

MICROFILM DIVIDER

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



ROLL NUMBER

DESCRIPTION

20094

2005 SENATE INDUSTRY, BUSINESS AND LABOR

SB 2094

2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. 2094

Senate Industry, Business and Labor Committee

Conference Committee

Hearing Date 1-05-05

| Tape Number | Side A | Side B | Meter # |
|---------------------------|--------|--------|----------------|
| 1 | xxx | | 2880-end |
| 1 | | xxxx | 0-270 0 |
| Committee Clerk Signature | | | |

Minutes: **Senator Mutch opened the hearing on SB 2094. All Senators were present.**

SB 2094 relates to excluding commercial insurance coverage for loss by terrorism.

Jim Poolman, ND Insurance Commissioner, introduced the bill.

See written testimony.

Senator Heitkamp : Where is the definition of terrorism?

Jim Poolman: The definition of terrorism is actually in the policy and is federally regulated under the Terrorism Reinsurance Act.

Senator Heitkamp : Can your office provide us with that definition?

Jim Poolman: Absolutely.

Senator Mutch : Is there much of a savings?

Jim Poolman: The total terrorism charge can be as much as 7%, but when you decline the coverage, you can still have a 4% ser-charge because of the fire following. It can be significant.

Especially on a policy that can be thousands of dollars.

Page 2

Senate Industry, Business and Labor Committee

Bill/Resolution Number 2094

Hearing Date 01-05-05

Senator Heitkamp : The reason I ask is because there was a man in Fargo who burned his own commercial building and my buddy owned the building next to it, and it burned as a result of it. What that an act of terrorism by him?

Jim Poolman: Not under the federal definition of terrorism.

Senator Heitkamp : So if my friend didn't take out terrorism insurance, whom was covered under his fire policy, but if he hadn't taken out terrorism insurance, he **WOULD NOT** have been covered under this policy?

Jim Poolman: He would **STILL** be covered because it would not be considered an act of terrorism. It would still be considered under the actual fire policy.

Senator Mutch : Does anyone else wish to testify on behalf of this bill?

Seeing none, is there any opposition?

There was no opposition. No Action Taken. The hearing was closed.

---Tape 1, side A, Meter 6000 Further discussion took place on SB 2094 after hearing was closed.

Pat Ward, PCI, spoke in support of the bill and gave a brief definition of what he thinks terrorism is. Terrorism by our definition would have to require an attack by foreign power and death to many people. The definition would not apply to your "run of the mill" arson fire.

Senator Nething : So with this bill, we are trying to make sure we don't have something in state law that is counter to federal law?

End tape 1, side A. Continue on tape 1 side B, Meter 0.

Pat Ward: It is because of the difficulty of underwriting terrorism coverage. You need a federal backstop.

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Senate Industry, Business and Labor Committee

Bill/Resolution Number 2094

Hearing Date 01-05-05

Larry Maslowski, of the Insurance Commissioner's Office, spoke in support of the bill.

We are not trying to avoid any kind of federal law, just make it different, per say. There is about 12 or 14 states in the same boat as us, where feds came along and said that everyone has to have terrorism insurance, but you can opt out. When the business decides to opt out, they still had to pay a premium for the fire insurance coverage as a result and that is the issue we are trying to relieve the consumer who has decided not to take terrorism coverage, to be able to not have a sur-charge at all.

Senator Klein: So they are paying for something they are not getting?

Larry: They will get fire coverage. But they don't have the option of saying, I don't want it.

This would allow the insurance company to tell the policy holder that when they reject terrorism coverage, you reject all of the coverage.

Senator Nething suggested some changes in the bill and asked for them to be prepared.

Discussion ended. No Action Taken.

2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2094

Senate Industry, Business and Labor Committee

Conference Committee

Hearing Date 2-01-05

| Tape Number | Side A | Side B | Meter # |
|--|--------|--------|---------|
| 3 | xxx | | 0-800 |
| | | | |
| | | | |
| Committee Clerk Signature <i>Lisa Van Berkom</i> | | | |

Minutes: **Chairman Mutch allowed discussion on SB 2094. All senators were present.**

SB 2094 relates to excluding commercial insurance coverage for loss by fire or other perils caused directly or indirectly by terrorism.

Insurance Commissioner, Jim Poolman, was present to provide a definition of terrorism for the committee.

Jim: You really have to look at section B of the bill. The effect is to intimidate or coerce a government or the civilian population, not just one person, but a whole government. That would be the definition.

Senator Heitkamp : I'm good then.

Senator Klein: Were there any amendments to that?

Committee: No.

Jim: I don't think there are many bills in this session that you vote on that will have much more of a direct impact on a premium for a commercial policy holder, than this bill.

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Senate Industry, Business and Labor Committee

Bill/Resolution Number SB 2094

Hearing Date 2-01-05

Senator Espegard : Federal Act covers us anyway, but this allows our insurance company not to have insurance for fire protection on our policy, should we not want to have it.

Jim: Yes.

Senator Klein moved a **DO PASS**.

Senator Espegard seconded.

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

Carrier: **Senator Espegard**

Date: 2-1-05
Roll Call Vote #: 1

2005 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2094

Senate Industry, Business and Labor Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass

Motion Made By Klein Seconded By Espegard

| 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 | | | | |
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Total (Yes) 7 No 0

Absent 0

Floor Assignment Espegard

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

REPORT OF STANDING COMMITTEE (410)
February 2, 2005 7:52 a.m.

Module No: SR-22-1631
Carrier: Espgaard
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

SB 2094: Industry, Business and Labor Committee (Sen. Mutch, Chairman) recommends DO PASS (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2094 was placed on the Eleventh order on the calendar.

2005 HOUSE INDUSTRY, BUSINESS AND LABOR

SB 2094

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2094

House Industry, Business and Labor Committee

Conference Committee

Hearing Date 2-28-05

| Tape Number | Side A | Side B | Meter # |
|---|--------|--------|-----------|
| 1 | x | | 13.0-47.6 |
| 2 | x | | 33.2-45.5 |
| Committee Clerk Signature <i>Jody Renke</i> | | | |

Minutes:

Chairman Keiser: Opened the hearing on SB 2094. All committee members were present.

Jim Poolman, Commissioner, North Dakota, Insurance Department: Appeared in support of bill and provided a written statement (SEE ATTACHED TESTIMONY).

Representative Froseth: How do you exactly determine what has been caused by terrorism?

Jim Poolman: There is a federal definition of terrorism, and a definition that is filed with the insurance department, by the insurance services organization, and it is actually very specific.

Representative Keiser: Just to clarify that would be determined by the federal government, and they would make a ruling to the fact that it was a terrorist act, and they have their standards.

Jim Poolman: I would just like to conclude by quickly saying, that no bill you vote on here will have more of a direct impact on premiums, and lessening premiums for commercial policy holders then this specific bill right here.

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House Industry, Business and Labor Committee

Bill/Resolution Number SB 2094

Hearing Date 2-28-05

Pat Ward: I'm here to support this bill, what this does is allows the insured to make an election at the time they are purchasing the insurance not to pay the extra money for this coverage, which is very specific for commercial policies, the terrorist act is defined in federal law.

Representative Keiser: By passing this legislation, it does not preclude insurance companies for offering coverage separate from terrorism.

Representative N. Johnson: I move to **ADOPT** the **AMENDMENT** to add an **EMERGENCY** clause.

Representative Boe: I **SECOND** the motion to **ADOPT** amendment on SB 2094.

Motion carried.

Representative Boe: I **MOVE** to a **DO PASS** as amended on SB 2094.

Representative Ekstrom: **SECOND** the **DO PASS** as **AMENDED** motion.

Motion carried. **VOTE: 14-YES 0-NO 0-Absent.**

Representative Clark will carry the bill on the floor.

Hearing adjourned.

February 28, 2005

YR
2/28/05

PROPOSED AMENDMENTS TO SENATE BILL NO. 2094

Page 1, line 3, after "terrorism" insert "; and to declare an emergency"

Page 3, after line 24, insert:

"SECTION 2. EMERGENCY. This Act is declared to be an emergency measure."

Renumber accordingly

Date: 2-28-05
 Roll Call Vote #: 1

2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES
 BILL/RESOLUTION NO. SB2094

House INDUSTRY, BUSINESS AND LABOR Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Adopt Amendment of emergency clause

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 | X | | Rep. E. Thorpe | ✓ | |
| Rep. M. Dosch | X | | | | |
| Rep. G. Froseth | X | | | | |
| Rep. J. Kasper | X | | | | |
| Rep. D. Nottestad | X | | | | |
| Rep. D. Ruby | X | | | | |
| Rep. D. Vigesaa | X | | | | |
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Total (Yes) 14 No 0

Absent 0

Floor Assignment Rep Clark

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

Date: 2/28/05
 Roll Call Vote #: 2

2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2094

House INDUSTRY, BUSINESS AND LABOR Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass As Amend w/emergency clause

Motion Made By Boe Seconded By Ekstrom

| 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 | X | | 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 | | | | |
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Total (Yes) 14 No 0

Absent 0

Floor Assignment Rep. Clark

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

REPORT OF STANDING COMMITTEE

SB 2094: Industry, Business and Labor Committee (Rep. Kelsner, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS (14 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2094 was placed on the Sixth order on the calendar.

Page 1, line 3, after "terrorism" insert "; and to declare an emergency"

Page 3, after line 24, insert:

"SECTION 2. EMERGENCY. This Act is declared to be an emergency measure."

Renumber accordingly

2005 TESTIMONY

SB 2094

Poolman Intro

Presented by: Larry Maslowski
Director/Senior Analyst
North Dakota Insurance Department

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

Date: January 5, 2005

TESTIMONY

Mr. Chairman and members of the committee:

My name is Larry Maslowski. I am the Director/Senior Analyst of the Consumer Protection Property and Casualty Unit within the North Dakota Insurance Department.

Current N.D. Century Code § 26.1-39-06 is known as the "Standard Fire Policy" law and prohibits companies from excluding basic fire coverage from property policies regardless of cause.

This prohibition has resulted in what we believe are unintended results.

In November of 2002 Congress enacted the Terrorism Risk Insurance Act (TRIA) which immediately added terrorism coverage to all commercial insurance policies in the country.

Commercial policyholders were given the opportunity to reject the terrorism coverage if they wanted to. However, due to the "Standard Fire Policy" law requirement, even if a policyholder rejected the terrorism coverage, the policy still had to provide resulting fire coverage.

The unintended burden to the policyholders came in the form of an additional premium that companies felt compelled to charge for this fire coverage. For example, a company may have a premium of 7% of gross premium as the charge for terrorism coverage but still charge 4% for fire resulting coverage even if the policyholder rejected the terrorism coverage.

This bill proposes to add a specific exemption to the "Standard Fire Policy" law. The exemption would remove the requirement that policies provide fire coverage if the commercial policyholder chose to reject the terrorism coverage.

The change is found on page 2, lines 26 to 28.

I will be happy to answer any questions you might have.

Definition of Terrorism

Terrorism means activities against person, organizations or property of any nature:

- a. That involve the following or preparation for the following:
 1. Use or threat of force or violence; or
 2. Commission or threat of a dangerous act; or
 3. Commission or threat of an act that interferes with or disrupts an electronic, communication, information, or mechanical system; and
- b. When one or both of the following applies:
 1. The effect is to intimidate or coerce a government or the civilian population or any segment thereof, or to disrupt any segment of the economy; or
 2. It appears that the intent is to intimidate or coerce a government, or to further political, ideological, religious, social or economic objectives or to express (or express opposition to) a philosophy or ideology.

SENATE BILL NO. 2094

Presented by: Jim Poolman
Commissioner
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:

My name is Jim Poolman. I am the Commissioner of the North Dakota Insurance Department.

Current N.D. Century Code § 26.1-39-06 is known as the "Standard Fire Policy" law and prohibits companies from excluding basic fire coverage from property policies regardless of cause.

This prohibition has resulted in what we believe are unintended results.

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