

2009 SENATE INDUSTRY, BUSINESS AND LABOR

SB 2104

2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 2104

Senate Industry, Business and Labor Committee

Check here for Conference Committee

Hearing Date: January 14, 2009

Recorder Job Number: 6971

Committee Clerk Signature

Eva Lubert

Minutes:

Larry Maslowski, Senior Analyst and Director, Consumer Protection Property and Casualty Division: (Testimony Attached).

Senator Horne: How would you monitor this to see if it's been abused or not?

Larry Maslowski: Our normal mode is to respond to a call from a consumer or agent. As far as monitoring, that's how we basically would approach this. As far as compensation, we don't get compensation. What we are trying to do is make sure consumers are getting a fair settlement.

Senator Potter: What happens to the 750,000 dollar fine you collected?

Larry Maslowski: That is general fund money.

Senator Wanzek: Could you give me an example of legitimate bonus for a claims agent, like timeliness of claims settled?

Larry Maslowski: That could be one, anything that is going to put pressure on to the claims agent or handler to not give a full and fair assessment, is what we're trying to get at here.

Discussion of examples of consumers being denied claim.

Chairman Klein: Anyone in opposition. We will close the hearing on Senate Bill 2104.

Motion to pass, Senator Andrist. Seconded by Senator Nodland.

Senator Wanzek: I have a problem with passing this. I am a little concerned of the unattended consequences. The target here is the claims personal, I wonder if we can accomplish that with an amendment or not.

Chairman Klein: If you want to spend a few minutes visiting with the agent to make it clear, and come up with the right language. We will recess until 10:15.

2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 2104

Senate Industry, Business and Labor Committee

Check here for Conference Committee

Hearing Date: January 14, 2009

Recorder Job Number: 6975

Committee Clerk Signature

Eva Liebelt

Minutes:

Chairman Klein: Can we go back to Senate Bill 2104?

Senator Wanzek: I believe we found a very simple amendment that will address the concern. I feel it would be wiser to make it real clear that we're looking at claims personal with the insurance companies, as far as the bonus. (Attached amendment with changes made).

Motion made to pass the amendment: Senator Wanzek Seconded by Senator Nodland

Roll call on do pass as amended: Yes 7 No 0 Absent 0

Motion to pass as amended, Senator Andrist and Seconded by Senator Nodland

Roll Call Vote: Yes 7 No 0 Absent 0

Floor Assignment: Senator Wanzek

January 14, 2009

PROPOSED AMENDMENTS TO SENATE BILL NO. 2104

Page 1, line 7, after "of" insert "claims"

Renumber accordingly

Date: 1/14/09
 Roll Call Vote #: 1

2009 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2104

Senate

Committee

Industry, Business and Labor

Check here for Conference Committee

Legislative Council Amendment Number 2104

Action Taken Pass Do Not Pass Amended

Motion Made By Wanzek Seconded By Senator Nodland

Senator	Yes	No	Senator	Yes	No
Senator Jerry Klein - Chairman	✓		Senator Arthur H. Behm	✓	
Senator Terry Wanzek - V.Chair	✓		Senator Robert M. Horne	✓	
Senator John M. Andrist	✓		Senator Tracy Potter	✓	
Senator George Nodland	✓				

Total (Yes) 7 No 0

Absent 0

Floor Assignment Senator Wanzek

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

Date: 1/14/87
Roll Call Vote #: 2

2009 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2104

Senate

Committee

Industry, Business and Labor

Check here for Conference Committee

Legislative Council Amendment Number 2104

Action Taken **Pass** **Do Not Pass** **Amended**

Motion Made By Senator Andrist Seconded By Senator Nodland

Senator	Yes	No	Senator	Yes	No
Senator Jerry Klein - Chairman	✓		Senator Arthur H. Behm	✓	
Senator Terry Wanzek - V.Chair	✓		Senator Robert M. Horne	✓	
Senator John M. Andrist	✓		Senator Tracy Potter	✓	
Senator George Nodland	✓				

Total (Yes) 7 No 0

Absent 0

Floor Assignment Senator Wanzek

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

REPORT OF STANDING COMMITTEE

SB 2104: Industry, Business and Labor Committee (Sen. Klein, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2104 was placed on the Sixth order on the calendar.

Page 1, line 7, after "of" insert "claims"

Renumber accordingly

2009 HOUSE INDUSTRY, BUSINESS AND LABOR

SB 2104

2009 HOUSE STANDING COMMITTEE MINUTES

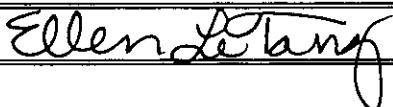
Bill/Resolution No. 2104

House Industry, Business and Labor Committee

Check here for Conference Committee

Hearing Date: March 3, 2009

Recorder Job Number: 10087

Committee Clerk Signature	
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Chairman Keiser: Opened the hearing on SB 2104 relating to unfair compensation of insurance company employees.

Larry Maslowski~Senior Analyst & Director, Consumer Protection Property & Casualty Division, North Dakota Insurance Department. See testimony attachment.

Vice Chairman Kasper: You site two different companies that you are aware of and the one you are talking about and the one that you fined in 2004?

Maslowski: This is one company we are talking about, it's defined and example in this case. We are aware that there were some issues in Minnesota as far as health insurance companies, which is why we (?) first two selections we pictured about denying claims.

Vice Chairman Kasper: How would you find out if a company has this type of practice if they aren't domicile in North Dakota and most of them aren't?

Maslowski: Like most issues is comes through some complaint. That's where most of our investigations come from. It could potentially come from a whistle blower type scenario or an employee who says this doesn't smell right and bring it to our attention.

Vice Chairman Kasper: Other than the one instance, have you had any complaints or knowledge of any of this type of action going on with any insurance company any place?

Maslowski: I don't know.

Chairman Keiser: Don't worry with Vice Chairman Kasper's question, all of the prohibited practices, is that something looked at in the market conduct exam?

Maslowski: That is something that can be looked at as a market gets.

Chairman Keiser: What's the penalty here for violation of any of these four?

Maslowski: I'm not exactly sure, but I'm going to say that it's up (inaudible).

Chairman Keiser: So it's up to the commissioner to fine them if this practice is observed.

Maslowski: It was done in this case.

Veronica Zietz~Executive Director of The Arc of Bismarck. See testimony attachment.

Vice Chairman Kasper: Other than the example cited by the insurance department, are you aware of any violations on any violation on any (?) of this practice from any insurance company.

Zietz: I cannot share with you any specific instance of this but I would question (inaudible).

Representative Thorpe: I would like to ask Larry a question. In the case of what you describe here, doesn't the insurance company take the license away or is it common to slap the fingers?

Maslowski: That would be at the discretion of the public commissioner, it would depend on how it breaches and how certain things are taken into consideration. Generally speaking, this is a large national company which has a presence in the market place.

Chairman Keiser: Does this cover surplus lines, P&C, health, life and the full array of products.

Maslowski: I don't believe it would apply to surplus lines.

Representative Boe: Would this cover crop insurance?

Maslowski: That falls under property.

Chairman Keiser: Is anyone else here to testify in opposition of SB 2104, neutral? Closes the hearing, what are the wishes of the committee?

Representative Thorpe: Moves a Do Pass on SB 2104.

Representative Gruchalla: Second.

Voting roll call was taken for a Do Pass on SB 2104 with 13 yeas, 0 nays, 0 absent and

Representative Sukut as the carrier.

Date: Mar 3 - 2009

Roll Call Vote # 1

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. 2104

House House, Business & Labor Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass Do Not Pass As Amended

Motion Made By Thorpe Seconded By Gruchalla

Representatives	Yes	No	Representatives	Yes	No
Chairman Keiser	7		Representative Amerman	7	
Vice Chairman Kasper	7		Representative Boe	7	
Representative Clark	7		Representative Gruchalla	7	
Representative N Johnson	7		Representative Schneider	7	
Representative Nottestad	7		Representative Thorpe	7	
Representative Ruby	7				
Representative Sukut	7				
Representative Vigesaa	7				

Total (Yes) 13 No 0

Absent 1

Floor Assignment Sukut

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

REPORT OF STANDING COMMITTEE

SB 2104, as engrossed: Industry, Business and Labor Committee (Rep. Keiser, Chairman) recommends **DO PASS** (13 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed SB 2104 was placed on the Fourteenth order on the calendar.

2009 TESTIMONY

SB 2104

SENATE BILL NO. 2104

Presented by: Larry Maslowski
Senior Analyst and Director, Consumer Protection Property
and Casualty Division
North Dakota Insurance Department

Before: Senate Industry, Business and Labor Committee
Senator Jerry Klein, Chairman

Date: January 14, 2009

TESTIMONY

Good morning, Chairman Klein and members of the committee. My name is Larry Maslowski and I am the Senior Analyst and Director of the Consumer Protection Property and Casualty Division of the North Dakota Insurance Department. I appear before you today in support of this bill.

The bill would create a new subsection to the prohibited practices chapter of the insurance code (N.D.C.C. § 26.1-04-03).

The new subsection would make it illegal for both life and health or property and casualty insurance companies to base the compensation (including performance bonuses or incentives) of its employees or of any independently contracted claims personnel on four actions:

- Based upon the number of policies canceled.
- Based upon the number of times coverage is denied.
- Use of a quota limiting or restricting the number or volume of claims.

- Use of an arbitrary quota or cap limiting or restricting the amount of claims payments without due consideration to the merits of the claim.

The North Dakota Insurance Department feels that to base an employee's compensation, performance bonus or incentives on these actions creates an environment in which the employee is compromised and forced to ignore the merits of a claim in order to look good to their employer at evaluation time.

To give you an example:

A national automobile insurance company has in place an incentive (bonus) program for its claims personnel which will give a \$5,000 end-of-year bonus to the claims handler, and a superior rating as an employee, if the employee's average claims payout for the year is less than the average claims payout for the year previous.

In this example, you can see that the employee is being compromised. For the employee to look good to his employer at the end of the year, he must get the claims costs down. While there are legitimate means by which a claims person might negotiate claims settlements, the fact that the measurement of his success is based on comparing the amount paid this year to the amount paid last year could put the claims person in the position of having to ignore the true merits of each claim settled in order to keep this year's payments down.

In 2004 the North Dakota Insurance Department was made aware of a major insurance company that had done this very type of incentive plan. After a long investigation, the company was fined \$750,000 by the Department in 2007. It should be noted that in this case the company did not agree to admit to liability.

We ask for the committee's favorable consideration of this new subsection.

Thank you. Do you have any questions?

SENATE BILL NO. 2104

Presented by: Larry Maslowski
Senior Analyst and Director, Consumer Protection Property and
Casualty Division
North Dakota Insurance Department

Before: House Industry, Business and Labor Committee
Representative George Keiser, Chairman

Date: March 3, 2009

TESTIMONY

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In 2004 the North Dakota Insurance Department was made aware of a major insurance company that had done this very type of incentive plan. After a long investigation, the company was fined \$750,000 by the Department in 2007. It should be noted that in this case the company did not agree to admit to liability.

Please note that the Senate, in order to be more clear, amended the bill by adding the word "claims" in front of the word "employees" on line 7.

We ask for the committee's favorable consideration of this new subsection.

Thank you. Do you have any questions?



The Arc of Bismarck

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Testimony of Support Senate Bill No. 2104 March 3, 2009

Good morning Chairman Keiser and members of the Industry, Business, and Labor Committee. My name is Veronica Zietz (#166); I am the Executive Director at The Arc of Bismarck. I am here today representing The Arc of Bismarck and The Arc of Cass County. The Arc is a non-profit organization focused on providing education, advocacy and supports to children and adults with disabilities to foster empowerment and full inclusion in the community.

I support Senate Bill No. 2104 because it would prohibit unfair compensation practices of insurance companies. This would end the use of compensation and incentives based on policies canceled, claims denied, etc. and would ensure that we are doing the right thing for all citizens of North Dakota.

As a professional in the field of disability services, I have an acute understanding of the special healthcare needs of individuals with disabilities. Often individuals with disabilities have complex medical issues and must regularly consult their physician to maintain wellness. Current compensation and incentive practices of insurance companies are very restrictive to these special healthcare needs for individuals with disabilities.

Insurance is defined as "Any means of guaranteeing against loss or harm". People purchase insurance to protect their wellbeing, and the compensation and incentive practices conducted by some insurance companies obviously hurt rather than help individuals. These policies also go against the basic reasoning behind having insurance.

Please support Senate Bill No. 2104 and stop the unfair compensation and incentive practices of insurance companies. By voting do pass on this bill you will be supporting all citizens of North Dakota especially those with disabilities who greatly rely on respectable insurance practices.

Thank you for your time and attention.