

Senate Commerce Committee

Angela Leach 271-3077

HB 343, relative to disapproval of forms.

Hearing Date: April 18, 2017

Members of the Committee Present: Senators Innis, French, Sanborn, Soucy and Lasky

Members of the Committee Absent : None

Bill Analysis: This bill declares that before a life insurance policy or annuity is sold to the public, the form must be approved by the insurance commissioner.

This bill is a request of the insurance department.

Sponsors:

Rep. Hunt
Sen. Feltes

Rep. Luneau

Rep. Butler

Who supports the bill: Representative John Hunt, Alex Feldvebel- NH Insurance Department, Marty Mobley- NH Insurance Department, George Roussos- NH Association of Domestic Insurance Companies and Cigna

Who opposes the bill: Paula Rogers- Anthem

Summary of testimony presented:

Senator Sanborn stated he may or may not have a conflict but will be participating.

Representative John Hunt (PRIME)- Request of the Insurance Department to clarify in statute the Commissioner's authority to approve and disapprove forms for both individual and group life insurance policies. The current statute states the commissioner's authority to approve and disapprove forms has always been implied. This bill makes the intent clear. Proposed an amendment which gives the commissioner the authority to retain independent specialists to assist in reviewing rates and forms, performing financial analysis, reviewing transactions and reviewing ORSA summary reports with the costs of the specialists being assumed by the company under review. This was included in the department's original budget submission but it was recommended that this be a standalone amendment.

Marty Mobley- Insurance Department- (Support) This bill is a housekeeping measure. The current statute says the commissioner has the authority to disapprove forms that have been submitted for review. Current practice has been that if it is not disapproved then the approval has been implied.

Alex Feldvebel- Insurance Department (Support) The proposed amendment is similar in purpose. It gives the department explicit authority to do certain things that people thought we were already allowed to do. This addresses the department's authority to obtain outside experts to assist in the performance in regulatory functions and to bill the company that is the subject of those functions. The language proposed has been vetted with the industry. Originally thought this would be in HB 2. We were advised to bring it as an amendment to an independent bill because it does amend statute. The review of rates and forms, historically the department has had situations where the actuary leaves for

another job, leaving a gap for a year before recruiting for another actuary. We asked the industry if they wanted their rate filings reviewed in a timely fashion. They agreed and we have to bill them for that function. This gives us the authority to bill for this function, particularly for our financial regulatory functions which include the financial analysis, review of the ORSA forms, and the holding company reviews. It is important because more and more is required in order to get accreditation by the National Association of Insurance Commissioners. Every insurance department in the country is accredited in its financial regulatory function by the NEIC, once every five years. One of things they review is if the state has the authority to obtain outside experts and bill for that. They want to see that the insurance department has the capacity to carry out key regulatory functions even if there is a disruption in staffing. More and more insurance companies are struggling recruiting for this kind of function. It is important that we have this authority to be accredited. If we are not accredited, it hurts our domestic insurance companies because our financial exams of those companies are not recognized by the other states so they have to bring in their own financial reviewers which results in more examination costs. We added provisions that we will follow the NAIC market regulation handbook in the way we retain experts and exert oversight over the costs. Adds a commitment that the commissioner will ensure costs that are reasonable in relation to the work done. Added a provisions for each of these functions except the holding company that gives the payer a credit against the administrative assessment that funds the insurance departments operations. No cost to the entity being billed for these outside experts because it results in accrediting.

Senator Sanborn- what is your budget? 10 million a year?

Alex Feldvebel- Yes, 10 to 11 million.

Senator Sanborn- I appreciate the fact that you put in the amendment for the ability to take those fees and apply them towards their dues. Why aren't you allowing them to use the credit to review forms against their bill this year? Why do they have to stretch it out another year?

Alex Feldvebel- Mechanically we don't know what the amount is until the completion of the year. The only way the credit can work is if you take it in the subsequent year.

Senator Sanborn-Sometimes we lose sight of how we review rates or forms. Most other states allow carriers to utilize some level of forms or advertising without having to wait to get approval from the department. Some would suggest that NH is one of the most stringent or strict states in requiring the approval of all forms and advertising before the carriers are allowed to use them. Why shouldn't we be looking to make our approval process similar to the other states?

Alex Feldvebel – We are doing that. Disagree that NH as a state is heavy on the prior review side of things; I believe we are in the middle. We are working on an initiative to reduce the prior approval requirements in terms of commercial insurance. We feel that there is more that can be done where you have larger buyers and have less of a need for the insurance department to be pouring over the forms. We are working with the domestic association for recommendations for legislation for next year. Did take some steps to scale back and we are always looking for that. Is this a good regulatory value for the consumer or just adding expense unnecessarily?

Senator Sanborn- If this committee was to look at all of our neighboring states to allow which forms the carriers can bring to market without approval, would you support that?

Alex Feldvebel- Yes, absolutely. We are looking at if we continue to review the forms, how we can do it quickly. Recently talked to the Maine insurance department and their review process and have ideas from that conversation.

Senator Sanborn- Has the agency begun to give consideration to the ACA and the significant changes which may happen to the approval process from April to October? Are we prepared for that?

Alex Feldvebel- Looking at all of the different things that could occur in Congress and what the implications could be for the NH markets. And what we could do as a state to maintain a smooth transition.

Paula Rogers- Anthem-(Opposed) Anthem did not speak with the Department until today regarding the amendment. Our focus was on the first section of the bill regarding rate inform. The reason rate inform is significant to Anthem is that the other sections are department functions that a carrier would assume there may be need for expertise in that is not in-house. What is concerning is the word forms because over the last several years, there has been a lot of attention necessary to forms, QHP's, and exchange products versus non-exchange products. All comes on a predetermined calendar which puts a lot of pressure on the department. It is very difficult to find a person who has the expertise to look at these forms in a meticulous fashion using a system that comes from the NAIC. That is a core function

of a regulatory agency; to review filings received from its licensee. The concern was something that opens the door to wider outsourcing, that function would be a concern from a supervision point of review. Such as how that works in the department, how it is in relation to cost of developing the in-house capacity, and who's controlling it; it raised some concerns. On at least two of the provisions, there was a credit against the administrative funding the department receives from the carriers based on premium written. Mr. Feldvebel agreeably inserted into the section about forms and rates. A concern is if we saw more of that form review function out of the department side. In section 3, it references the National Association of Insurance Commissioners handbook and the market regulation handbook and it is fine to reference those in some sections but it doesn't have much context with specialists in reference to form review.

Senator Sanborn- The Governor, like myself, feels that NH industries are being overregulated. Is there a way for the carriers to come up with some language that provides some reasonable flexibility that we are seeing in all the other states?

Paula Rogers- There have been a couple of adjustments at the department that favor filing for informational purposes for marketing and advertising that has no direct relationship to the actual coverage that it is marketing to. I think it is a great step that certain filings can be made for informational. Are there other areas, I think it is premature because there is so much uncertainty at the federal level and so much what the department has been struggling with has descended from the ACA and the complexity of it. That kind of conversation should be delayed until we know what the new context is.

George Roussos- NH Association of Domestic Insurance Companies and Cigna (Support)- The department has been very willing to insert provisions that make us more comfortable. One of those is the reference to the NAIC market regulation handbook to provide standards for the reasonableness of the use of consultants. Also the language that costs are reasonable for the work performed. And in 3 of these 4 areas the credit for the assessment to fund the department for the services of a consultant. Very happy with this bill. It is important to domestic insurance companies that the NH department be respected around the country. One reason for that is that other states, where NH based companies do business also want to ensure the solvency of the company and its ability to fill its promises. In our system of insurance regulation reliance is placed on what the domestic insurance company regulator says, they are the primary ones responsible for solvency regulation of my clients and NH based companies. It is important that in Illinois, California, and elsewhere that those regulators have confidence in what NH has said. We favor strong insurance regulation. This bill helps ensure the department will have the resources to do its job in these areas. Cigna had some concerns that Anthem had but with the change that the department made with the payment for consultants a credit against assessment. On the amendment, new paragraph 3, first page, Roman III, line 10, important language that will help the department with the hiring of consultants which is necessary for the timely review of rates and forms. I think the department will be constrained with the use of consultants. Questions regarding overregulation and prospect of less regulation, historically NH has been on the less regulation side of the form and rate review. About 20 years ago, the insurance laws on rates and forms were revised to provide prior approval of rates, file and use, and use and file which are the 3 categories of rate review. Prior approval is important in areas of automobile insurance and homeowners insurance. Less sophisticated insurance buyers and on the form side you have a need for uniformity. Workers comp is prior approval but there's a lot of varying rates depending on the experience of the employer as well as other factors. There's the area of surplus line insurance where the rates are not regulated by the insurance department. The department is moving to recognition for more commercial activities, less regulation.

Senator Sanborn- Page 2, line 8- minimum administrative fee of \$100, what is the maximum? Is this a new fee?

George Roussos- Existing law. Prevent a company with very little premium or no premium from not paying anything. No maximum, the fee is prorated to total NH premium.

Senator Sanborn- Is the calculation defined somewhere in statute?

George Roussos- In statute, it defines the mechanism for applying the assessment, it is based on the total NH premium as a denominator and the numerator being the premium of the tax paying insurance company.

Senator Sanborn- The ability to apply the cost for forms and rates against your annual fee? If it is going into 3 of the 4 duties, why not all 4 duties?

George Roussos- The companies are comfortable with paying this fee without a credit for a number of reasons. First is historically and second is substantially what we are paying for with these experts. Transactions such as mergers and accusation of domestic insurance companies and certain holding company transactions. Sometimes you have questions of valuation you made need an economic expert and have paid for that for a number of years. We are happy to have the expert hired. This is outside the core function which happens twice a year and understand the need for experts. Happy to pay the cost.

Future Action: Pending

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