



# Kansas Insurance Department

Sandy Praeger, Commissioner of Insurance

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## TESTIMONY ON HB 2508

### HOUSE INSURANCE COMMITTEE March 14, 2012

Madam Chair and Members of the Committee:

I am Kris Kellim with the Kansas Insurance Department, with me today is Ken Abitz, Director of our Financial Surveillance Division. Thank you for the opportunity to offer information on HB 2508.

An insurance holding company refers to a company that consists of two or more business entities, at least one of which is an insurer. Kansas insurance holding company laws apply to domestic insurance companies that are a part of a larger holding company. The over-arching purpose of our insurance holding company laws as well as HB 2508 is to ensure that holding company operations outside of the domestic insurance company do not pose a hazard to the sound operation of the domestic company, and ultimately to protect Kansas insurance consumers from such hazards.

The importance of state-based insurance holding company regulation has been elucidated by the unfortunate circumstances involving AIG and the recent financial crisis. The details surrounding these events are well-documented. For the sake of brevity, I will simply note that AIG's investment in risky collateralized debt instruments, which crippled its financial operations and lead to the federal bailout of the AIG holding company, did not jeopardize its insurance operations. This was due to the conservative, state-based regulations of its insurance operations. The moral of this story is that state regulation of domestic companies within a holding company can play a vital role in guarding against hazardous operations outside the state, and possibly the country.

HB 2508 would make a series of changes to modernize and improve our existing insurance holding company laws. Although the bill adds two new sections and amends ten existing substantive sections, most of the changes within the bill are either technical or minor in nature. Only six of the proposed amendments represent new or significantly altered regulation. These can be found in New Section 1, Section 4, Section 5, Section 6, Section 7, and Section 8.

New section 1 (*p. 1, l. 6*) provides the Commissioner the ability to participate in what is referred to as a "supervisory college" for any domestic insurer that is part of a holding company with international operations to help assess possible hazards posed to the domestic company by the international holding company. A supervisory college would essentially act as a clearinghouse for regulatory information, through which the Commissioner can gather information from other

Senate Financial Institutions and  
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Date 3-14-12  
Attachment # 5-1

regulators, including state, federal, or international agencies, in order to assess the condition of the holding company as it relates to the domestic insurer. It is also important to note the Commissioner's participation in a supervisory college is discretionary, and no jurisdiction or authority could be delegated to a supervisory college.

Section 5 creates a new requirement whereby a domestic insurer within a holding company must file an annual enterprise risk report identifying the material risks within the insurance holding company system that could pose enterprise risk to the insurer. This requirement applies to any domestic insurer within a holding company system. The effective date for this provision is May 1, 2014 in order to provide companies adequate time to comply with the new requirements.

Both supervisory colleges and the enterprise risk reporting are efforts to assess systemic risks posed to domestic insurers by their respective holding companies. All insurers will be required to participate in the bottom-up analysis by monitoring and reporting on risks within their holding companies. For domestic insurers within large, international holding companies, the Department will have the ability assess such risks to the insurer from a top-down approach by reviewing a holding company's strategic operations with other regulators.

There are two other sections that concern the enterprise risk report requirement. Section 4 requires an entity that merges or acquires control of a domestic insurer to follow the enterprise risk reporting rules (*p. 6, l. 2*). Also, Section 7 clarifies that the scope of an examination of any insurer includes the enterprise risk of its affiliates (*p. 16, l. 13-39*), and requires an insurer to produce information accessible information that is reasonably necessary (*p. 2, l. 9-22*). The bill's current language places this requirement on an insurer's affiliates in several instances as well. Pursuant to discussion with industry interests, the Department would request that all references to an insurer's "affiliates" in Section 7 be stricken, thereby removing a direct requirement on an affiliate to produce information. This change would also be consistent with the model act. Violations of the requirements under Section 7 would be subject to a \$1,000 fine for each day's delay. This amount has been reduced from \$5,000 pursuant to discussions with industry interests. Finally, Section 7 gives the Commissioner power to issue subpoenas in determining compliance with the act.

The final two amendments of significance are Sections 6 and 8. Industry interests have indicated these provisions in particular are at the behest of the industry. Section 6 concerns standards for material transactions between insurers and their affiliates (*p. 12-14*). Regulators have worked with industry interest to draft this language. In addition, Section 8 contains numerous provisions that work to enhance the protection of confidential information shared with the Department, other regulatory entities, or the NAIC (*p. 17-20*). This section too is a result of cooperation with industry interests.

It is also important to note that the amendments proposed in HB 2508 are based on the current model insurance holding company act. As such, this bill is not only beneficial regulation, but a potential accreditation issue.

To summarize, HB 2508 is necessary to modernize our existing insurance holding companies laws, including establishment of new mechanisms for identifying systemic risks within a holding

company as well as enhancing protections for confidential company information. However, the ultimate purpose of this bill is to protect consumers who buy insurance from a domestic insurer from hazardous conditions within the insurer's holding company system.

Finally, I would note HB 2508 in its current form is a product of extensive discussions with industry interests. The Department is not aware of any opposition to the bill, and the following companies, associations, and industry professionals have indicated their support to the Department:

- Polsinelli Shughart, PC
- American Council of Life Insurers (ACLI)
- Kansas Association of Property and Casualty Insurers
- American Insurance Association (AIA)
- Security Benefit Life Insurance Company
- Farmers Alliance Mutual Ins. Co.
- Farmers Ins. Co.
- American International Group, Inc. (AIG)

For these reasons, we would ask the Committee to recommend HB 2508 favorable for passage.

Thank you for the opportunity to appear in support of this bill. We will be happy to stand for questions at the appropriate time.

Kris Kellim  
Government Affairs Liaison  
Kansas Insurance Department