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The Senate of the State of New Hampshire

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March 25, 2005

To Whom It May Concern:

I hereby certify that the attached document, *The Senate Floor Debate of February 10, 2005 on the Committee Recommendation of Senate Bill 74 (2005)*, is a true copy of the documents transcribed for the Senate Permanent Journal of 2005.

This transcript includes the Committee Bill Report as posted in Senate Calendar Number 6, February 4, 2005, the Committee Amendment from the Committee on Banks and Insurance (2005-0176s), the Floor Amendment as presented by Senator Gottesman (2005-0190s), and the verbatim transcript of the discussions thereon.

A handwritten signature in black ink, appearing to read "S. J. Winter", written over a horizontal line.

Steven J. Winter
Clerk of the Senate

SENATE CHAMBER FLOOR DEBATE

FEBRUARY 10, 2005

SB 74

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SB 74, making certain technical changes in the insurance laws. Banks and Insurance Committee. Ought to pass with amendment, Vote 6-0. Senator Foster for the committee.

Banks and Insurance
February 5, 2005
2005-0176s
01/09

Amendment to SB 74

Amend RSA 402:81, I(a)(1) as inserted by section 3 of the bill by replacing it with the following:

(1) The original policy to be cancelled; or

Amend the introductory paragraph of RSA 402-C:36 as inserted by section 4 of the bill by replacing it with the following:

The amount recoverable by the liquidator from a reinsurer shall not be reduced as a result of delinquency proceedings [unless] *regardless of whether* the reinsurance contract provides, in substance, that in the event of the insolvency of the ceding insurer, the reinsurance shall be payable by the assuming insurer on the basis of the claims allowed against the ceding insurer in the insolvency proceedings, under contract or contracts reinsured without diminution because of the insolvency of the ceding insurer. *Such payments shall be made* directly to the ceding insurer or to its domiciliary liquidator or receiver except:

Amend the introductory paragraph of RSA 402-C:44 as inserted by section 5 of the bill by replacing it with the following:

The order of distribution of claims from the insurer's estate shall be as stated in this section. The first \$50 of the amount allowed on each claim in the classes under paragraphs II, V, and VI except claims of the guaranty associations as defined in RSA 404-B, *404-H*, 404-D, and 408-B shall be deducted from the claim. Claims may not be cumulated by assignment to avoid application of the \$50 deductible provision. Subject to the \$50 deductible provision, every claim in each class shall be paid in full or adequate funds

retained for the payment before the members of the next class receive any payment. No subclasses shall be established within any class.

Amend RSA 415-A:4-a, I(b)(1) as inserted by section 9 of the bill by replacing it with the following:

(1) Developed with input from appropriate ~~[actively practicing]~~ practitioners ~~[in the licensed entity's service area]~~ *with professional knowledge or clinical expertise in the area being reviewed;*

Amend RSA 420-J:5, I(b) as inserted by section 11 of the bill by replacing it with the following:

(b) ~~[The]~~ *For medical necessity appeals at least one person reviewing the [grievance on a first or second level appeal have appropriate medical and professional expertise and credentialing to competently render a determination on] appeal is a practitioner in the same or similar specialty who typically treats the medical condition, performs the procedure or provides the treatment at issue in the appeal. A practitioner is considered of the same specialty if he or she has similar credentials and licensure as those who typically treat the condition or health problem in question in the appeal. A practitioner is considered of a similar specialty if he or she has experience treating the same problems as those in question in the appeal, in addition to expertise treating similar complications of those problems;*

Amend RSA 420-J:5, II(a) as inserted by section 12 of the bill by replacing it with the following:

(a) The review shall be conducted by or in consultation with a health care professional ~~[who has appropriate training and experience in the field of medicine]~~ *in the same or similar specialty who typically treats the medical condition, performs the procedure or provides the treatment at issue in the appeal. A practitioner is considered of the same specialty if he or she has similar credentials and licensure as those who typically treat the condition or health problem in question in the appeal. A practitioner is considered of a similar specialty if he or she has experience treating the same problems as those in question in the appeal, in addition to expertise treating similar complications of those problems;*

SENATOR FOSTER: Thank you Mr. President. I move SB 74 ought to pass with amendment. The majority of the bill makes minor technical corrections to the insurance statutes, which include correcting a sited reference, changing the minimum electronic transfer amount from \$100,000 to \$40,000, and clarifying that if a payment is not received within the 31-day grace period the producer is liable for any losses that occur after that time if they elect to continue coverage. It will also allow the commissioner to obtain information that he feels is important for maintaining a competitive market. The amendment to SB 74 clarifies some issues that the committee had with a few sections. The committee also heard lots of testimony both in favor and against language which was contained in section 5 of the bill. The committee, without coming to a substantive determination on that language, felt because the matter was before the courts, it was best not to pass a measure that impacted the litigation in any way whatsoever. The amendment removes section 5. The other changes that appear in the amendment deal with issues the committee had regarding the clarifications of definitions in the original bill. The Banks and Insurance Committee asks your support of ought to pass with amendment, and also following this will be a floor

amendment by Senator Gottesman, which the committee also supports. Thank you very much.

Amendment adopted.

Senator Gottesman offered a floor amendment.

Sen. Gottesman, Dist. 12
February 7, 2005
2005-0190s
01/09

Floor Amendment to SB 74

Amend RSA 402:81, I(c)-(f) as inserted by section 3 of the bill by replacing them with the following:

(c) No refund shall be required if the return premium is \$1 or less.

(d) For auditable policies, gross unearned premium shall be returned within 30 days from the date of the completed audit.

(e) This paragraph shall not apply to retrospectively rated policies.

SENATOR GOTTESMAN: Thank you Mr. President. Mr. President, when an insurance policy is terminated, the money should go back to the rightful owner if there is a credit. This amendment will change section 3, paragraph I, sections c and d. Presently, the laws of New Hampshire say that if a refund is due to an individual of a dollar or less, that the insurance company does not have to send it back. I think the logic of that is the cost of the stamp and the envelope pretty much amount to that. Under the circumstances of this bill, if it is \$15 or less, the insurance company is now supposed to send a letter to the insured, tell them that they can have the money if they want it, and then the insured has to write back to the insurance company and tell them that they want the money, and then the insurance company will send the money to the individual. Now, no matter if the refund is for a business or an individual, it is their money and the insurance company should not be allowed to keep the money. As the bill is written now in paragraph d, the individual would have to request a refund if it was \$15 or less. This amendment would stop the unnecessary bureaucratic process for these individuals to get their money back. This is to better protect the consumers and to give them what truly belongs to them. Fellow colleagues, please join me and support this floor amendment to better protect the consumers of New Hampshire.

SENATOR BOYCE: Senator Gottesman, this is actually sort of a would you believe? Several years ago I was in...I worked for a company that had an employee payroll deduction for buying stock in the company. When I left the company, I told the broker I wanted to sell that off and transfer it to an IRA. They did all that and somehow a dividend check or a dividend got paid after the date that I had done that. The dividend was 14 cents. For the last, well it is at least 12 or 14 years, every three months I get a statement from that company...from the stockbroker that I have a 14 cent balance. Now they haven't yet figured out that if they sent me a postage paid envelope to write back or someplace other than to make a long distance phone call or something to sit on the line for a while...if they gave me an easy way to let them have that 14 cents, they could stop sending me the letter. But every three months I get a

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letter saying "you have 14 cents with our brokerage" and they keep reporting it. I can see the effect of what you are actually looking for here. Thank you.

SENATOR GATSAS: Thank you Mr. President. Senator Gottesman, in "e" it says or "This paragraph shall not apply to retrospectively rated policies." Can you just...is that including the refunds also or? It is in the bill originally. It is also in your amendment. I am not...I am a little confused about what a retrospectively rated policy is.

SENATOR GOTTESMAN: I can't say that I have an honest answer for you Senator Gatsas.

SENATOR GATSAS: Okay.

Floor amendment adopted.

The question is on the adoption of the bill as amended.

Adopted.

Ordered to third reading.