

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 17, 2009, in Room 136-N of the Capitol.

All members were present.

Committee staff present:

Bruce Kinzie, Office of the Revisor of Statutes
Melissa Calderwood, Kansas Legislative Research Department
Terri Weber, Kansas Legislative Research Department
Beverly Beam, Committee Assistant

Conferees appearing before the committee:

Melissa Calderwood, Principal Analyst, Research Department
Bob Alderson, Attorney, National Association of Public Insurance Adjusters ([Attachment 1](#))
Scott DeLuise, National Association of Public Insurance Adjusters ([Attachment 2](#))
Kelly Comer, General Manager, Femco, Inc. ([Attachment 3](#))

Others attending:

See attached list.

The Chair called the meeting to order and welcomed everyone to the meeting.

Hearing on

SB 105 - Enacting the public adjusters licensing act.

Melissa Calderwood gave an overview of **SB 105**. She stated that **SB 105** would provide for the licensing of public adjusters. She said currently, public adjusters are not allowed in Kansas as their work is considered the unauthorized practice of law. She said the bill would restrict public adjusters to work only first party claims under commercial insurance contracts. The bill would require that the Kansas Insurance Commissioner be responsible for licensing of public adjusters. The bill outlines the process for application for a license to work as a public adjuster. She said in addition, the bill permits the Insurance Commissioner to require a criminal history record check, performed by the Kansas Bureau of Investigation, for the determination of the suitability of an individual applying for a public adjuster license.

Ms. Calderwood said the Kansas Insurance Department indicates that the passage of **SB 105** would have a fiscal effect on its operations. The Department states that one-time costs associated with implementing **SB 105** would be approximately \$10,000. The additional expenditures include information technology updates and development of forms for the new class of license. She noted that ongoing expenditures would be related primarily to criminal history background checks performed by the Kansas Bureau of Investigation. The Kansas Insurance Department would be responsible for paying the KBI for its services, though it is unclear as to whether the applicant is responsible for this cost in addition to the license fee or if the cost is included in the applicant's license fee. She said the Kansas Insurance Department estimates that it would issue between 100 and 150 public adjuster licenses with application fees of \$100 per licensee, for total receipts between \$10,000 and \$15,000. The Kansas Insurance Department states that the bill could be implemented within the Department's current approved staffing level. Finally, Ms. Calderwood noted that the Kansas Bureau of Investigation indicates that it would incur additional workload and expense to process these record checks and to prepare and distribute responses. She said since the KBI's fee structure is set to recover the costs of providing these record check services, the fees would provide the funding necessary for the KBI to support the additional workload.

Bob Alderson, representing the National Association of Public Insurance Adjusters, testified in support of **SB 105**. He stated in summary that a comprehensive licensing bill such as **SB 105**, authorizing public adjusters to perform first party public adjusting services, is warranted in Kansas and would serve the dual goal of preventing the unauthorized practice of law (third-party claims work) and protecting the commercially insured by giving them access to trained claims professionals who can present their claims, while making sure that unscrupulous public adjusters do not operate in the State of Kansas. ([Attachment 1](#))

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Scott DeLuise, on behalf of the National Association of Public Insurance Adjusters, testified in support of **SB 105**. Mr. DeLuise said most states' Department of Insurance are very careful to ensure that all adjusters are duly licensed, facilitating protecting consumer interests. He said the question that continues to arise regarding Public Adjuster licensing is why bother, since Kansas has not previously had such an Act. The answer is that licensing Public Adjusters would ensure that the Kansas Insurance Department has the authority to approve the credentials, honesty and integrity of the individual licensee who would handle first party commercial claims for consumers in the state. He said without a law, the commercial consumer is subject to the whims of the insurance carriers, and would have no expert assistance in the measurement, preparation and presentation of these highly complex claims. He said he believes passage of **SB 105** is warranted. He said the people of Kansas deserve such protection. (Attachment 2)

Kelly Comer, General Manager, Femco, Inc., testified in support of **SB 105**. Mr. Comer told his story of how he lost his manufacturing company to fire. He said his claim was far more involved than anticipated and about a month into the process of rebuilding, they determined they needed a public adjuster. He said his situation quickly changed for the better and his repairs were underway immediately. He said the Public Adjuster was a life saver. He helped Femco stay in business, pay employees and keep and satisfy his customer base. He said without the Public Adjuster, his company would not have survived. (Attachment 3)

The Chair closed the hearing on **SB 105**.

Action on

SB 163 - Consumer protection, mortgage trigger lead.

Amendments to **SB 163** were presented by Matt Goddard, Heartland Community Bankers. Mr. Goddard said one of the balloons is on Page 4 and is in direct response to Senator Brownlee's suggestions at the hearing and the other one is from Page 2 that clarifies something to make sure we are not interfering with existing business relationships.

Mr. Goddard said in Line 9, Page 2, the words "with" and "the" should be stricken and in Line 10, Page 2, the words "applicant has an outstanding extension of credit" should be stricken. Lines 9 and 10 should read, "whom the applicant has initially applied for credit or whom holds or services an existing extension of credit of the applicant who is the subject of the report is not considered a mortgage trigger lead." On Page 4, Line 30, the words "a written or" should be stricken. It should read (13)(A) making an oral solicitation for products or services. In Line 37 the following should be added, (B) making a written solicitation for products or services based on a mortgage trigger lead unless the solicitation clearly and conspicuously states on the first page of the solicitation that the solicitor is not affiliated with the lender or broker with which the consumer initially applied and that the solicitation is based on personal information about the consumer that was purchased, directly or indirectly, from a consumer reporting agency without the knowledge or permission of the lender or broker with which the consumer initially applied. Clear and conspicuous shall include legible type in contrast by typography, layout or color with other printing on the first page of the correspondence; and (C) if applicable, any solicitor under clause (A) or (B) shall be in compliance with the provisions of the Kansas Mortgage Business Act and any other law or regulation. (Attachment 4)

Senator Steineger moved approval of the amendments as presented. Senator Brownlee seconded. Motion passed.

Senator Brownlee moved to pass the bill out favorably. Senator Colyer seconded. Motion passed.

Action on

SB 39 - School districts; direct investment moneys.

The Chair called on Doug Wareham, Kansas Bankers Association, to explain the amendments to this bill. (Attachment 5)

He said this amendment is supported by the Kansas Bankers Association, Heartland Community Bankers and

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the Community Bankers Association. Mr. Wareham said State Treasurer McKinney is in favor of **SB 39** and agrees with the amendments. The Pooled Money Investment Board is also in support of this bill.

Senator Barnett moved passage of this bill as amended. Senator Kelsey seconded. Motion passed.

Action on

SB 49 - Insurance coverage, mental health, alcoholism drug abuse or other substance use disorder benefits.

The Chair said **SB 49** has to do with mental health parity and complying with the federal law.

Senator Kelsey moved to pass SB 49 out favorably and put it on the consent calendar. Senator Barnett seconded. Motion passed.

The next meeting is scheduled for February 18, 2009.

The meeting was adjourned at 10:30 a.m.