

House Committee on Business and Consumer Affairs  
Subcommittee No. 1  
April 18, 1991 - Page

These minutes contain materials which paraphrase and/or summarize statements made during this session. Only text enclosed in quotation marks report a speaker's exact words. For complete contents of the proceedings, please refer to the tapes.

HOUSE COMMITTEE ON  
BUSINESS AND CONSUMER AFFAIRS  
SUBCOMMITTEE NO. 1

April 18, 1991  
1:00 P.M.

Hearing Room F  
Tapes 11 - 12

MEMBERS PRESENT: Rep. Jerry Barnes, Chair  
Rep. Lisa Naito

Rep. John Schoon  
Rep. Greg Walden

STAFF PRESENT: Terry Connolly, Committee Administrator  
Annetta Mullins, Committee Assistant

MEASURES  
CONSIDERED:

HB 2210 PH & WS

HB 2310 WS

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TAPE 11, SIDE A

009 CHAIR BARNES calls the meeting to order at 1:09 p.m. and opens the work session on HB 2310.

HB 2310 - REPEALS REQUIREMENT THAT PERSON FILING EFFECTIVE FINANCING STATEMENT WITH SECRETARY OF STATE'S CENTRAL FILING SYSTEM FOR FARM PRODUCTS ON CATTLE, HORSES OR SHEEP ALSO NOTIFY STATE DEPARTMENT OF AGRICULTURE OF FILING.

Witnesses: Frank Brawner, Oregon Bankers Association  
John McCulley, Oregon Cattlemen's Association  
Gary Johnson, Uniform Commercial Code Office, Secretary of State's Office

009 TERRY CONNOLLY, Administrator, reviews provisions of the bill and adds that the committee has received proposed amendments from the Oregon Bankers Association (EXHIBIT

A).

018 FRANK BRAWNER, Oregon Bankers Association: We had a working group and come to you with amendments that would not only delete the filing, but the function of this redundant filing with the Department of Agriculture. The fee that has been paid to the Department of Agriculture has been used for duplicating what the Secretary State's office has already provided them to send out to the inspectors. We found that function is no longer needed and could be discontinued and the duplicate filing and fees could be discontinued.

031 JOHN McCULLEY, Oregon Cattlemen's Association: We appreciate Mr. Brawner's concern about the cattlemen and we want to let the committee know that we support the amendments. We believe there is a better way to make sure the cattle aren't bought twice and we think that can be done through the existing provisions offered through the Secretary of State's office.

037 MR. BRAWNER: As we discussed in the working group, we wanted to let the cattlemen know what is available to them to make sure they are not going to be paying twice. The Secretary of State's office was kind enough to suggest that they could prepare a flier that the brand inspectors or field inspectors could have to give to both parties.

045 GARY JOHNSON, Uniform Commercial Code Office, Secretary of State: The handout (EXHIBIT B) is the proposed flyer we intend to issue to the interested parties.

063 MOTION: CHAIR BARNES moves that the amendments presented by the Oregon Bankers Association (EXHIBIT A) BE ADOPTED.

065 VOTE: CHAIR BARNES, hearing no objection to the motion, declares the amendments ADOPTED. All members are present.

065 MOTION: CHAIR BARNES moves that HB 2310, as amended, be sent to the full committee with a DO PASS recommendation.

069 VOTE: In a roll call vote, all members are present and vote AYE.

071 CHAIR BARNES declares the motion PASSED.

075 CHAIR BARNES opens the public hearing on HB 2210.

(Tape 11, Side A)  
HB 2210 - REVISES STANDARD VALUATION LAW.  
Witnesses: Jim Swenson, Insurance Division  
Jack Barnes, Farmers Insurance

073 MR. CONNOLLY reviews the Preliminary Staff Measure Summary (EXHIBIT C).

The Legislative Fiscal Analysis is hereby made a part of these minutes

(EXHIBIT D).

094 JIM SWENSON, Administrator, Insurance Division, Department of Insurance and Finance, introduces Lewis Littlehales, submits an expands on his outline of testimony in support of HB 221 0 (EXHIBIT E).  
>Bill applies to all forms of insurers for the CPA audit requirement.

301 CHAIR BARNES: Have you seen the amendments Mr. Barnes submitted (EXHIBIT F).

303 MR. SWENSON: We are fully supportive of the amendments he has submitted.

294 MR. SWENSON reviews the hand-engrossed HB 2210 containing amendments proposed by the division (EXHIBIT G).  
>Section 1 amends the statutes saying the request for a hearing must state the grounds for request for hearing.  
>Section 2 subjects insurance consultants to the same civil penalties as agents and adjusters; civil penalties may not exceed a maximum of \$1,000 for each offense. (4) modifies collection procedures if we impose a civil penalty by stating if the civil penalty is not paid within 10 days after an order becomes final, the order may be recorded with the county clerk and the penalty becomes a lien on interest in property. This is consistent with collection procedures for civil procedures in much of the statutes.  
>Sections 3 and 4 clarify the fee requirements for those wishing to become domestic stock insurers. These are more conforming and technical corrections than substantive.  
>Section 5 states the director may maintain the confidentiality of an order to an insurance company to cure an impairment if the director determines the public interest in protecting or salvaging the solvency of an insurer outweighs the public interest in disclosure.

TAPE 12, SIDE A

Issues discussed:

009 >Solvency and capital requirements. If assets are not sufficient to cover liabilities plus capital requirement, the company doesn't meet Oregon requirements, but it doesn't mean the company is insolvent. When the capital requirement is \$1.5 million, that is the amount by which the assets must exceed the liabilities.  
>Orders to cure impairments are for 90 days during which there would be confidentiality.  
>Division supervision of impaired insurance company.  
>Policy holders of insolvent insurance company are protected by guaranty funds. Health care service contractors are not subject to guaranty fund protection, but there is a provision in Oregon law that requires in the event of an impairment and liquidation the providers may not bill the

consumer for any amount not paid by the company in liquidation.

161 MR. SWENSON continues explaining the hand-engrossed bill:

>Section 6 amends statutes authorizing the director to place an insurer under supervision.

>Section 7 amends the requirement to require medical malpractice claims to be filed only by

insurers and eliminates the requirements for self-insurance associations.

This is a technical clean

up. Self-insurance associations were repealed in 1987 as part of the tort reform legislation.

>Sections 8, 9 and 10 have been deleted. Those statutes pertain to premium finance companies.

We weren't able to reach agreement and will be working to resolve the issues prior to next

session.

Sections 11, 12 and 13 clarify and standardize our fee authority for organizations applying for

certificates of registration or authority: Section 11 applies to health care service contractors,

Section 12 applies to legal expense organizations and Section 13 applies to motorist service clubs.

>Beginning at Section 14 is the solvency surveillance component of this legislation.

>Section 15 requires annual independent CPA audits of insurance companies. Amendments have

been added to include potential limitations on the length of service and to recognize standards

from other countries. The second amendment requires the CPA to report any adverse financial

condition and significant internal control deficiencies.

>The Standard Valuation Law begins at Section 16. There is a requirement that life insurance

companies must abide by in valuing the liabilities. There are certain methods, mortality and

morbidity tables as well as interest rates that must be considered.

Actuaries are required to

express opinions regarding those liabilities. Section 19 states that every life insurer has to

submit, annually, an opinion of a qualified actuary. The opinion of the qualified actuary must

state that the reserves and the related actuarial items not only were computed appropriately but

are based on assumptions that satisfy contractual provisions, are consistent with prior reported

amounts and comply with the laws of the state. That is a very important requirement which is

a part of the requirement for the State of Oregon to be certified by the National Association of

Insurance Commissioners (NAIC).

>The Director determines the standards of qualifications of the qualified actuary (page 9).

Section 19 (g) requires a memorandum be prepared supporting the opinion.

That memorandum

can be maintained on a confidential basis as noted in (i). Some insurance companies had the

concern that in developing their memorandum there might be some proprietary information

regarding how they price their product or how they are managing the affairs of those products.

We would respect that would be proprietary information that should not be generally divulged.

We would wish to have access to that type of information.

>On page 9, line 38, (2) begins the thrust of this new legislation. It states that unless exempted by the director by rule each insurer transacting life insurance in this state shall include in each memorandum required by (1) that there be a cash-flow testing of assets and liabilities.

TAPE 11, SIDE B

009 CHAIR BARNES: Have you considered putting part of this in administrative rule?

013 MR. SWENSON: It is a modest paragraph regarding the cash flow requirement. The administrative rule for this requirement will probably be 10 pages or more in length specifying what types of insurance companies are required to annually report cash flow testing. This will be very significantly amplified through the rule making process. This gives statutory authority to require that testing be performed. This section will not go into effective until the annual statement that would be required to be filed as of December 31, 1992. A lot of rule-making is required. In addition, the companies need to be fully prepared to conduct the kinds of test this law would require. It will be nationally required. We are one of five states considering this legislation this session.

036 Subsection (b), line 7, page 10, states the director may provide a transition period for establishing a higher reserve. Sections 20 through 28 merely restate existing valuation standards specified in mortality and morbidity tables, interest rates and the valuation method to be used by the company in valuing its liabilities. These requirements are very conservative. They were developed to be conservative to provide margins for safety. The requirement of the actuarial opinion and the cash flow testing is a further development to make certain the margins are adequate.

An amendment is added to Section 21 to correct an error that occurred in the NAIC model law where one section of the law was eliminated. The amendment will state that for products were marketed as group annuity policies prior to January 1, 1979, the interest rate will be six percent. Those marketed after January 1, 1979 will be valued at an interest rate of seven and one-half percent.

These amendments were reviewed by actuaries within the American Council of Life Insurance to make sure that they were appropriate. It is very important that standards of this nature be uniform from state to state. They did find an error in one of our formulas

on page 13 and there  
is an amendment to correct the error.

Section 29 has been amended to state that the first opinion required by (2)  
of Section 19, the cash  
flow testing, applies for the year ending December 31, 1992. The CPA  
audit requirements in  
Sections 31, 32 and 33 are applied respectively to SAIF Corporation,  
fraternal benefit societies  
and health care service contractors.

099 REP. WALDEN: What impact does Section 15 have on the State Accident  
Insurance Fund  
Corporation?

101 MR. SWENSON: I believe they are already obtaining CPA audits. I don't  
believe it changes  
anything they are already doing.

113 REP. WALDEN: Are other worker compensation providers also covered?

113 MR. SWENSON: Yes, they would be. Section 15 has a very broad  
application.

114 JACK BARNES, Farmers Insurance, submits and reads a prepared statement  
(EXHIBIT H)  
and explains their proposed amendments (EXHIBIT E).

151 CHAIR BARNES closes the public hearing and opens the work session on HB  
221 0.

170 MOTION: REP. WALDEN moves that the amendments contained in the hand-  
engrossed HB 2210 BE ADOPTED.

VOTE: CHAIR BARNES, hearing no objection to the motion, declares the  
amendments  
ADOPTED. REP. SCHOON is EXCUSED.

184 MOTION: REP. WALDEN moves that the HB 2210-1 amendments BE ADOPTED.

187 VOTE: CHAIR BARNES, hearing no objection to the motion, declares the  
amendments  
ADOPTED. REP. SCHOON is EXCUSED.

187 MOTION: REP. WALDEN moves that HB 2210, as amended, be sent to the full  
committee with a DO PASS recommendation.

206 MR. CONNOLLY: We will request Legislative Counsel to prepare the  
amendments in proper  
form and style for the full committee meeting.

212 VOTE: In a roll call vote, REPS. NAITO, WALDEN and CHAIR BARNES vote  
AYE. REP. SCHOON is EXCUSED.

215 CHAIR BARNES declares the motion PASSED.

217 CHAIR BARNES declares the meeting adjourned at 2:21 p.m.

Respectfully submitted, Reviewed by,

Annetta Mullins Terry Connolly  
AssistantAdministrator

EXHIBIT SUMMARY

- A -HB 2310, proposed amendments, Frank Brawner
- B -HB 2310, proposed flyer, Gary Johnson
- C -HB 2210, Preliminary Staff Measure Summary, staff
- D -HB 2210, Legislative Fiscal Analysis, staff
- E -HB 2210, outline of testimony, Jim Swenson
- F -HB 2210, HB 2210-1 amendments, Jack Barnes
- G -HB 2210, proposed amendments and hand-engrossed HB 2210, Jim Swenson
- H -HB 2210, prepared statement, Jack Barnes