity industry. There are 265 ACLI member companies providing financial and retirement security to Kansas families. Ninety-two percent of all life and annuity payments in Kansas come from ACLI member companies. Eighty-nine percent of the life insurance coverage in Kansas is provided by ACLI member companies.

Kansas domestic insurers are at a disadvantage compared to non-insurance competitors and insurers domesticated elsewhere due to the fact that currently our insurance law hampers the Kansas insurers' ability to enter into certain financial contracts which help offset their long term investment risks. The enactment of SB 166 would provide amendments to Kansas' insurance law consistent with the National Association of Insurance Commissioners ("NAIC") Insurer Receivership Model Act and would assist domestic insurers in managing their investment portfolios.

Prudent management of an insurer's assets and liabilities is fundamental to ensuring solvency. Insurance companies' investment portfolios contain a wide variety of assets to provide diversification, stability and to manage risk. Their portfolios often include financial contracts whose value is derived from other assets, liabilities or indexes that are used to transfer risks among parties. These financial contracts are referred to as derivatives. These financial contracts give insurers the tools to more effectively manage their assets and liabilities. They are often used to guard against the risk of sudden changes that might affect the value of a company's assets or liabilities, such as changes in interest rates or foreign currency exchange rates. The contracts help insurers optimize their investment selection because they offer greater flexibility, broader options and higher relative value than other potentially riskier investment choices. They enhance the ability of insurers to manage their investment portfolio and overall risk position to better protect long term policyholder interests.

Federal banking and bankruptcy laws specifically allow termination and netting of derivative contracts, but these laws do not apply to insurance companies. Insurance companies are regulated by state law and must have specific provisions in place in the insurance laws of their state of domicile which recognize netting transactions. Kansas currently does not have termination and netting provisions in place in its insurance insolvency law. Thus, if an insurer with these types of financial contracts in place with another financial institution were to enter into a rehabilitation or liquidation proceeding under the provisions of Kansas' insurer insolvency law, netting may not be recognized.

Domestic insurers are at a serious disadvantage because netting agreements are not specifically recognized under our insolvency law. This makes banks and other financial institutions reluctant to enter into these contracts with Kansas-based insurance companies. These other financial institutions' laws allow for termination and netting and they understandably want the same certainty from the party with which they are contracting. The result is that some financial institutions will not engage in these financial transactions with Kansas insurers. Other financial institutions may engage in these transactions with a Kansas insurer, but they will limit the number of transactions or charge a "risk premium" to take into account the absence of netting. This reduced availability or additional cost reduces the effectiveness of such transactions for Kansas domestic insurers.

SB 166 will provide the necessary clarity needed by Kansas insurance companies as they utilize qualified financial contracts to manage risk and to diversify investments for the benefit of their policyholders. SB 166 will eliminate the present competitive disadvantage hampering Kansas insurance companies by clarifying the rights of Kansas insurers' qualified financial contract creditors.

Thank you for your favorable consideration of SB 166.

Respectfully submitted,

A handwritten signature in black ink that reads "James D. Hall". The signature is written in a cursive style with a large, stylized initial "J".

James D. Hall