

MINUTES OF THE HOUSE COMMITTEE ON INSURANCE.

The meeting was called to order by Chairperson Rep. Robert Tomlinson at 3:30 p.m. on February 13, 2001 in Room 527-S of the Capitol.

All members were present except: Representative Carlos Mayans

Committee staff present: Bill Wolff, Legislative Research
Ken Wilke, Legislative Revisor
Mary Best, Committee Secretary

Conferees appearing before the committee: Ms. Karen France, Kansas Association of Realtors
Ms. Kathy Greenlee, Kansas Insurance Department
Ms. Deloris Dalke, Hillsboro Real Estate Broker
Mr. Tom Krattli, J. C. Nichols, Inc.
Mr. Erik Sattorius, KC Regional Association of Realtors
Ms. Kathy Olson, Kansas Bankers Association
Mr. Roy Worthington, Kansas Land Title Association

Others attending: See Attached Guest List

Upon calling the meeting to order the Chairman called for a motion to approve the Minutes of January 9, 16, 18. The motion was made by Representative Dreher, seconded by Representative Grant and passed.

The committee was informed that the bill **HB 2209**- Title insurance; requiring certain disclosures and prohibiting certain actions, was being heard today and would be worked one week from today. With this information the Chairman recognized Ms. Karen France, Kansas Association of Realtors. Ms. France gave Proponent Testimony to the committee. A copy of the testimony is (Attachment #1) attached hereto and incorporated into the Minutes by reference. Ms France gave a detailed overview of the bill explaining the bill to the committee. She explained that this bill which describes a title company as a “controlled business”, cannot have more than 20% of its business come from its owners. This bill is to prevent business people from owning a title company because the 20% requirement is most difficult, if not impossible to meet. She stated that no real estate broker is going to refer business to another company.

Ms. France continued on to tell the committee that her people would like to remove a portion of the bill and insert some “reasonable guidelines” for these types of title companies. The language being referred to is on page 10 and the new language would begin on page 1, New Section 1, and would be the definition section. Section 2 would then state “...a title company owned by producers of business cannot accept an order for title insurance nor issue either a title commitment or a title policy unless they have done the following....” and she listed the step (5) in her testimony. She then explained that Subparagraph (b) of the New Section 2 “mirrors the anti-tying prohibitions in the federal legislation called the Real Estate Settlement Procedures Act, or RESPA for short.” She continued on to explain this paragraph. She continued on with Subparagraphs (c)(d) and (e), as well as New Sections 3,4,5. She then gave a timeline on the bill as it was before this committee was formed with the members sitting now.

Ms. France then continued on with Gramm-Leach-Bliley Act and explained what this Act entails and its impact on the bill. She informed the committee that the Federal Reserve was accepting comments as to whether banks should be allowed to engage in real estate brokerage activities. She explained the consequences if this bill is to remain as it is today and how there would be an uneven playing field and eliminate one of the “lifeboats” if they are to survive the expansion of the banking powers of some of the largest banks in the country. By giving them the ability to create business partnerships in communities, they (her clients) feel they can “rise to the challenge and survive.” Ms. France then listed several arguments that they anticipated the opposition might site and her response to these arguments. With this Ms. France stood for questions. A question was posed by Representative Kirk.

Ms. Kathy Greenlee, Kansas Insurance Department, was the next conferee to come before the committee. Ms. Greenlee gave Proponent Testimony to the committee and a copy of the testimony is ([Attachment #2](#)) attached hereto and incorporated into the Minutes by reference. Ms. Greenlee gave a more technical overview of the bill to the committee, and stated that they could find no “safe harbor.” She stated the federal law “changed the way the individual states regulate the business of insurance.” She also informed the committee the Insurance Department issued a formal opinion letter (in the Attachment) acknowledging that Kansas controlled business statute is preempted by federal law. The Kansas Insurance Department urges the legislature to repeal K.S.A. 40-2404(14)(f) and supports the consumer protections proposed by the new sections of this bill. Ms. Greenlee included a written overview of Gramm-Leach-Bliley. Ms. Greenlee then stood for questions. Questions were asked by Representatives McCreary, Boston,

Mr. Ross Wagner was the next conferee to offer support to the testimony. Mr. Wagner offered no written testimony. He represented Land America.

Ms. Deloris Dalke, Hillsboro Real Estate Broker, offered Proponent Testimony next. A copy of her testimony is ([Attachment #3](#)) attached hereto and incorporated into the Minutes by reference. Ms. Dalke believes the issue is the lack of competition in a community like Hillsboro. She does not feel the consumer is well served by one company and gave an illustration of companies in different areas and their fees. After her explanation she stated she felt a monopoly costs the consumers. Ms. Dalke concluded her testimony and stood for questions. There were none.

The next person to come before the committee was Mr. Tom Krattli, J.C. Nichols, Inc.. Mr. Krattli gave Proponent Testimony to the committee and a copy of the testimony is ([Attachment #4](#)) attached hereto and incorporated into the Minutes by reference. Mr. Krattli supported the previous testimony adding, “Because of limits placed on REALTORS by the current Kansas legislation realtors are unable to respond to these demands. These limits have not benefitted the consumers. In counties with only one title company, individuals can pay hundreds of dollars more for their title work than consumers in similar, adjacent counties with multiple title companies. We believe increased competition will benefit consumers via lower prices and better service.” Mr. Krattli concluded his testimony supporting the bill and stood for questions. There were none.

Mr. Erik Sartorius, Kansas City Regional Association of REALTORS, gave Proponent Testimony to the committee. A copy of the testimony is ([Attachment #5](#)) attached hereto and incorporated into the Minutes by reference. Mr. Sartorius gave much of the same testimony as previously heard. He confirmed the need for “one stop shopping” and the speedy service to the consumer. Mr. Sartorius stood for questions. There were none.

Next before the committee was Ms. Kathy Olson, Kansas Bankers Association, to give Neutral Testimony. A copy of the testimony is ([Attachment #6](#)) attached hereto and incorporated into the Minutes by reference. She explained that this prohibition does not apply to real estate transactions taking place in counties with a population of 10,000 or less. She stated that with the passage of Gramm-Leach-Bliley banks would be able to participate in the title insurance business indirectly through a financial subsidiary of the bank. She agreed that it is important that there is in place, meaningful disclosure and anti-tying protections.

Ms. Olson, continued to relate to the committee that the banks feel the “consumer is currently adequately protected when he or she walks into a bank to purchase an insurance product and will continue to be adequately protected if the insurance product purchased is title insurance. She then summarized the provisions providing protection to consumers purchasing insurance through banks. These points are included in her written testimony. She then discussed her concerns about competition between state-chartered and national chartered banks, disclosures and anti-tying. She also gave her interpretation of the *Barnett* decision and “not being enforceable against a national bank if the law frustrates, hampers, impairs or interferes with the ability of a national bank to exercise its insurance authority under federal law. Applying a dual set of disclosures may prompt a challenge by the OCC as imposing a law that would significantly interfere with a national bank’s ability to effectively compete in the title insurance business.” With this she stood for question.

Mr. Roy Worthington, Kansas Land and Title Association, was the last conferee to give testimony. A copy of Mr. Worthington's Opponent Testimony is (Attachment #7) attached hereto and incorporated into the Minutes by reference. Mr. Worthington stated that he and his people were against the bill because the 1991 law was upheld by the Kansas Supreme Court and that the "purpose of the law is to stimulate competition by decreasing vertical integration between producers of title business and title insurers." "It is very clear tht since preemption under Gramm-Leach-Bliley applies only to banks, that a state may continue to regulate non-bank entities." He feels the only way to keep the industry competitive and consumer friendly is to restrict the amount of controlled business an affiliated business dealing in title insurance can obtain, thus making title insurance companies compete for all of the public business. He stated a two fold plan for such restrictions. He stated the consumer has little or now interest in the selection process. He also said that regardless of how many controlled companies there are they will not seek our business beyond referrals unless they are force to. He feels after talking with come companies from Minneapolis, that prices have accelerated in the market place since controlled business has taken place and competition has been eliminated.

Mr. Worthington continued to state that disclosures alone do not protect the consumer since their main connection is with the real estate company and title charges are small portion of the costs involved. He did not feel the consumer had the knowledge, time or incentive to become informed shoppers for title insurance, and that they rely on professional real estate people for this information. He feels the existing way of doing business has functioned well for over a decade, promoted competition and consumer friendly title insurance industries. Mr. Worthington stood for questions. Questions were posed by Representatives Edmonds, Grant, and Phelps. Other questions were again fielded to Ms. Greenlee.

With no further testimonies and noone further wanting to speak to the bill the meeting was adjourned. The time was 5:30 p.m.

The next meeting will be February 14, 2001 and will be held at 4:30 p.m. in Room 526-S