

1999 SENATE INDUSTRY, BUSINESS AND LABOR

SB 2251

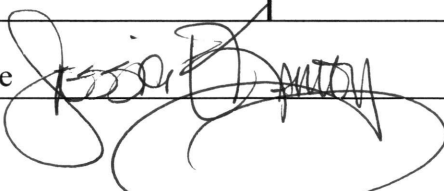
1999 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB2251

Senate Industry, Business and Labor Committee

Conference Committee

Hearing Date January 25, 1999

Tape Number	Side A	Side B	Meter #
3		x	450 to 2300
Committee Clerk Signature 			

Minutes:

SENATOR GRINDBERG: introduce SB2251 and life insurance and introduction of people whom were involved in the amendment drafting of this bill.

JIM BRECKSTROM: TESTIMONY INCLUDED, updating of this bill and life and health guarantee associations, protecting the insured if an insurance company goes bankrupt, certain terms that deal with bankruptcies where not being established, no appropriation request

SENATOR MUTCH: so how has the law changed then, was it covered before

JIM BRECKSTROM: was not covered before and now law states that any insurance company that does not participate in this program will not be covered, pamphlet on insurance issues to individuals

SENATOR KRESBACH: Fiscal information for this bill, and what is the impact

JIM BRECKSTROM: no state funding to the operation

SENATOR MUTCH: would not think so, has there been an audit of your agency by an outside agency and filed with the state, question

DAN MAGNUSON: supports changes to this bill

SENATOR THOMPSON: how many other states are doing this?

DAN MAGNUSON: Mr. Beckstrom could answer this question

JIM BECKSTROM: timing of the bill and passed by two states but this year other states have brought the issue up.

SENATOR SAND: any amendments to this bill

SENATOR MUTCH: don't ask for any amendments either, SENATOR SAND: moves the motion for a DO PASS

SENATOR KREBSBACH: seconds the DO PASS

SENATOR MUTCH: roll on DO PASS

DISCUSSION AFTER ROLL CALL

The motion for a do pass carried with a 6-0-1 vote.

Senator Klein will carry the bill.

Date: 1/25/99
 Roll Call Vote #: 2251

**1999 SENATE STANDING COMMITTEE ROLL CALL VOTES
 BILL/RESOLUTION NO.**

Senate INDUSTRY, BUSINESS AND LABOR COMMITTEE Committee

Subcommittee on _____
 or
 Conference Committee

Legislative Council Amendment Number _____

Action Taken DO PASS

Motion Made By JANO Seconded By KREBSBACH

Senators	Yes	No	Senators	Yes	No
Senator Mutch	X				
Senator Sand	X				
Senator Klein	X				
Senator Krebsbach	X				
Senator Heitkamp	X				
Senator Mathern	X				
Senator Thompson	X				

Total (Yes) 6 No 0

Absent 1

Floor Assignment KEIN

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE (410)
January 25, 1999 4:20 p.m.

Module No: SR-15-1147
Carrier: Klein
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

SB 2251: Industry, Business and Labor Committee (Sen. Mutch, Chairman) recommends **DO PASS** (6 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). SB 2251 was placed on the Eleventh order on the calendar.

1999 HOUSE INDUSTRY, BUSINESS AND LABOR

SB 2251

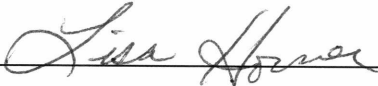
1999 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2251

House Industry, Business and Labor Committee

Conference Committee

Hearing Date 2-9-99

Tape Number	Side A	Side B	Meter #
1	x		3974 - end
1		x	0 - 1219
2	x		1094 -1937
Committee Clerk Signature 			

Minutes: **SB 2251** Relating to the life & health insurance guaranty association and the related duties & powers of the insurance commissioner.

Tom Smith: Testified in support of SB 2251.

James Beckstrom, Executive Director of ND Life and Health Insurance Guaranty Association testified in support of SB 2251. (See written testimony)

End of tape side A. Start side B.

Rep. Klein: would you explain what you mean by excluded policies?

James Beckstrom: Blue Cross/Blue Shield was not originally a part of our association in 1983 or in 1989. They asked to be admitted into the association so that their policy holders could be protected. Since they have become a member company, the insurance contracts that they issue are covered contracts. If a company is not a member of our association, then their contracts are not covered.

Rep. Klein: To continue, would explain what fraternal benefits and mutual assessments, and why those are not members but what type of companies would those be?

James Beckstrom: Fraternal benefit would include companies such as Lutheran Brotherhood and Aid Association to Lutherans. They believe that under their fraternal system that they are providing coverage protection within their own fraternal system and therefore have always asked to be maintained outside of the Guaranty Association system.

There are property and casualty mutual assessment companies in North Dakota. This is just to make clear that in the event that one or more of those have the ability to sell life and health insurance, that they would be outside of our system for reasons similar to the fraternal concept.

Tom Smith: Right now there is a possibility that the company could form a mutual insurance company under our laws and do assessments. The concept of that is they don't have the same surface requirements as the other companies do. What they do is when they get a loss they have the ability to assess their policy holders and claims.

Rep. Froseth: Is this general summary of the correlation between Guaranty Association and the insurance commissioner accurate?

Trent Heinemeyer: Yes. This an accurate depiction of our responsibilities.

Rep. Stefonowicz: Could any insurance company sell insurance without being a member of the association?

Trent Heinemeyer: No. The insurance company that is licensed to sell in ND it required to be a member in ND. However they may not be selling the kind of policies for which coverage is triggered under this statute by the Guaranty Association.

Chairman Berg: How much uniformity is there with the dollar level from state to state?

James Beckstrom: Yes, this is a uniform dollar amount that has been deemed to be appropriate the types of claims that we have seen occurring and it is one that is in existence in all those guaranty association acts.

Rep. Koppang: What are the residency requirements in this state?

Tom Smith: under the property and causality act, residency is a requirement. It takes care of the residents in the state of ND. When it will take care of a non resident, someone who is from out of state, is when they have a piece of property that is located in the state and that property is insured in the state.

James Beckstrom: Residency is determined not as of time the policy was sold but rather at the time that the company is placed in an insolvency proceeding. We have a form of affidavit of residency which we do use.

Trent Heinemeyer: Deputy Insurance Commissioner, supports SB 2251.

Action on SB 2251

Tape 2, side A. Meter No. 1094.

Rep. Klein made a motion for a Do Pass.

Rep. Ekstrom second the motion.

The roll call vote was 15 yea, 0 nay.

The motion carries.

Rep. Klein will carry the bill.

Date: 2-9-99
Roll Call Vote #: 1

1999 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2251

House Industry, Business and Labor Committee

Subcommittee on _____
or
 Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass

Motion Made By Klein Seconded By Ekstrom

Representatives	Yes	No	Representatives	Yes	No
Chair - Berg	/		Rep. Thorpe	/	
Vice Chair - Kempenich	/				
Rep. Brekke	/				
Rep. Eckstrom	/				
Rep. Froseth	/				
Rep. Glassheim	/				
Rep. Johnson	/				
Rep. Keiser	/				
Rep. Klein	/				
Rep. Koppang	/				
Rep. Lemieux	/				
Rep. Martinson	/				
Rep. Severson	/				
Rep. Stefonowicz	/				

Total (Yes) 15 No 0

Absent _____

Floor Assignment Klein

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE (410)
February 24, 1999 2:35 p.m.

Module No: HR-33-3480
Carrier: Klein
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

SB 2251: Industry, Business and Labor Committee (Rep. Berg, Chairman) recommends **DO PASS** (15 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2251 was placed on the Fourteenth order on the calendar.

1999 TESTIMONY

SB 2251

**North Dakota Life and
Health Insurance Guaranty
Association**

P.O. Box 8875
Fargo, ND 58109-8875

S.B. 2251

PROPOSED UPDATE TO NORTH DAKOTA LIFE AND
HEALTH INSURANCE GUARANTY ACT
1999 LEGISLATIVE SESSION

James C. Beckstrom, Executive Director

Background

The North Dakota Life & Health Insurance Guaranty Act creating the Association was first adopted by the 1983 Legislature. It was updated by the 1989 Legislature. North Dakota's law has always closely followed the NAIC (National Association of Insurance Commissioners) Model Act.

Each state plus the District of Columbia and Puerto Rico have Guaranty Associations. Life and Health Insurance and Property and Casualty Insurance have separate guaranty acts.

The Act provides a statutory umbrella of continuing benefits to North Dakota residents when life and health insurance companies go into receivership or liquidation. Our Association has provided \$23.7 million in benefits to North Dakota residents from 1983 to mid-year 1998.

Although similar in concept to the FDIC, all funding for the Association's administrative expenses and benefits are provided by member insurers. All life and health insurers licensed in North Dakota (subject to statutory exceptions) are required to be members. There is no state or federal government funding, and no funding request for this updated legislation.

Update

The current bill results from knowledge gained by the insurance industry and the state guaranty associations in working out nationwide solutions to the large life insurance company insolvencies of the early 1990's.

It is the joint work product of the American Council of Life Insurance, private insurers, our National Guaranty Association Organization (NOLHGA) and the individual state guaranty associations over a five-year period. The proposed revisions were adopted by the NAIC on June 9, 1997.

The update makes no changes to the core benefits previously established for North Dakota residents.

It adds necessary definitions, improvements and clarifications to insolvency administration.

The principal highlights of the proposed revisions are as follows:

- The responsible state guaranty association for covered unallocated annuity contracts is changed from the state of residence of the contractholder to the state of residence of the plan sponsor.
- The responsible state guaranty association for coverage of structured settlement annuities is changed from the state of residence of the contract owner to the state of residence of the payee.
- Coverage of multiple life insurance policies owned by one person is limited to \$5 million.
- The revised definitions make clear that the guaranty association is not responsible for punitive damages or other similar matters that are outside the scope of the insurance contract.
- Investment contracts that provide no insurance risk are specifically excluded from coverage.

The Board of Directors of the Association and its Executive Committee has reviewed all of the changes proposed in this legislation, and believe that the Act should be updated by the 1999 North Dakota Legislature.

Attachment

Questions and Answers pamphlet regarding the Guaranty Association system.

**COMMONLY ASKED QUESTIONS AND ANSWERS
ABOUT THE NORTH DAKOTA
LIFE AND HEALTH INSURANCE
GUARANTY ASSOCIATION**

COMMUNICATION WITH POLICYHOLDERS

- Q. If the guaranty fund is triggered, will I be notified? Should I pre-register with the Association or the Department of Insurance?
- A. If the Guaranty Association is triggered, all policyholders will be notified and advised of the procedures to follow. The names and addresses of policyholders will be obtained from the company's records.

EXCESS OF STATUTORY LIMITS

- Q. I have a large policy/several large policies with (X Company) Life totalling much more than the Guaranty Association limits. Can I recover the rest of my money?
- A. If your policy benefits exceed the amount covered by the Guaranty Association, you would be eligible to file a claim and share on a pro-rate basis in any disbursements to policyholders made by the liquidator. The amount you might receive would depend on the available company assets.

EXCLUDED POLICIES

- Q. Are all policies issued by life and health insurance companies licensed in North Dakota covered by the Guaranty Act?
- A. No. The North Dakota Act covers only contracts issued by "member insurers." It excludes from coverage policies that are issued by HMOs, fraternal benefit societies, mutual assessment companies, ~~pre-paid medical plans, such as Blue Cross/Blue Shield~~, and mandatory state pooling plans, such as CHAND. The Act also excludes any portion of policies where the risk is borne by the policyholder or which is not guaranteed by the insurer, such as the variable account in some life insurance policies and annuity contracts.

FINANCIAL CAPACITY OF ASSOCIATION

- Q. There are a number of companies under rehabilitation or receivership. Does the Guaranty Association have the financial capacity to meet these obligations?
- A. The North Dakota Guaranty Association funds its obligations by assessing insurance companies licensed in North Dakota to sell life and health insurance and annuities. These coverage assessments are based on North Dakota premium income for the type of coverage being protected and can be made over several years. The companies paying coverage assessments receive credits against their state premium taxes. In addition, the Association may borrow money as necessary to meet its obligations on a timely basis.

INSURERS FINANCIAL CONDITION

- Q. I am worried that my insurance company is financially shaky/has received a low rating. What do you know about them? Should I cancel/switch my coverage?
- A. By statute, it is the duty of the State Insurance Commissioner to detect and prevent insurer insolvencies or impairments. The Guaranty Association does not monitor a company's financial solvency or ratings, but, upon request, renders assistance to the Commissioner concerning the contractual obligations of impaired or insolvent insurers. You should discuss your financial and rating concerns with your agent, with your insurance company, or with your State Insurance Commissioner.

JOINT POLICIES

- Q.** My spouse and I are insured under a joint/second-to-die life insurance policy. Are we both covered by the Guaranty Act?
- A.** The Guaranty Act protects persons who are **owners** or **policyholders**. The maximum limits are with respect to **one life**, regardless of the number of policies or contracts. If you are both owners and both insureds, you would each be covered under the Act.

LOST POLICY

- Q.** I have lost or misplaced my policy. Will I be required to furnish proof that I'm insured with (X Company) Life?
- A.** The company's records are the primary determinant of policyholder names and addresses. If for some reason you are not listed in those records, you would then be required to provide proof of your coverage. Your agent will help you complete any required forms.

MULTIPLE RECEIVERSHIPS

- Q.** I have policies with (X) and (Y Company) Life, which are both in receivership. Does the Association cover me only once?
- A.** The maximum limits with respect to one life apply in each receivership.

PAYMENT OF BENEFITS

- Q.** How much of my money can I expect to recover?
- A.** The North Dakota Life & Health Guaranty Association provides a maximum of \$300,000 for death benefits on any one life and \$100,000 for cash surrender or policy values to any one person. If you are receiving a monthly annuity payment, the present value of your monthly benefits would be capped at \$100,000, and the monthly payments you receive from the Guaranty Association would be based on that amount.
- Q.** Can I get my money while the company is in conservation?
- A.** This varies depending upon the insurance company's financial condition. The supervising Court will normally authorize payments by the company for death and medical insurance claims and monthly annuity benefits arising during conservation. The Conservation Order also will generally allow for payments by the company of cash or policy values up to certain limits in documented cases of severe hardship. However, a court-imposed moratorium normally will prohibit for cash surrenders, loans and withdrawals. The Guaranty Association is not normally triggered in a conservatorship unless no claims or benefits are being paid.

- Q. My insurance company is in a rehabilitation conservatorship, and I am only receiving part of my claim/contract benefits. Will the Guaranty Association make up the difference?
- A. The timing of payment and amount of benefits will vary depending upon the insurance company's financial condition. All rehabilitation conservatorships are supervised by a Court in the insurance company's home state. The Court will order how the company's assets are to be used to pay claims and benefits and may order a partial or percentage payment. Normally, the Guaranty Association would not be activated in a rehabilitation proceeding unless **no** claims or policy benefits are authorized to be paid. However, the Guaranty Association is automatically "triggered" if the Court orders the company liquidated. All claim and benefit payments will eventually be paid in full by the rehabilitated company or by the Guaranty Association up to the statutory maximums.

PAYMENT OF PREMIUMS

- Q. Should I continue to pay premiums while the company is in conservation?
- A. The decision to continue or stop premium payments must be made by individual policyholders based upon the type of insurance policy, their continuing need for the coverage provided by the policy, their own financial position and their state of health. For example, with respect to life insurance policies, you should consider whether or not you are still insurable.

If you decide to keep your policy in force, your insurance coverage is continued and your policy is protected up to Guaranty Association limits. The Guaranty Association then tries to find another insurance company that will assume (become financially responsible for) all the in-force policies. If you decide to terminate your policy, the Guaranty Association would cover any cash or policy values up to \$100,000 per person, but you would no longer have any insurance protection.

PENSION BENEFITS

- Q. My pension fund purchased a (X Company) Life contract. Will my pension benefits be protected?
- A. The answer to this question depends on the type of arrangement your pension plan has with (X Company) Life. In some situations, the Guaranty Association would pay a maximum of \$5,000,000 directly to the employee benefit plan to cover all participants, while other contracts might be protected by the Pension Benefit Guaranty Corporation. Because there are so many variables, our best advice is to consult your employee benefits counselor.

REDUCTION OF POLICY INTEREST RATES

- Q. My policy value is less than \$100,000. Can my policy values still be reduced while in conservation or liquidation?
- A. If you have a life or annuity policy that earns interest, North Dakota law requires the Guaranty Association to reduce the interest credited to your policy. The revised interest rate is based on Moody's Corporate Bond Yield Average less 2% up to the date of liquidation and less 3% after the date of liquidation. It will never be less than the rates guaranteed in your policy.

REHABILITATION VS. LIQUIDATION

- Q. What is the difference between a conservatorship and a receivership?
- A. These are the state actions that are essentially the equivalent of the federal bankruptcy actions. A conservatorship usually is an action undertaken by the insurance company's home state to rehabilitate the insurer and keep it operating. It is similar to a bankruptcy reorganization. A receivership usually involves a liquidation of the company due to a company's insolvency and inability to continue in business. In a liquidation, the assets of the company are sold to satisfy policyholders and other creditors. Because state laws differ, both a conservatorship and a receivership may involve either a rehabilitation or a liquidation action. The Guaranty Association is automatically triggered by a liquidation order but is not normally triggered in a rehabilitation unless no claims or benefits are being paid.
- Q. What protection do I have if (X) Life Insurance Company is liquidated?
- A. An order of liquidation with a finding of insolvency would automatically trigger the North Dakota Life & Health Guaranty Association. Subject to the conditions and limitations of North Dakota Guaranty law, the Association would protect all policyholders residing in North Dakota at the time of insolvency regardless of where they lived when they purchased their policy.

RESIDENCY REQUIREMENT

- Q. What happens if I bought the policy in North Dakota, but I'm living in another state at the time of the insurance company's insolvency?
- A. The North Dakota Guaranty Association generally protects residents only. If you are no longer a North Dakota resident, you should contact the insurance department in your home state to determine if you are covered by that state's guaranty fund. In certain rare situations, coverage would be provided to a non-resident.

UNINSURABLE

- Q. I have a life insurance policy with (X Company) Life, but I'm now uninsurable. If the company is liquidated, how can I find another life insurance company?
- A. If you choose to keep the policy in force, the Guaranty Association would either continue your present coverage or transfer your policy to another financially solvent insurance company. Keep in mind, however, that your policy coverage may be reduced to comply with the maximum benefit levels allowed by the North Dakota Guaranty law.

VARIABLE LIFE/ANNUITY POLICIES

- Q. I own a variable life/annuity policy. Am I covered?
- A. The Guaranty Act does not provide coverage for any portion of a policy or contract that is not guaranteed by the insurer, or under which the risk is borne by the policyholder. Thus, those portions of the variable contract which are guaranteed by the issuing insurance company are covered. However, any portion of the variable contract which is **not** guaranteed by the insurer or under which the risk is borne by the policyholder is **not** covered. Also, the covered portions of the contract are subject to the Act's maximum limits on coverage amounts and policy interest rates.