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Memorandum

TO: The Honorable Rob Olson, Chair
Senate Financial Institutions and Insurance Committee

FROM: William W. Sneed, Legislative Counsel
America's Health Insurance Plans

SUBJECT: H.B. 2007

DATE: March 14, 2013

Mr. Chairman, Members of the Committee: My name is William Sneed and I am Legislative Counsel for America's Health Insurance Plans ("AHIP"). AHIP is a trade association representing nearly 1,300 member companies providing health insurance coverage to more than two million Americans. Our member companies offer medical expense insurance, long-term care insurance, disability income insurance, dental insurance, supplemental insurance, stop-loss insurance and reinsurance to consumers, employers and public purchasers. Please accept this testimony as our support of H.B. 2007, and our request that the Committee act favorably on this bill.

First of all, I would like to discuss several preliminary matters before I get to the meat of the bill.

First, there has been much debate about the National Association of Insurance Commissioners ("NAIC") and its various positions and implementations throughout the states. However, there are times and situations where the establishment of the NAIC is very beneficial to states, particularly smaller states. For instance, the ability to file through the NAIC an individual company's policy and have the NAIC then forward that material on to the various states is extremely helpful. This clearinghouse approach has become very advantageous to insurance companies, and ultimately helps keep costs down in those companies that transact business throughout the various states.

It is on that type of formulary that the amendments to the Kansas Insurance Holding Companies Act are to be used. Although the bill is voluminous (eleven sections, which includes one new section and ten amendments to current statutes), there are really only four statutes that affect the regulation of holding companies (New Section 1 and the amendments to K.S.A. 40-3304, 3305 and 3307). The amendments to K.S.A. 40-3306 and 3308 are being proposed at the request of the industry to help facilitate the implementation of the new holding company standards. The rest of the amendments found in the bill are really clean-up, and have no substantial effect on the business of insurance.

As it relates to the new requirements, most stem from the fact that we are creating the ability for a state like to Kansas to gather documentation from companies doing business in Kansas, but incorporated in an insurance holding company system with international operations.

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New Section 1 simply creates the process by which Kansas could avail itself of the material that would be warehoused and available through the supervisory college.

The next amendment that affects the regulation of insurance is found in Section 4, and specifically, on page 6, which is an amendment to KSA 40-3304. This simply amends current law and would now require those holding companies to respond to a request for information deemed necessary to evaluate enterprise risk. Again, this stems from the fact that we are now trying to capture information from entities who may be doing business in our state, but are domesticated either in a foreign state or foreign country. The remaining changes in that section are simply cleaning up some current statutes with common practices used in holding company hearings.

The next major change in the regulation of holding companies is found at K.S.A. 40-3305. Again, this amendment, found on page 10, reiterates the ability of the Kansas Insurance Commissioner to gather information on the affiliates of the non-domestic or international company. The request of the insurer's board of directors and principle operations relative to internal controls is simply to have those individuals who have the oversight for those items within the corporation to confirm that there are appropriate corporate governance and internal control procedures.

The final change in this particular statute again relates to the creation of the enterprise. The new language found on page 11 requires an ultimate controlling person to file a risk report. These risk reports are now commonplace within the holding company system. The reports would be filed with the lead state and would be subject to review, just as with domestic insurers, within the financial analysis handbook.

The final major change as it relates to the regulation of holding companies is found in the amendments to K.S.A. 40-3307. Although it appears to be rather encumbering, it really is simply an expansion of current law to apply to all risk found under the holding company system. In other words, if you are a holding company as defined by K.S.A. 40-3305, then you must comply with those orders and requests from the Insurance Department just like any domestic insurer. The important thing to remember is that although this may seem rather broad, the individual holding company has all the rights and privileges found in the Kansas Administrative Procedures Act, and if in their belief the Insurance Department is acting arbitrarily or capriciously, they can simply deny the request and ask for a hearing under the Administrative Procedures Act, thus insuring everyone's constitutional rights are protected.

Two other sections are amended, and these amendments are really being proposed at the request of industry.

First, the amendment to K.S.A. 40-3306 provides clarification of those items that are deemed material transactions under the holding company system between the registered insured and affiliates. Previously, some of the items that have now been added were incorporated in

somewhat oblique portions of the statute. This language has been worked out between industry and the regulators to provide specific items that would be classified and deemed material transactions.

Finally, the amendments to K.S.A. 40-3308 are again being proposed at the industry's request. Obviously, if this bill is enacted, the Insurance Department will have the ability to gather a great deal of information. Industry wishes to make sure that by simply providing information that it deems either confidential, trade secret or otherwise unavailable to the public, that providing that information to the Insurance Department through the NAIC will in no way destroy that confidentiality. For instance, if the Insurance Department wishes to access something that the Insurance Department deems to be a confidential letter, the company would then provide the letter to the Insurance Department. If at some later date someone attempts to procure that letter, through subpoena for example, industry wants to make sure that the mere fact that it was provided to the Insurance Department does not waive any claim to confidentiality. Further, the individual seeking the information would still have his or her rights for an *in camera* review by a judge to determine whether such information should be public information.

The remaining changes through the bill are really clean-up and have no substantive value to the bill at hand.

After hearings in the House, the House passed H.B. 2007 120-4.

Based upon the foregoing, my client urges the Committee to act favorably on H.B. 2007.

I will be happy to discuss this matter at your convenience.

Respectfully submitted,

William W. Sneed

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