

# MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION  
SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

2093

2005 SENATE INDUSTRY, BUSINESS AND LABOR

SB 2093

2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. 2093

Senate Industry, Business and Labor Committee

☐ Conference Committee

Hearing Date 1-05-05

Tape Number	Side A	Side B	Meter #
1	XXXX		2000-2835
Committee Clerk Signature <i>Lualaba Berkow</i>			

Minutes: **Chairman Mutch** opened the hearing on SB 2093. All Senators were present.

**SB 2093** relates to the waiver of hearings by the Insurance Commissioner.

**Craig Burns**, ND Insurance Department, Special Assistant Attorney General, introduced the bill. See written testimony.

**Senator Fairfield:** Where is it defined "good cause"?

**Craig:** It isn't defined, it's a discretionary term. It will be hard to spell out specifically all kinds of situations. Essentially it would be when all parties are in agreement and there would be no need for a hearing.

**Senator Fairfield:** My concern is that it doesn't say that. Doesn't this open it up completely?

There is no definition of "good cause". It just seems pretty broad.

**Craig:** Yes, it is a discretionary standard.

**Senator Fairfield:** Ideally, it would be if there was two policy holders, but this would actually give the permission to waive the hearing on ANY merger, acquisition if there was a "good cause" finding.

**Craig:** Again, it's a discretionary standard, but in an extreme hypothetical, yes, that potentially could be the case. I think that would be something that for all interested parties that they might be able to request it.

**Senator Nething :** In looking at your testimony, I notice that you indicate that in the past few existing policy holders have been willing to waive the hearing, but the law doesn't allow the commissioner to do so. I'm wondering if this bill would be better if it said it can be waived when the existing policy holders *agree* to it, you would accomplish the same goal, but you don't open it, wide open.

**Senator Krebsbach:** What notification is the insurance company obligated to give to the policy holders in this case of a merger and what rights do they have *in* objecting?

**Jim Poolman, ND Insurance Commissioner:** When there are mergers and acquisitions in insurance companies, throughout the process the insurance company is required to notify all policy holders and we have to give public notice of that hearing. So there is an expense involved also, to notify people of a hearing that we may never have anyone attend. So when the policy holder is notified and doesn't respond, should we go through the expense of having a hearing?

**Senator Mutch:** Would that be your expense?

**Jim Poolman:** It is actually the insurance company's expense to notify the policy holders. I believe they have to place the advertisement for the hearing as well, I believe. If I can, let me respond to the comments that were given earlier. Many places in 26.1 that deal with the insurance

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Senate Industry, Business and Labor Committee

Bill/Resolution Number 2093

Hearing Date 01-05-05

code, the Commissioner *does* have a lot of open-ended discretion. But I do understand the concern. If you did want to tighten up the bill and *not* give me the full "good cause" discretion, I would understand and go along with that. Please give us the discretion *at least* to find some ways to get around having owner's hearings and expenses that go along with them. For companies that have very little or no assets.

**Senator Krebsbach :** Is there any consent form *from* the policy holder, that has to be given to the insurance company, *or*, a time they can file? Consent or disagreement, on the merger?

**Jim Poolman:** They *are* aloud to notify and it does give the opportunity for objection to give right to the Commissioner.

**Senator Mutch :** Is there anyone else who would like to speak in support of this bill?

Seeing none, is there anyone who would like to speak in opposition?

**There was no opposition. No Action Taken. Hearing was closed.**

2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. 2093

Senate Industry, Business and Labor Committee

☐ Conference Committee

Hearing Date 1-18-05

Tape Number	Side A	Side B	Meter #
no tape			
Committee Clerk Signature <i>Lisa VanBerkom</i>			

Minutes: **Chairman Mutch** opened committee discussion on SB 2093. All Senators were present. SB 2093 relates to the waiver of hearings by the Insurance Commissioner.

**Senator Krebsbach:** The amendments from the Insurance Commissioner are acceptable.

**Senator Krebsbach** moved to adopt the amendments. **Senator Klein** seconded.

**Roll Call Vote:** 7 yes. 0 no. 0 absent.

**Senator Krebsbach** moved a **DO PASS AS AMENDED**.

**Senator Espegard** seconded.

**Roll Call Vote:** 7 yes. 0 no. 0 absent.

**Carrier:** Senator Heitkamp

Date: Jan. 18  
Roll Call Vote #: /

**2005 SENATE STANDING COMMITTEE ROLL CALL VOTES**  
**BILL/RESOLUTION NO.**

Senate Industry, Business and Labor Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

2093

Action Taken

(LVB)

Pass Adopt Amendments

Motion Made By

Krebsbach

Seconded By

Klein

Senators	Yes	No	Senators	Yes	No
Senator Mutch, Chairman	X		Senator Fairfield	X	
Senator Klein, Vice Chairman	X		Senator Heitkamp	X	
Senator Krebsbach	X				
Senator Nething	X				
Senator Espegard	X				

Total (Yes) 7 No 0

Absent

0

Floor Assignment

Heitkamp

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

Date: Jan. 18  
Roll Call Vote #: 2

2005 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO.

Senate Industry, Business and Labor Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number 2093

Action Taken ~~Amendment~~ Do Pass As Amended

Motion Made By Krebsbach Seconded By Espenrud

Senators	Yes	No	Senators	Yes	No
Senator Mutch, Chairman	X		Senator Fairfield	X	
Senator Klein, Vice Chairman	X		Senator Heitkamp	X	
Senator Krebsbach	X				
Senator Nething	X				
Senator Espenrud	X				

Total (Yes) 7 No 0

Absent 0

Floor Assignment Heitkamp

\* If the vote is on an amendment, briefly indicate intent:  
allowing parties to consent to waive the hearing



**REPORT OF STANDING COMMITTEE**

SB 2093: Industry, Business and Labor Committee (Sen. Mutch, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2093 was placed on the Sixth order on the calendar.

Page 2, line 2, replace "no policyholder exists" with "the companies involved and all the policyholders of the domestic companies involved consent to"

Page 2, line 3, remove "or upon a finding of good cause for"

Page 3, line 13, replace "no policyholder exists or upon" with "the companies involved and all the policyholders of the domestic companies involved consent to"

Page 3, line 14, remove "a finding of good cause for"

Renumber accordingly

2005 HOUSE INDUSTRY, BUSINESS AND LABOR

SB 2093


2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2093

House Industry, Business and Labor Committee

☐ Conference Committee

Hearing Date 2-28-05

Tape Number	Side A	Side B	Meter #
1	x		6.9-12.8
Committee Clerk Signature 			

Minutes:

**Chairman Keiser:** Opened the hearing on SB 2093. All committee members were present.

One absent (DIETRICH).

**Craig Burns, Legal Counsel, North Dakota Insurance Department:** Appeared in support of bill and provided a written statement (SEE ATTACHED TESTIMONY).

**Representative N. Johnson:** How would the policy holders know if there are any issues or is that the determination of the insurance commissioners office?

**Craig Burns:** If all of the policy holders consented to waiving the hearing and the companies that were involved both consented to it, that is when this would apply.

**Representative Dosch:** Is there any other type of public notice that is given?

**Craig Burns:** It depends somewhat on which title it is occurring under, it could be printed in the paper.

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House Industry, Business and Labor Committee

Bill/Resolution Number SB 2093

Hearing Date 2-28-05

**Representative Keiser:** this isn't something that would be used casually, because if you had 1,000 policy holders in the state it would be very difficult to get 100% participation.

**Craig Burns:** That is correct.

**Representative N. Johnson:** I move a **DO PASS** on SB 2093.

**Representative Boe:** **SECOND** the **DO PASS** motion on SB 2093.

Motion carried. **VOTE: 13-YES 0-NO 1-Absent (DIETRICH).**

**Representative N. Johnson will carry the bill on the floor.**

**Hearing adjourned.**

Roll Call Vote #: | Date: 2-28-05

2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. SB 2093

House INDUSTRY, BUSINESS AND LABOR Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken Do Pass

Motion Made By Rep. N. Johnson Seconded By Rep. Boe

Representatives	Yes	No	Representatives	Yes	No
G. Keiser-Chairman	X		Rep. B. Amerman	X	
N. Johnson-Vice Chairman	X		Rep. T. Boe	X	
Rep. D. Clark	X		Rep. M. Ekstrom	X	
Rep. D. Dietrich	A		Rep. E. Thorpe	X	
Rep. M. Dosch	X				
Rep. G. Froseth	X				
Rep. J. Kasper	X				
Rep. D. Nottestad	X				
Rep. D. Ruby	X				
Rep. D. Vigesaa	X				

Total (Yes) 13 No 0

Absent (1) Rep. Dietrich

Floor Assignment Rep. N. Johnson

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

**REPORT OF STANDING COMMITTEE (410)**  
February 28, 2005 11:39 a.m.

**Module No: HR-36-3757**  
**Carrier: N. Johnson**  
**Insert LC: . Title: .**

**REPORT OF STANDING COMMITTEE**

**SB 2093, as engrossed: Industry, Business and Labor Committee (Rep. Kelser, Chairman) recommends DO PASS (13 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). Engrossed SB 2093 was placed on the Fourteenth order on the calendar.**

2005 TESTIMONY

SB 2093

**SENATE BILL NO. 2093**

**Presented by:** Craig Burns  
Legal Counsel  
North Dakota Insurance Department

**Before:** Senate Industry, Business and Labor Committee  
Senator Duane Mutch, Chairman

**Date:** January 5, 2005

**TESTIMONY**

Mr. Chairman and members of the committee:

Good morning. My name is Craig Burns, Legal Counsel with the North Dakota Insurance Department. I stand before you today to introduce Senate Bill No. 2093. The Insurance Department sponsored this bill.

N.D. Cent. Code § 26.1-07-05.1 requires that the Insurance Commissioner hold a hearing on an application for the consolidation of one insurance company with another.

N.D. Cent. Code § 26.1-10-03 requires that the Insurance Commissioner hold a hearing on an application for any merger or other acquisition of control of one insurance company by another company or by an individual.

The hearings are scheduled after notice to policyholders and after publication of notice of the hearing in certain newspapers.

The Commissioner must review the proposed transactions to make sure that policyholder interests are not adversely affected and to make sure that the acquiring party is competent, experienced and of proper integrity.



At times the transactions involve companies that have a limited number of policyholders or involve companies that have quit writing insurance in the state and have no policyholders.

Senate Bill No. 2093 allows the Commissioner to waive the hearing if no policyholder exists or upon a finding of good cause for waiving the hearing.

In the past, the few existing policyholders have been willing to waive the hearing, but the law has not allowed the Commissioner to do so.

This bill will allow the Commissioner to waive the hearing thereby saving the cost of the hearing when circumstances do not require a hearing.

Thank you. If there are any questions, I would be happy to answer them.

**SENATE BILL NO. 2093**

**Presented by:** Craig Burns  
Legal Counsel  
North Dakota Insurance Department

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

**Date:** February 28, 2005

**TESTIMONY**

Mr. Chairman and members of the committee:

Good morning. My name is Craig Burns, Legal Counsel with the North Dakota Insurance Department. I stand before you today in support of Senate Bill No. 2093 which was introduced by the Insurance Department.

N.D. Cent. Code § 26.1-07-05.1 requires the Insurance Commissioner to hold a hearing on a petition for the consolidation or merger of a domestic insurance company with another insurance company.

N.D. Cent. Code § 26.1-10-03 requires that the Insurance Commissioner hold a hearing on an application for any merger or other acquisition of control of one insurance company by another company or by an individual.

The Commissioner must review the proposed transactions to make sure that policyholder interests are not adversely affected, that it is financially sound, and to make sure that the acquiring party is competent, experienced and of proper integrity.

At times, the transactions involve companies that have a limited number of policyholders or involve companies that have quit writing insurance in the state and have no policyholders.

The purpose of S.B. 2093 is to allow the Commissioner to waive the hearing if the companies involved and all the policyholders of the domestic companies consent. Current law requires that a hearing be held in these situations and the Department and insurance company personnel must still prepare for and appear at these hearings. Holding hearings on matters that are uncontested and without opposition from the interested parties adds needless expense for all parties.

All policyholders of the domestic company will still receive notice of a pending petition for consolidation. In addition, the Commissioner will still be required to review petitions for consolidation or applications for acquisition to insure that policyholder interests are protected and to make sure that the acquiring party is competent, experienced and of proper integrity.

Thank you. If there are any questions, I would be happy to answer them.