

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. 2

April 2, 1991
P.M.

Hearing Room F 3:00
Tapes 5 - 6

MEMBERS PRESENT: Rep. Beverly Stein, Chair Rep. Carolyn Oakley Rep. Hedy Rijken Rep. John Schoon

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

MEASURES CONSIDERED: HB 2206 WS HB 3355 PH

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TAPE 5, SIDE A

010 CHAIR STEIN calls the meeting to order at 3:13 p.m. and opens the work session on HB 2206.

HB 2206 - REQUIRES PERSONS APPLYING FOR REGISTRATION AS COLLECTION AGENCY BUSINESS TO FURNISH \$10,000 SURETY BOND. Witnesses: Frank Brawner, Oregon Bankers Association Cecil Monroe, Division of Finance and Corporate Securities Jim Markee, Oregon Collectors Association

014 FRANK BRAWNER, Oregon Bankers Association: An irrevocable letter of credit is issued by a financial institution and is a promise to make a loan in the event something happens. Irrevocable letters of credit are used internationally in import and export, with federal agencies and in certain areas in place of a surety bond. The amendments we have prepared (EXHIBIT A) are optional amendments. They would allow a \$10,000 surety bond or an irrevocable letter of credit. The features of an irrevocable letter of credit can be made to be the same as a bond payable to the State, held by the State and the utilization of an irrevocable letter of credit can be the same as a bond. Details are negotiated at the time the letter of credit is requested. A fee is charged; in some cases it can be more expensive than a surety bond. It would depend on the credit of the applicant, the period of time and the circumstances. The interest begins when the loan is consummated.

040 CECIL MONROE, Administrator, Division of Finance and Corporate Securities, Department of Insurance and Finance: We are the regulator for financial institutions and the debt collectors under Chapter 697. We would support the amendments and find them to be an acceptable alternative.

048 CHAIR STEIN: My understanding of how a bond works is if there is a default, the complaining party must go to court and get a judgment. If the judgment cannot be executed on in the normal execution order, then you can come to the State and ask to be able to go against the bond. Is that correct?

060 MR. MONROE: That is one alternative. However, you could directly make claim on the bond without going through the other steps. We consulted with Kathy Dahlin, Department of Justice, and she explained that the options are fairly great. If we believed there were assets in the licensee's business, we might request they go the route you described. We could also direct the surety to pay the claim.

I am embarrassed to have to go through this. In 34 years of dealing with surety bonds, I have never had any experience of having to make a claim on one.

081 CHAIR STEIN: The new language on lines 20 - 29 of the bill seems to indicate a bond is required. The question comes up starting on line 30 "is aggrieved by the misconduct" and in line 32 it says "after the return unsatisfied either in whole or in part" indicates you do have to try to execute on your judgment before you can come back. You have just said they don't have to do that. Where is the authority to do that?

095 MR. MONROE; I am guessing the authority for doing that would be in the language of the surety bond itself. The other methods are the ones I have described. You could make a claim without going to court. We do have our attorney review all bonds presented to us to see that the bonds are adequate to cover the intent of the law.

121 REP. OAKLEY: Do you ever go after the assets?

124 MR. MONROE: No. I don't know what else I could do to give the committee the comfort level needed on this legislation. The language is almost identical to that in the Pawn Brokers Act.

140 REP. OAKLEY: Is the \$10,000 adequate?

141 MR. MONROE: I think so. It is a significant increase from what the bond used to be. It is about the ball park amount in other states. Most of the troubles we have had would be covered.

159 JIM MARKEE, Oregon Collectors Association: We support the amendments submitted by Mr. Brawner. I believe my folks are comfortable with the language in lines 20 - 32 of the bill. We had our attorney go through it and he was comfortable with it.

170 MOTION: REP. RIJKEN moves that proposed amendment to HB 2206 submitted by the Oregon Bankers Association BE ADOPTED.

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

175 MOTION: REP. OAKLEY moves that HB 2206, as amended, be sent to the full

committee with a DO PASS recommended.

180 VOTE: In a roll call vote, REPS. OAKLEY, RIJKEN, AND CHAIR STEIN vote AYE. REP. SCHOON is EXCUSED.

182 CHAIR STEIN declares the motion PASSED.

178 CHAIR STEIN opens the public hearing on HB 3355.

HB 3355 - ALLOWS INSURED TO USE LIFE INSURANCE PROCEEDS FOR TERMINAL ILLNESS EXPENSES BEFORE DEATH. Witnesses:Rep. Lisa Naito Keith Burns, American Council of Life Insurance

187 TERRY CONNOLLY, Administrator, reviews the Preliminary Staff Measure Summary (EXHIBIT B).

195 REP. LISA NAITO submits and reads a prepared statement in support of HB 335 5 (EXHIBIT C). I have tried to include provisions so that other people could not buy life insurance policies on someone else's life and benefit from the policy. I have tried to protect the insurance companies by providing there would be more than one doctor's determination of terminal illness. It has been brought to my attention that there is no uniformity in how these benefits can be treated for tax purposes and some disclaimer to the beneficiary may need to be included. The best avenue to accomplish this may be to set up a statutory framework by which the Insurance Commissioner could promulgate by rules the implementation of this.

240 CHAIR STEIN: One concern is on line 8 that the beneficiary can request that the money be paid and then it not be used for health care. Perhaps there is a way of tying this to the power of attorney for health care.

254 REP. NAITO: I think that is a valid concern.

259 CHAIR STEIN: Another consideration is the affect on probate. When you get the proceeds from an insurance policy, it generally passes outside the will and probate. If this goes through probate, will it cause problems.

269 REP. NAITO: We may need to have the proceeds exempted from probate.

288 REP. NAITO: It may be that we just set up some general framework. It would mostly need to be implemented by rule. That would give flexibility and would have the benefit of reaching more policy holders than this legislation since it only addresses policies issued after the effective date. If the framework is set in place and the rules are promulgated, it is likely insurance companies would, by rider, attach this to existing policies to allow the flexibility for policies that are in existence now.

304 REP. OAKLEY: Have other states done this?

REP. NAITO: There has been some model regulation guidelines provided to me by Keith Burns. He may be able to speak to that.

301 KEITH BURNS, AMERICAN COUNCIL OF LIFE INSURANCE: The people who propose

this bill are to be commended because it is an issue that has risen because of the demographic change in our society and because of the medical techniques we have today. There is a real need for accelerated benefits. The insurance industry has been in the vanguard on this. Part of the reason was that people were advertising to buy insurance policies from people who were afflicted by AIDS or other catastrophic diseases. The insurance industry stepped in to address this. The National Association of Insurance Commissioners had a committee on this subject. The committee proposed that only 50 percent of the proceeds be made available. That didn't make sense to the industry and it is now 100 percent.

The money can be paid out in different ways. If a person is confined to an institution, periodic payments can be made.

He submits copies of a letter regarding payment of Medicaid benefits and the NAIC model guidelines (EXHIBIT D). They have amended the model twice and it is not one and one-half years old. I suggest you adopt a very simple bill giving some framework and putting in only the knowns. Seventy companies are marketing these products and Prudential is going out with riders making it available to existing policy holders.

The issue in the last sentence of Section 3 is controlled by the federal government. For instance, under the Medicaid program, they can say they can't make it available as long as you have so much money. The Health Care Financing Administration has asked for an opinion on that and have said they would not require that. There are provisions under the Social Security Act whereby if you become ill and can't work, you can get benefits. They don't have an opinion on that yet. There are two bills in Congress that say such benefits will not be subject to taxation. That is why it is important not to write this in statutory form. What you write today may not work tomorrow.

I suggest we prepare a bill with a preamble about the change in the demographics of the country, the catastrophic diseases, and that there is a need for people to have access to this asset.

TAPE 6, SIDE A

040 I will be happy to work toward drafting something.

059 CHAIR STEIN: I appreciate your working with Rep. Naito and would hope you could have something to us in close to final form by two weeks from today or Thursday.

A letter received from Richard Johnston, M.D., Oregon Medical Association in support of HB 335 5 is hereby made a part of these minutes (EXHIBIT E).

071 CHAIR STEIN closes the public hearing on HB 3355 and declares the meeting adjourned at 3:47 p.m.

Respectfully submitted, Reviewed by,

Annetta MullinsTerry Connolly AssistantAdministrator

EXHIBIT SUMMARY

A -HB 2206, proposed amendments, Frank Brawner B -HB 3355, Preliminary Staff Measure Summary, staff C -HB 3355, prepared statement, Rep. Lisa Naito D -HB 3355, letter and NAIC guidelines, Keith Burns E -HB 3355, letter from Oregon Medical Association, Richard Johnston, M.D.