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Banking, Commerce and Insurance Committee
January 16, 2018

[LB743 LB799 LB812 LB813 LB815]

The Committee on Banking, Commerce and Insurance met at 1:30 p.m. on Tuesday, January 16, 2018, in Room 1507 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB812, LB813, LB743, LB799, and LB815. Senators present: Brett Lindstrom, Chairperson; Matt Williams, Vice Chairperson; Roy Baker; Tom Brewer; Mark Kolterman; John McCollister; and Paul Schumacher. Senators absent: Burke Harr.

SENATOR LINDSTROM: Welcome to the Banking, Commerce and Insurance Committee hearing. My name is Brett Lindstrom, I'm from Omaha and represent District 18. I serve as Chair of this committee. The committee will take up the bills in the order posted. Our hearing today is your public part of the legislative process. This is your opportunity to express your position on the proposed legislation before us today. The committee members will come and go during the hearing. We have to introduce bills in other committees and are called away. It is not an indication we are not interested in the bill being heard in this committee, just part of the process. To better facilitate today's proceedings I ask that you abide by the following procedures. The information is posted on the chart to your left. Please silence or turn off your cell phones. Move to the front of the row when you are ready to testify. The order of testimony will go as follows: introducer, proponents, opponents, neutral, and then closing. Testifiers, please sign in. Hand in your pink sign-in sheet to the committee clerk when you come up to testify. Please spell your name for the record before you testify. Please be concise. It is my request that you limit your testimony to five minutes. If you will not be testifying at the microphone, but want to go on record as having a position on the bill being heard today, there are white tablets at each entrance where you may leave your name and other pertinent information. These sign-in sheets will become exhibits in the permanent record at the end of today's hearing. Written materials may be distributed to committee members as exhibits only while testimony is being offered. Hand them to the page for distribution to the committee and staff when you come up to testify. We will need ten copies. If you have written testimony, but do not have ten copies, please raise your hand now so the page can make ten copies for you. To my immediate right is committee counsel, Bill Marienau. To my left at the end of the table is committee clerk, Jan Foster. And then I'll have the senators, starting on my far right, introduce themselves and move to the left. Senator Schumacher.

SENATOR SCHUMACHER: Oh, well, that's me. Paul Schumacher, District 22, that's Platte and parts of Colfax and Stanton Counties.

SENATOR KOLTERMAN: Mark Kolterman, District 24, that's Seward, York, and Polk Counties.

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SENATOR BREWER: Tom Brewer, District 43, 13 counties of western Nebraska.

SENATOR WILLIAMS: Matt Williams, District 36, Dawson, Custer, and the north part of Buffalo Counties.

SENATOR BAKER: Roy Baker, District 30, Gage County and part of Lancaster County.

SENATOR McCOLLISTER: Last but not least, John McCollister, District 20, central Omaha.

SENATOR LINDSTROM: And Senator Harr, I believe, will not be joining us today. He has a prior engagement. Our page today is Alyssa Lund from Woodbury, Minnesota. Thank you, Alyssa, and congratulations on your Vikings, along with Bill. I know he was probably excited this weekend, so. The order of bills were posted on the outside of the door. I actually will have the first three bills so I will turn the committee over to Vice Chairman Williams.

SENATOR WILLIAMS: Thank you, Chairman Lindstrom. And Chairman Lindstrom will be introducing LB812 to start. So you are up, Senator. [LB812]

SENATOR LINDSTROM: Thank you, Senator Williams. LB812 has been brought to us by the Director of Banking and Finance. It is a housekeeping measure to update and clean up various sections of our statutes governing financial institutions. The bill would provide that state-chartered banks, state-chartered savings and loan associations, and state-chartered credit unions shall have all the rights, powers, privileges, benefits, and immunities which may be exercised by their federal counterparts as of January 1, 2018, changed from January 1, 2017. Due to the state constitutional restrictions on legislative authority, these statutes are updated annually. The bill would update other various internal references to federal statutes and regulations from January 1, 2017, to January 1, 2018. The bill would also repeal provisions that are obsolete on their face. Those are the housekeeping changes in LB812. I would urge your advancement of this bill. [LB812]

SENATOR WILLIAMS: Thank you, Senator Lindstrom. Are there any questions for the senator at this point? Seeing none, we will invite the first testifier in favor. Director Quandahl, welcome. [LB812]

MARK QUANDAHL: (Exhibit 1) Yes, thank you. Vice Chair Williams, members of the Banking, Commerce and Insurance Committee, my name is Mark Quandahl, it's Q-u-a-n-d-a-h-l, I'm Director of the Nebraska Department of Banking and Finance. I'm appearing here today in support of LB812, which was introduced at the request of the department. LB812 contains the

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annual equal rights updates for Nebraska's state-chartered depository institutions, all of which are under the jurisdiction of the department. Traditionally known as the "wild card" or "equal rights" laws, this legislation provides the same rights, powers, and privileges to Nebraska state-chartered banks, credit unions, savings and loan associations as those enjoyed by their federally chartered financial institution counterparts doing business in Nebraska. Due to state constitutional restrictions on delegation of legislative authority, the statutes need to be amended annually to provide for a current reference date. The reference date provided in LB812 is January 1, 2018. Within the bill, Section 6 provides equal rights between our 155 state-chartered banks and the national banks chartered by the OCC. Section 9 provides the same rights for Nebraska's 13 state-chartered credit unions as those held by federal credit unions chartered by the NCUA. Section 8 provides for equality between state-chartered S&Ls by those federal savings associations that do business in Nebraska. At present, there are no state-chartered S&Ls operating in Nebraska, but it's important to update the law nonetheless in the event that an application for a state charter or a conversion from a federal charter is filed. The Legislature first adopted the savings and loan wild card statute in 1971, the credit union statute in 1977, and the bank wild card statute in 1999. This annual reenactment forestalls any constitutional challenges. Under each of these sections, there is no exemption from the payment of any taxes imposed by the state. I echo my testimony before this committee in previous years during my tenure as director of the department, as well as the testimony of my predecessors, that wild card legislation is sensible in that it provides for parity for our state-chartered financial institutions with their federal counterparts without the need to enact state legislation for each specific privilege. LB812 also proposes to update all cross-referenced federal statutes and regulations affecting financial institutions to refer to those statutes and regulations as they existed on January 1, 2018. Those changes are found in Sections 1 through 5 and Section 7 of the bill. The 2017 Legislature re-codified the Nebraska Banking Act and related laws, so the existing federal references are current as of January 1, 2017. The department respectfully suggests that these reference updates be included annually in future wild card legislation so that references are as current as possible on an ongoing basis. The remaining changes proposed in LB812 are within Section 7 to update the name of the federal Home Owners Loan Act of 1933 to its current name, "Home Owners Loan Act," and within Section 3 to remove obsolete language relating to the operation of electronic switches and automatic teller machines. The bill carries the emergency clause. I want to thank Chairman Lindstrom for introducing this legislation and I'd be happy to answer any questions at this time. [LB812]

SENATOR WILLIAMS: Are there questions for the director? Yes, Senator Schumacher.
[LB812]

SENATOR SCHUMACHER: Thank you, Senator Williams. And thank you, Director Quandahl, for appearing today. It's usually just fairly routine that we update the wild card statute... [LB812]

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MARK QUANDAHL: Correct. [LB812]

SENATOR SCHUMACHER: ...and bring everything up to date. This year we've had this massive change in the federal tax law. And a lot of the cross referencing and things like that, that never meets the eye, may come into play. In taking this action, has someone gone through that federal tax law to make sure that we are not updating it to something we don't want? There's been several things pointed out in the Revenue Committee that we might not want to part from the old statute, so I'm just doing a little due diligence here. Are we sure that there's nothing we're doing here that adopts some change there that we really don't want or they didn't even know was there? [LB812]

MARK QUANDAHL: Yeah. And let me answer that this way is, I'm not sure, but I don't think so. The statutes that we're primarily concerned with are those that just deal with the rights and privileges of the financial institutions and not necessarily those that pertain to federal tax law. And so I do have...I know usually you ask a question about, well, what are these updates that you're talking about? And I do have a number of them and some of them have to deal with like EGRPRA and some other regulations that the OCC has put out, and so we have a list of those that I could...I'd be more than happy to provide you with, but I don't want to bore the whole committee with them right now. [LB812]

SENATOR SCHUMACHER: Well, nor am I suggesting we should be bored with them right now. [LB812]

MARK QUANDAHL: But we will look into that for you, too. [LB812]

SENATOR SCHUMACHER: We're doing cross-referencing I think in here, too. [LB812]

MARK QUANDAHL: That is correct. [LB812]

SENATOR SCHUMACHER: And so we could maybe reference a regulation that in turn references the IRS code or something like that so we could have chain reactions. Probably no problem, but there are some things that are out there that would be a real wrinkle if they are unexpectedly applied. [LB812]

MARK QUANDAHL: Right. And I don't think so, but we'll look into it. [LB812]

SENATOR SCHUMACHER: Thank you. [LB812]

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MARK QUANDAHL: Certainly. [LB812]

SENATOR WILLIAMS: Senator McCollister. [LB812]

SENATOR McCOLLISTER: Thank you, Senator. Question for you. Director, if Dodd-Frank passes the House and the Senate and we have a new bill, what effect will that statute have on your statutes here in Nebraska? [LB812]

MARK QUANDAHL: Well, I'm not sure because I guess I'm unsure as to whether the Dodd-Frank updates are going to pass, but it does look like something is going to happen a little bit later on in this year. But it would probably have kind of a water-fall effect on some of our financial institutions. I'd be more than happy to kind of brief the committee at that time, but I don't know at this point. And then as far as the updates that were passed last year by Congress, none of them are directly pertaining to the Dodd-Frank updates, so. [LB812]

SENATOR McCOLLISTER: Okay. Thank you, Director. [LB812]

SENATOR QUANDAHL: Sure. [LB812]

SENATOR WILLIAMS: Any additional questions? Seeing none, thank you, Director Quandahl. [LB812]

MARK QUANDAHL: Thank you. [LB812]

SENATOR WILLIAMS: We'd invite the first proponent to the stand. Mr. Luetkenhaus. [LB812]

BRANDON LUETKENHAUS: Thank you, Senator Williams. Members of the Banking, Commerce and Insurance Committee, my name is Brandon Luetkenhaus, spelled B-r-a-n-d-o-n, last name, L-u-e-t-k-e-n-h-a-u-s. I'm here today on behalf of the Nebraska Credit Union League. Our trade association represents Nebraska's 61 credit unions in the state. And I appear before you to provide our support for LB812 as it pertains to credit unions. LB812 includes the annual credit union wild card, as the director spoke to. Our association strongly supports the dual chartering system, whereby a credit union in this state can choose either a state or a federal charter and can move from one charter to the other. Choice of credit union charter and regulation in our opinion is critical in creating an innovative operating environment and in for which all credit unions and consumers can benefit. A key component to a viable dual chartering system is the wild card which provides clarity to those areas not specifically addressed by the state statutes and extends parity in the services which can be offered by state-chartered credit unions. We look

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forward to working with this committee and the department and Director Quandahl to make the state charter a strong and viable option for our Nebraska credit unions. I want to thank Chairman Lindstrom for introducing LB812 and the director and his staff for all their work on this. And I'd be happy to answer any questions you might have. [LB812]

SENATOR WILLIAMS: Questions for Mr. Luetkenhaus? Seeing none, thank you. Next proponent. Welcome, Mr. Hallstrom. [LB812]

BOB HALLSTROM: Thank you, Vice Chairman Williams. Members of the committee, my name is Bob Hallstrom, H-a-l-l-s-t-r-o-m, I appear before you today as registered lobbyist for the Nebraska Bankers Association in support of LB812. Director Quandahl has told the committee about all that exists regarding the wild card, but we do appreciate the fact that it provides parity between state and national banks and wholeheartedly support the advancement of LB812 from committee. I'd be happy to address any questions that the committee might have. [LB812]

SENATOR WILLIAMS: Questions for Mr. Hallstrom? Seeing none, thank you for your testimony. [LB812]

BOB HALLSTROM: Thank you. [LB812]

SENATOR WILLIAMS: Any additional proponents? Seeing none, are there any opponents? Seeing none, is there anyone here to testify in a neutral capacity? Seeing none, Senator Lindstrom waives closing, so we will close the hearing on LB812. We will now open the hearing on LB813 and welcome Chairman Lindstrom back. [LB812 LB813]

SENATOR LINDSTROM: Thank you, Senator Williams. Still knocking the rust off here. I forgot to introduce myself. My name is Brett Lindstrom, B-r-e-t-t L-i-n-d-s-t-r-o-m, representing District 18 in northwest Omaha. LB813 was brought to us by the director of Banking and Finance. It is a housekeeping measure to update and clean-up various sections of the Securities Act of Nebraska. The bill would correct a discrepancy between the definition of federal covered adviser with an exclusion to the definition of investment adviser. With this change, persons who are excluded from the federal definition of investment adviser will not be included in the state's definition of a federal covered adviser. The bill would update cross referenced federal statutes, regulations, and standards to refer to those statutes, regulations, and standards as they existed on January 1, 2018, changed from January 1, 2017. The bill would also eliminate obsolete provisions related to two federal rules. Those are the housekeeping changes to LB813. I would urge the advancement of this bill. Thank you, Senator. [LB813]

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SENATOR WILLIAMS: Any questions for Senator Lindstrom? If not, thank you. We would invite the first proponent. Welcome back, Director Quandahl. [LB813]

MARK QUANDAHL: (Exhibit 1) Thank you, Vice Chair Williams and members of the Banking, Commerce and Insurance Committee. My name is Mark Quandahl, Q-u-a-n-d-a-h-l. I'm Director of the Nebraska Department of Banking and Finance and I'm appearing here today in support of LB813, which was introduced to update the Securities Act of Nebraska. Section 1 of the bill corrects a discrepancy in the Securities Act between the definition of a federal covered adviser and an exclusion to the definition of an investment adviser. Included in the definition of a federal covered adviser in subsection (4) of Section 8-1101 is a person who is "excluded from the definition of investment adviser under Section 202 of the Investment Advisers Act of 1940." The proposed amendment would move this exclusion to the definition of investment adviser in subsection (7) of Section 8-1101, so that persons who are excluded from the definition of an investment adviser under Section 202 are also excluded from the definition of investment adviser under the Securities Act. A person who is excluded from the federal definition of investment adviser makes no filing with the SEC. Under current Nebraska law, this person is within the definition of "federal covered adviser" and is required by Section 8-1103 of the Securities Act to file with the department a copy of all documents that he or she files with the SEC and to pay a filing fee to the department. However, since the person files no documents with the SEC, there are no documents to file with the department. Without an SEC filing, the person cannot make a notice filing with the state or pay the fee on the Investment Adviser Registration Depository System. As such, persons who are excluded from the federal definition of investment adviser should not have been included in the state's definition of a federal covered adviser, and should instead be excluded from the state's definition. This proposal is also consistent with the laws of many other states, primarily the ones surrounding Nebraska, so it will promote uniformity and coordination as provided for in Section 8-1122 of the Securities Act. LB813 also proposes to update all cross referenced federal statutes, regulations, and standards affecting the securities industry to refer to those statutes, regulations, and standards as they existed on January 1, 2018. Those changes are found in Sections 1 through 4 of the bill. The 2017 Legislature recodified the Securities Act of Nebraska with the adoption of LB148, so the existing federal references are current as of January 1, 2017. The department respectfully suggests that these reference updates be introduced on an annual basis in the future so that references are as current as possible on an ongoing basis, which will promote uniformity and coordination with federal regulation as provided for by Section 8-1122 of the Nebraska Securities Act. The remaining changes proposed in LB813 are within Section 2 to remove obsolete language related to two federal rules, and within Section 6 to provide for the emergency clause. I want to thank Chairman Lindstrom for introducing this legislation. And at this point, I'd take any questions that you might have. [LB813]

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SENATOR WILLIAMS: Any questions from the committee? Seeing none, thank you, Director. [LB813]

MARK QUANDAHL: Thank you. [LB813]

SENATOR WILLIAMS: We would invite any proponents of the legislation to come. Seeing none, we would invite any opponents. Seeing none, is there anyone here to testify in a neutral capacity? Seeing none, Chairman Lindstrom waives closing. Now, wait a minute. [LB813]

SENATOR KOLTERMAN: I have a question for him. You're not getting away that easy. Senator Lindstrom, you have a securities license? [LB813]

SENATOR LINDSTROM: I do, several of them. [LB813]

SENATOR KOLTERMAN: Does that qualify you as a gambler? [LB813]

SENATOR LINDSTROM: Well, I was unable to...I'll put the work in the front desk as the president when that was being discussed, so I'm sure we'll have time tomorrow during the filibuster where I can make sure people understand that investing is not gambling. [LB813]

SENATOR KOLTERMAN: Thank you very much. [LB813]

SENATOR LINDSTROM: You're welcome. [LB813]

SENATOR WILLIAMS: Senator Schumacher, since he started the pump. [LB813]

SENATOR SCHUMACHER: Thank you, Senator Williams, since you opened the door. But what if it's Bitcoin? [LB813]

SENATOR LINDSTROM: Oh, jeez. Well, we'll have...I'm aware of several bills, at least two I believe, that will be coming to this committee where we'll be able to discuss cryptocurrency and Bitcoin, so we'll look forward to that. [LB813]

SENATOR SCHUMACHER: Thank you, Senator. [LB813]

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SENATOR WILLIAMS: Any additional questions? Thank you, Chairman Lindstrom. That will close the hearing on LB813. We will now open the hearing on LB743, which again is Senator Lindstrom. Welcome. [LB813 LB743]

SENATOR LINDSTROM: Thank you, Senator Williams. My name is Brett Lindstrom, B-r-e-t-t L-i-n-d-s-t-r-o-m, representing District 18 in northwest Omaha. LB743 has been brought to us by the Director of Insurance. It would amend statutes related to insurance producers in three areas. First, the bill would update and modernize provisions related to insurance producer continuing education. Second, the bill would eliminate the requirement that an insurance producer must complete 40 hours of approved education before receiving an insurance producer license. Third, the bill would adopt the National Association of Insurance Commissioners model law on public adjusters. A public adjuster is a person who for compensation provides assistance to an insured in filing and settlement of a property claim against an insurer. Currently, in Nebraska public adjusters are licensed as insurance consultants. Enactment of the model act will provide a lower bar for entry for public adjusters, but also will add more consumer protections. Those are the changes in LB743. I would urge advancement of the bill. Coming behind me is Director Ramage with all the answers to your questions. And I will add, I do have a bill in Education here that I might get pulled away, so if that's the case I'll waive my closing, but I'll stick around as long as I can. [LB743]

SENATOR WILLIAMS: Thank you, Chairman Lindstrom. Any questions on the front end? Yes, Senator McCollister. [LB743]

SENATOR MCCOLLISTER: Thank you, Senator Williams. Senator Lindstrom, what was the origin of this bill? Was it from the department? [LB743]

SENATOR LINDSTROM: Yes, Department of Insurance. [LB743]

SENATOR MCCOLLISTER: Yeah, thank you. [LB743]

SENATOR WILLIAMS: Any additional questions? Thank you, Chairman Lindstrom. We'll invite the first proponent, Director Ramage. [LB743]

BRUCE RAMGE: (Exhibit 1) Good afternoon, members of the Banking, Commerce and Insurance Committee. My name is Bruce Ramage, spelled B-r-u-c-e R-a-m-g-e, and I am the Director of Insurance for the state of Nebraska. I am here today to testify in support of LB743. I first would like to thank Chairman Lindstrom for introducing LB743 on the Department of Insurance's behalf. As Senator Lindstrom has already stated, LB743 has three parts. First, it

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would update a continuing education law for insurance producers. Second, it would eliminate the requirement for prelicensing education for insurance producers. Third, it would adopt the National Association of Insurance Commissioners or NAIC model law on public adjusters. The continuing education law for insurance producers is in need of updating. Currently, the law places a number of requirements on providers of continuing education who are regulated by the Department of Insurance. Some of these requirements, such as the requirement to issue certificates of completion, simply do not conform to practice that is occurring in real world. LB743 makes needed changes in this area. Additionally, current law does not provide an expiration date on approved continuing education courses. As a result, many listed approved courses are no longer offered or are antiquated. This causes confusion in the producer community. LB743 would place a four-year approval on the courses. The second change made by LB743 is the elimination of the requirement of prelicensing education for insurance producers. To become an insurance producer, in most cases, an individual must complete forty hours of education and pass an exam. It has been the experience of the department that no strong correlation exists between successful completion of the prelicensing hours and successful passage of the exam. In fact, applicants have passed the exam and then had to go back and take the 40 hours of education before the license could be issued. The exam is difficult and it is intended to be a difficult bar for entering the profession. Receiving education beforehand will benefit the vast majority of applicants before the exam, but not all. Elimination of the requirement will not diminish the value of pre-exam education, but merely make it optional. Finally, LB743 would adopt the NAIC model law on public adjusters. The NAIC is the United States standard-setting and regulatory support organization created and governed by the chief insurance regulators from the 50 states, the District of Columbia, and five United States territories. Through the NAIC, state insurance regulators establish standards and best practices, conduct peer review, and coordinate the regulatory oversight. NAIC members, together with the central resources of the NAIC, form the national system of state-based insurance regulation in the United States. Public adjusters are individuals that assist consumers in filing and settling claims with insurance companies, oftentimes after a weather event. Public adjusters receive a fee or commission from the consumer for their service. Public adjusters would not be confused with adjusters hired by insurance companies who are not impacted by LB743. In Nebraska, public adjusters are currently licensed by way of the insurance consultants law. Insurance consultants are high level insurance professionals that help their clients manage risk, more akin to a risk manager in a company. To become an insurance consultant, an individual must be licensed as an insurance producer for at least three years. Because the bar to become an insurance consultant is high, few Nebraskans become public adjusters. However, some out-of-state public adjusters become licensed in our state by way of reciprocity. Adoption of the NAIC model for public adjusters would lower the bar for individuals to become public adjusters, but would add additional consumer protections to help protect the public. The consumer protections include certain contract clauses, the right for the consumer to exit the contract with the public adjuster within three days, and a prohibition on a conflict of interest of the public adjuster to represent an

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insurer or work for or receive any compensation from a business or individual that performs the work pertaining to damage related to the claim. With adoption of the NAIC model, Nebraska would join the vast majority of other states that separately license public adjusters. I appreciate the committee's patience on this explanation of LB743. I would gladly answer any questions the committee may have at this time. Thank you. [LB743]

SENATOR WILLIAMS: Thank you, Director Ramage. Questions? Senator Baker. [LB743]

SENATOR BAKER: Yes. Director Ramage, how do public adjusters get paid? [LB743]

BRUCE RAMGE: They get paid by the policyholder. So if someone had, let's say, a fire damage to their home and wanted a public adjuster to determine the extent of the damage and the losses, they would usually contract with a public adjuster and it's usually for a percentage of the claim. The standard percentage has historically been 10 percent. This model allows up to and through 15 percent. We think that's a very strong consumer protection, because historically in many cases consumers don't realize until it's too late or after the three-day period that the cost of a public adjuster may be as great as it is, and by that time it's too late for them to back out of the contract. So again, we think that the 15 percent is a fair, reasonable, and is a good, solid, consumer protection. [LB743]

SENATOR BAKER: And what does the policy owner gain from the services of the public adjuster? [LB743]

BRUCE RAMGE: I'll give an example. Perhaps you have a commercial building that's had extended damage and it's difficult to make a proof of loss, to come up with an inventory of everything that was destroyed or damaged. And this public adjuster would have the training and capability to go through and help that policyholder make the claim with their insurer so that they were getting a fair settlement from the insurance company. And they would work hand in hand with the insurance company's own adjusters so that the policyholder would have an appropriate claim. [LB743]

SENATOR BAKER: Thank you. [LB743]

BRUCE RAMGE: You're welcome. [LB743]

SENATOR WILLIAMS: Senator McCollister. [LB743]

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SENATOR McCOLLISTER: Thank you, Senator Williams. Director, so what I'm hearing you saying is, a person has a loss of some kind and then they first contact their insurance agent and the feeling of the insured is that the settlement is too little. And it's on that basis that they would employ an adjuster? [LB743]

BRUCE RAMGE: It could happen that way or it could be that they're overwhelmed by the loss itself. For example, some people who have never had a claim before may feel overwhelmed and would rather turn this over right away to a professional for a fee so that they knew it was being handled appropriately. [LB743]

SENATOR McCOLLISTER: And that fee is based on the proceeds, not the cost of the insurance or their premium, correct? [LB743]

BRUCE RAMGE: That's correct. It's generally...the contract will generally set it out as a percentage of the ultimate claim payment. [LB743]

SENATOR McCOLLISTER: And the 15 percent that we want to increase to is also in the model legislation? [LB743]

BRUCE RAMGE: That is a cap. Some states have no cap. We feel that it's appropriate to have a cap on the compensation. [LB743]

SENATOR McCOLLISTER: Boy, on a million dollar loss that's a pretty significant deduction. [LB743]

BRUCE RAMGE: It is. And that's why we feel that it would be more than adequate to cover the cost of a public adjuster doing business. And it certainly could be less, but we felt that for a smaller dollar claim, perhaps up to 15 percent would be appropriate. We just would not like to see it go more than that. [LB743]

SENATOR McCOLLISTER: So there's a sliding scale? [LB743]

BRUCE RAMGE: It would be...that would be dependent on the public adjuster and the policyholder to whatever they agreed upon. [LB743]

SENATOR McCOLLISTER: So it's whatever they negotiate, is that correct? [LB743]

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BRUCE RAMGE: That's correct. [LB743]

SENATOR McCOLLISTER: Okay. Does this kind of thing occur very often where you employ an adjuster in this way? [LB743]

BRUCE RAMGE: In Nebraska, not so much, typically because or historically because it's been so difficult for Nebraska residents to obtain this license. The bar is set very high because they have to have that consultant license, which requires three years of being an insurance producer and then a separate test. And so fewer people go through that trouble to get a license to become a public adjuster. But occasionally when there's a lot of storm damage, then public adjusters from other states will come into Nebraska to do work. [LB743]

SENATOR McCOLLISTER: Thank you, Director. [LB743]

BRUCE RAMGE: Thank you. [LB743]

SENATOR WILLIAMS: Senator Schumacher. [LB743]

SENATOR SCHUMACHER: Thank you, Senator Williams. Thank you for your testimony today, Director. So as I get it, these folks get a license from the state after a pretty tough test and then if there's a situation, say a tornado comes through a town and takes the house, they can show up with this contract. The house is gone and they can show up. Is there any time that they've got to wait from the catastrophe to the time they approach the homeowner? [LB743]

BRUCE RAMGE: The bill says that they can't approach a policyholder or a homeowner while the catastrophe is in progress. So if the wind is still blowing you can't knock on the door and solicit services. [LB743]

SENATOR SCHUMACHER: A case like a tornado, that's over in a few minutes. [LB743]

BRUCE RAMGE: Correct. [LB743]

SENATOR SCHUMACHER: So they can show up and they can say, hey, this is really terrible. I really feel sorry for you. Here's a piece of paper. Sign it, I'll take care of it. [LB743]

BRUCE RAMGE: Yes. [LB743]

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SENATOR SCHUMACHER: And the paper can say I get 15 percent of the \$200,000 house that is no longer there. [LB743]

BRUCE RAMGE: That would be correct. [LB743]

SENATOR SCHUMACHER: So I could make \$30,000 pretty quick. [LB743]

BRUCE RAMGE: Yes. And one of the additional consumer protections that is in the bill is a conflict of interest statement we feel is very important. In other words, we don't feel it would be appropriate for a contractor or someone who has the ability to gain financially from the repairs of a house and to be a public adjuster. In other words, the public adjuster should be not biased and should not steer repairs to a contractor, because we feel that that creates a particular bad situation for the consumer. [LB743]

SENATOR SCHUMACHER: Now if the public adjuster then, who's now getting 15 percent, says, oh, there is a heating and cooling system here that's a little unusual. Do they then have authority to go out and hire an expert to analyze the heating and cooling system and then that expert bill the homeowner for the expert analysis on top of the 15 percent, or does that come out of the 15 percent? [LB743]

BRUCE RAMGE: That's a very good question. The model law itself does not address that situation. I would assume that the public adjuster would first work with the insurance company to see if they can't come to some agreement. And the bill is not designed to prohibit those communications between an expert or a contractor. For example, during the course of a claim, the insurance adjuster may go out there and write an estimate. But then we get the contractor out there whose speciality it is might find additional damage or hidden damage. And so those communications are still fine under the act. It's just that the insurance company is not bound by the appraisal of the public adjuster, by any means. But it would help bring that matter to the attention of the insurance company. And I suppose that if there were a continued disagreement, then bringing in an expert in that area or an engineer might incur additional costs. [LB743]

SENATOR SCHUMACHER: So are these people trained to know how to value shingles and in plumbing and in electricity so they can give an estimate, or do they just kind of... [LB743]

BRUCE RAMGE: Yes, similarly to an insurance adjuster. They would...it would be their field of expertise to know what the going market rates are and also how to evaluate damage, what to look for after a storm perhaps. It's not just one particular item like a roof. Under an insurance policy there may be other benefits and things that need to be evaluated as well. For example, under

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extensive damage there may be benefits for additional living expenses. A public adjuster would be expected to understand those policy provisions and be able to assist a policy owner and homeowner to make a... [LB743]

SENATOR SCHUMACHER: So suppose these folks can't come to terms with the insurance company and it's got to go to court? [LB743]

BRUCE RAMGE: Yes. [LB743]

SENATOR SCHUMACHER: Okay, so then they go find an attorney and we offer them a third, so now we're up to 48 percent of the claim. [LB743]

BRUCE RAMGE: That could be. [LB743]

SENATOR SCHUMACHER: And so the public adjuster, even though he can't bring home the case, still gets his 15 percent and the homeowner is stuck for another 33 percent to the lawyer. [LB743]

BRUCE RAMGE: I believe that could happen. [LB743]

SENATOR SCHUMACHER: Okay. How is the public adjuster's role any different from that of an attorney? I mean, it looks to me like there's some practice of law here. [LB743]

BRUCE RAMGE: An attorney could certainly do what a public adjuster does in terms of representing the policyholder with the insurance company. I think how this differs is that it's a more narrow field of insurance adjusting as opposed to an attorney's services which would be broader contract language disputes and so much. [LB743]

SENATOR SCHUMACHER: So this is a subpart of what an attorney does. [LB743]

BRUCE RAMGE: An attorney? Yes. [LB743]

SENATOR SCHUMACHER: And this party interprets the contract to say, oh, you're entitled to this benefit and that benefit under that. [LB743]

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BRUCE RAMGE: He'd be well versed in what the insurance contracts cover and the benefits, the exclusions and that. When it came down to a actual legal opinion or a legal determination of the contract, I think that's into the realm of being an attorney. [LB743]

SENATOR SCHUMACHER: But what this guy is doing is also in the realm of being an attorney. [LB743]

BRUCE RAMGE: Close. An example, to diverge, might be a income tax professional who has their CPA, they certainly are able to converse with a client about the tax code, the tax law, and whatever, but yet they're not really an attorney. It's a professional. [LB743]

SENATOR SCHUMACHER: Thank you, Director. [LB743]

BRUCE RAMGE: Thank you. [LB743]

SENATOR WILLIAMS: Senator Kolterman. [LB743]

SENATOR KOLTERMAN: Thank you, Senator Williams. Director Ramge, I have a couple of questions as it pertains to the number of public adjusters in the state of Nebraska. Do you have any idea approximately how many people that would entail? [LB743]

BRUCE RAMGE: We have only...we have...since they're licensed now as consultants and there's not a distinguishing characteristic between a consultant and a public adjuster, I can't tell you how many consultants are licensed just for the purpose of being a public adjuster, but I do have numbers on consultants. We have 353 total licensed and, of those, 195 are residents. [LB743]

SENATOR KOLTERMAN: And as a consultant you have to work in the industry and be a licensed agent for at least three years. [LB743]

BRUCE RAMGE: That's correct. [LB743]

SENATOR KOLTERMAN: Will that change? [LB743]

BRUCE RAMGE: Not for consultants, because the consultant's job is much more intense, being a risk manager basically. [LB743]

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SENATOR KOLTERMAN: But the public adjuster won't have to go through that aspect in this bill? [LB743]

BRUCE RAMGE: That's correct, so it will be easier for a public adjuster to get their license because of not having to wait that amount of time. [LB743]

SENATOR KOLTERMAN: The other question I have deals with the precicensing requirement. [LB743]

BRUCE RAMGE: Okay. [LB743]

SENATOR KOLTERMAN: A whole different area. [LB743]

BRUCE RAMGE: Yes. [LB743]

SENATOR KOLTERMAN: What you're saying I think, if I understand it correctly, is that you don't have to take that precicensing class in order to pass the test and so you could just go take the test and become an insurance agent. Is that correct? [LB743]

BRUCE RAMGE: Yes. Yes, under the current...the proposal. [LB743]

SENATOR KOLTERMAN: Under the proposal. As it stands now, you have to show proof of completing that 40-hour class and then you can sit for the test. Is that correct? [LB743]

BRUCE RAMGE: That's right. Actually, you can sit for the test before you take the precicensing education. That happens and that's when my phone rings and says, what? I passed the test and now I have to go take 40 hours? [LB743]

SENATOR KOLTERMAN: Yeah. Have we done anything as far as those that maybe have a bachelor's degree and take the insurance courses at the universities or state colleges that allow them? Will that affect this at all? [LB743]

BRUCE RAMGE: The only area I know of where that can become a factor is under the consultant act. The three-year period can be waived by the director if they show evidence of having such a degree. [LB743]

SENATOR KOLTERMAN: Okay. Thank you. [LB743]

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BRUCE RAMGE: You're welcome. [LB743]

SENATOR WILLIAMS: Senator Baker. [LB743]

SENATOR BAKER: Director Ramge, in most cases...in the case of a tornado, as Senator Schumacher was describing, wouldn't what I get as a policyholder be pretty much determined by the terms of my insurance policy? [LB743]

BRUCE RAMGE: Yes. [LB743]

SENATOR BAKER: So if I had my house wiped out by a tornado and I have full replacement cost, am I...I hope I'd be made 100 percent well, not 85 percent well. So why in the world would I ever look at a public adjuster? [LB743]

BRUCE RAMGE: Right. There really are more limited times when an individual would really need the services of a public adjuster. In my mind, the best use of a public adjuster would be on those very complicated claims, like a commercial claim, where you needed someone to come in and just... [LB743]

SENATOR BAKER: I've been involved in some of that, too, to the tune of \$35 million. I would have hated to had to give away 15 percent of that. Thank you. [LB743]

BRUCE RAMGE: You're welcome. [LB743]

SENATOR WILLIAMS: Senator McCollister. [LB743]

SENATOR McCOLLISTER: Thank you, Senator Williams. Director Ramge, what was the origin of this bill? Did it come from the industry? [LB743]

BRUCE RAMGE: No. This was a...it's been brought to our attention that there are only two states who license public adjusters in the same manner that we do. And so when we get requests from out-of-state individuals with their license, we have to often say the laws aren't similar. And so it's hard to accommodate those out-of-state licenses. And in terms of the prelicensing, we were receiving a lot of feedback from insurance agents that say, hey, I took prelicensing and still didn't pass the test. We took a good hard look at it and felt that our endeavors should be more in the continuing education arena than the prelicensing arena. And we feel the marketplace can handle the prelicensing. [LB743]

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SENATOR McCOLLISTER: In those states where they've adopted the model legislation, have there been consumer complaints about the adjusters and the rates they charge? [LB743]

BRUCE RAMGE: I can mostly speculate. When I went out on Google to look at what type of complaints, it seems to me that one of the complaints is that by the time they realized how much of their fees would be taken that they were beyond the three-day cancellation period. [LB743]

SENATOR McCOLLISTER: Is that three-day opportunity to cancel the contract, should that be extended to a greater period of time? [LB743]

BRUCE RAMGE: I would have to give that some thought. This is based on a NAIC model and consistent with how other states handle it in terms of the three days. [LB743]

SENATOR McCOLLISTER: When a person employs a consultant, is it the same fee schedule you're talking about for adjusters or is it somewhat less? [LB743]

BRUCE RAMGE: A consultant fee is basically usually a set fee, because they're usually more on the front end helping the client obtain insurance, rather than coming in after a loss and handling a claim. And so the current law...consultant law does not have a cap. It basically just says that it has to be a written contract. [LB743]

SENATOR McCOLLISTER: So what you're saying I think, Director, is that when a person buys the insurance there's a commission or something like that that pays that fee. But when a person actually has a loss, there is no fee from the agent. Is that correct? [LB743]

BRUCE RAMGE: That's correct. That's correct. [LB743]

SENATOR McCOLLISTER: Thank you very much. Thank you, Senator Williams. [LB743]

BRUCE RAMGE: Thank you. [LB743]

SENATOR WILLIAMS: I've got a couple of questions, Director. First of all, on the issue of the licensing, not the public...are you comfortable that we are not lowering the standards in the industry by this change? [LB743]

BRUCE RAMGE: Okay. In terms of the prelicensing? [LB743]

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SENATOR WILLIAMS: The prelicensing, the 40 hours. [LB743]

BRUCE RAMGE: I believe that the test sets a pretty high bar. And like other professions, people will seek the prelicensing education on their own in order to be able to pass the test. And this way they can look for a company or a provider or a course that's going to suit their needs. Perhaps someone has worked in an insurance agency and has a pretty good grasp and maybe they only need 20 hours of education or 10 hours. There may be others who are...haven't even learned to spell insurance yet and they're going to need 40 or 80. And they're going to seek out those companies with good reputations that have good pass rates on their exams. And so I think it's a matter that will be more individualized and more marketplace driven rather than the insurance department saying, well, you have to do 40 hours and it can only be from these providers and this is what can be said in the course. [LB743]

SENATOR WILLIAMS: So you're confident that the test itself is...would test the proficiency of someone. They're going to need to know the insurance business. They're going to need to have that knowledge or they just simply can't pass that test, whether they've taken a class or not taken a class. [LB743]

BRUCE RAMGE: Yes. Most people or roughly half the people have to take the test more than once in order to pass. [LB743]

SENATOR WILLIAMS: I'm going to switch, then, to there's been several questions about the cap under the public adjuster portion, the cap on that. [LB743]

BRUCE RAMGE: Okay. [LB743]

SENATOR WILLIAMS: And I would suspect that that is negotiable and that what we are really talking about here is setting a bar, but the insured and the public adjuster can arrive at any agreement, as long as it does not exceed the 15 percent. [LB743]

BRUCE RAMGE: Yes. That's exactly right, yes. [LB743]

SENATOR WILLIAMS: Do you have any concern about if a public adjuster was involved with a small dollar claim that the cost of doing the analysis and all of that just simply couldn't be covered by the 15 percent? [LB743]

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BRUCE RAMGE: I suppose there is a...there will be issues surrounding that. However, if it's a small dollar claim, it should be a very simple matter for the public adjuster to handle as well. [LB743]

SENATOR WILLIAMS: It seems to me in reading things in advance of the hearing that we've got public adjusters, independent adjusters, and staff adjusters. [LB743]

BRUCE RAMGE: Correct. [LB743]

SENATOR WILLIAMS: Can you tell a little bit about the difference of those and in particular right now how a public adjuster is regulated in our state. [LB743]

BRUCE RAMGE: Absolutely. A staff adjuster is typically an employee of the insurance company and will often be trained by that insurance company and they're paid for by the insurance company. An independent adjuster will also be hired by the insurance company and paid for by the insurance company. And the insurance company is ultimately responsible in this state for determinations made by an independent adjuster. A public adjuster... [LB743]

SENATOR WILLIAMS: And they are licensed and regulated by the department? [LB743]

BRUCE RAMGE: They are not. [LB743]

SENATOR WILLIAMS: They are not? Okay. [LB743]

BRUCE RAMGE: They are not. It could be someone with insurance background, it could be an engineer, it could be someone with extensive training. A public adjuster, they will be holding themselves out as a professional. They'll be compensated by the policyholder and that's why we feel that they should be licensed, in order to help provide consumer protection. And how they're currently licensed is that it's just a sideline, a little bar in our Insurance Consulting (sic-Consultants) Act that says, to be a public adjuster you must hold an insurance consultant license. [LB743]

SENATOR WILLIAMS: I think in your testimony you talked about the public adjuster and the independence--I'll use that term--of those. [LB743]

BRUCE RAMGE: Yes. [LB743]

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SENATOR WILLIAMS: So a contractor, a plumbing contractor, a roofing contractor would not meet the qualifications then of being a public adjuster? [LB743]

BRUCE RAMGE: No, it should have absolutely no impact on those individuals who are out there doing work, giving proposals for repairs. Their ability to communicate with the insurance company if they find that the insurance company's estimate is not sufficient. All of that remains in place. This is not intended to diminish the contractors' abilities in any way whatsoever. [LB743]

SENATOR WILLIAMS: We have an act happen, a tornado, a fire, or whatever and we've got homeowner, we've got the insurer insurance company that's involved, we've got adjusters of various types and we've got contractors. And it seems like over the last couple of years we've heard testimony of when contractors seem to cross the line and fall into this category of wanting to operate in an area that could be licensed or might be licensed or protected or something. Have you got comments about how that would work under this proposal? [LB743]

BRUCE RAMGE: Yeah. The situation that's currently occurring has maybe been brought to this committee's attention involves contractors who will obtain an assignment of the claim where they step in...legally step into the shoes of the policyholder. And this does not address that issue at all. That's a completely...that's a separate matter from this. [LB743]

SENATOR WILLIAMS: So if that assignment were signed, that does not put them in the spot of becoming any form of an adjuster... [LB743]

BRUCE RAMGE: Not at all. [LB743]

SENATOR WILLIAMS: ...in the conversation? [LB743]

BRUCE RAMGE: No. [LB743]

SENATOR WILLIAMS: Okay. Senator Schumacher was asking the questions about lawyers. And under this I've read some about the unauthorized practice of public adjusting. Does this legislation create a prohibition against that? [LB743]

BRUCE RAMGE: It would, yes. [LB743]

SENATOR WILLIAMS: Any further questions? Senator Kolterman. [LB743]

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SENATOR KOLTERMAN: Thank you, Senator Williams. I really appreciate what you're trying to do with the bill. I really see the need. A licensed consultant doesn't necessarily mean that they're a public adjuster and at the present time that's the way it is. [LB743]

BRUCE RAMGE: Yes. Yes. [LB743]

SENATOR KOLTERMAN: And so there needs a delineation between the two and that's what you're really trying to do here and you're using NAIC model legislation. [LB743]

BRUCE RAMGE: Yes, that's correct. [LB743]

SENATOR KOLTERMAN: I wonder about the 15 percent. I mean, everybody...I'm more worried about the small claim where a public adjuster might come in and 15 percent maybe doesn't cover their costs. And I could see that. And a lot of your large corporations will have public adjusters or risk managers inside their organizations that can help you with those claims and so I see that need. The other thing is, I like the idea that you're eliminating that 40 hours. If you need the classes, you're going to search them out, like you said. [LB743]

BRUCE RAMGE: I think so. [LB743]

SENATOR KOLTERMAN: But it shouldn't be mandated. And a long time ago when I took my licenses we didn't have to do that and I got along, I think. And you're right, it's a stringent task, and passing the test is the important thing. [LB743]

BRUCE RAMGE: And for individuals in some parts of the state it may be more of a burden where they would have to drive into one of the larger communities in order to obtain their prelicensing education. And if they don't need it, this frees them up from that. [LB743]

SENATOR KOLTERMAN: All right. Thank you. [LB743]

BRUCE RAMGE: Thank you. [LB743]

SENATOR WILLIAMS: Senator Schumacher. [LB743]

SENATOR SCHUMACHER: Thank you, Senator Williams. Senator Williams raised a point reminding old memories of the hearings we've had on assignment of claims. Okay, now, let's say a tornado takes your house. This guy, a public adjuster, shows up with his form that says here's

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15 percent. And then a little while later a contractor shows up and says, here, assign your claim to me, I'll take care of things for you. What's the conflict? What happens when somebody has jumped on both horses? Do they have to pay both of them? Who calls the shots, then, on the adjustment, the contractor who's got the assignment of claim or this public adjuster who's out trying to negotiate this deal with the insurance companies? [LB743]

BRUCE RAMGE: The post-loss assignment would be completely left to the discretion of the policyholder, whether or not there is a public adjuster involved. [LB743]

SENATOR SCHUMACHER: So, conceivably, somebody whose head is all messed up because their house just got taken away by a tornado could end up finding themselves committed to two people who are supposed to assess the damage and negotiate with the insurance company. [LB743]

BRUCE RAMGE: Yes. [LB743]

SENATOR SCHUMACHER: And when that happens, who says, wait a minute, we're not doing this deal because I can't serve two masters? Does the insurance company say, I'm not going to listen to both these guys? [LB743]

BRUCE RAMGE: Well, the insurance company is going to make its own determination in the case...in both cases, because they're not bound by the determination of either the public adjuster or the assignment holder. And this would at least have...the Department of Insurance would have some regulatory authority over a public adjuster, we do not have any predatory authority over a contractor that takes assignment. [LB743]

SENATOR SCHUMACHER: So finally, the attorney gets to get involved, right?. [LB743]

BRUCE RAMGE: There we go. [LB743]

SENATOR SCHUMACHER: All right. Thank you. [LB743]

SENATOR WILLIAMS: Glad you finally figured it out. Any further questions for the director? Seeing none, thank you, Director Ramge. [LB743]

BRUCE RAMGE: Thank you. Thank you. [LB743]

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SENATOR WILLIAMS: I would invite the first proponent. Welcome, Ms. Frohman. [LB743]

ANN FROHMAN: (Exhibit 2, 3) Thank you. Good afternoon, Senator Williams, members of the committee. My name is Ann Frohman, for the record that's spelled A-n-n F-r-o-h-m-a-n. I have copies of a letter from the National Association of Public Insurance Adjusters--yes, first of all, there is such an association, there are a lot of members--as well as a white paper that's not necessarily on this topic, but based upon the discussions I've heard earlier, it's just background reading for the unauthorized practice of public adjusting. It's interesting. I did not include the attachments, it was hundreds of pages. Janice has those so, and I think they may have been included in an attachment we forwarded earlier to you all. But I would like to provide a few comments on behalf of the association. This is the oldest association of public adjusters in the country. They have been around for 60-plus years. In fact, the current president of the association who would have liked to have been here today, Jeffery Gould, who's the author of the letter, his grandfather was a public adjuster full-time as well as his father. He has four kids and he says, I don't even tell people when my wife is pregnant whether we have a boy or girl, I tell them we're having a public adjuster, so. I love that story because that is really where they're at. There are a number of issues dealing with public adjusting. I think the director did a good job in answering. But to lay the landscape, right now currently there are 45 states that license public adjusters in some form or fashion. Two of those, Nebraska and Wyoming, license them as consultants. A majority of the states follow the NAIC model that's been around since about 2005. To give a little bit of history on this, there's some mea culpa on the consultant law that I probably should explain. Way back in my days when I was a Department of Insurance employee the State Supreme Court had brought the issue of public adjusting to the insurance department asking for counsel on whether this is an unauthorized practice of law. And in speaking before that committee I testified that, like there are with many organizations, what may start out as a law practice over time evolves--and this happened in the 1980s--evolves into a niche area. You have realtors that at one time were buying and selling real estate perhaps viewed as lawyers. You had abstractors, although those are few and far between because of title insurance, but they still exist in Iowa that carve out a market. You have the tax advisers that are, you know, they are experts in law as well as in the numbers. Public adjusters are experts in materials. They are experts in insurance policies and in the settlement of claims. They do get quite a bit of education. This organization is all about their goal as a mission as a body is to advance the profession. And in doing so they have been supportive nationally of this model law. The NAIC model was...it's a law that has been...through the course of time it's been tested and it also had a lot of vetting. If you look through it, they had everything from how do you deal with a military personnel who's engaged in public adjusting, who leaves? I mean, this model has a lot of thought into it. And back when we took on the consultant piece my recommendation to the Supreme Court was...they basically issued a directive, hey, you need to do something, license these folks, do something with them. So we didn't have the NAIC model as...I don't even know if it was enacted back then because this was maybe 2002, 2005, I don't remember exactly when the Supreme Court raised

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the issue, but they said, do something with them. So we agreed to license them, but I don't think we had the NAIC model. So we, like, well, what do we do with them? You know, no good deed goes unpunished. We said, well, we already have a scheme. I don't want to create something new, so we licensed them as consultants. Now I sit and listen to this going, whoops, maybe that wasn't such a good idea. It was at the time or so we thought. But now fast forward, this model is in, I don't know, 26, 27, it's trending up. Every year a few state legislatures pick it up. Last year I think it was Rhode Island and Maryland. I don't know what states have it this year yet. I haven't had the chance to look at all of that. I know Washington State said they planned on introducing it in the 2019 session, so it's trending up. But what we do have is I think a very well reasoned scheme for licensing adjusters. It is about systems today. And if you get on the National Insurance Producer licensing system and you put in insurance consultant it's going to blow up on you because you can't get reciprocity, you can't go into another state. I've been working with this association in Puerto Rico because there are a number of states that don't have reciprocity and Puerto Rico needs help. They can't get public adjusters to go down there because they don't have...the schemes don't talk to each other and it's a disaster. And when you're dealing in disasters, it's something that needs to be done. But it is more than just information systems. The initial comments of the fee cap, this organization, their leadership doesn't weigh in on the fee caps because on the one hand they see that it can be challenging politically and their goal is education and the advancement of the profession as a whole. But they do understand and appreciate those issues, they just can't get a coalescing around how do you do that and try to focus on the end game of that education and the uniformity. But this organization...we think a lot in terms of the commercial disasters, catastrophes. There's a lot of information out there. There's storm-chasing bills from NCOIL. There is so much going on in this environment. Independent adjusters are being analyzed right now by the NAIC, whether to do more. I think 18 states have licenses on independent adjusters, but they are regulated already in the sense that they come in under the insurance company's license. The insurance company...they anchor to the insurance company, so I don't see that one as being a big deal. This is just cleaning up I think something and it's a big improvement for everybody. [LB743]

SENATOR WILLIAMS: Thank you. Are there questions from Ms. Frohman? Senator McCollister. [LB743]

SENATOR MCCOLLISTER: Thank you, Senator Williams. I asked Director Ramage whether or not there had been consumer complaints about this particular model in other states. Do you have any knowledge of consumer issues? [LB743]

ANN FROHMAN: I think the three-day rescission is one. I think he's correct, that's probably about it. I think you have to separate public adjusters from other activities involved in claims, such as contractors. That's where the complaints come in. And they call them public adjusters, but they're not licensed. That's where the problem is. That's where consumers...well, I was

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working with this adjuster. Well, no, you were working with a contractor. Do you even know that? So with those problems, the NAIC right now has a committee and they're looking at education and they're trying to issue...they're putting together bulletins and they're trying to issue templates for state insurance commissioners to consider to put out to the public to deal with those issues, because they found that it's confusion. What is an independent adjuster? What is a public adjuster? What do they do? What can a contractor do? What can't they do, without a license? I mean, that sort of thing, so. [LB743]

SENATOR McCOLLISTER: So the primary duty or responsibility of a public adjuster is to deal with the insurance company. Is that correct? [LB743]

ANN FROHMAN: Public adjusters work on behalf of the consumer. The independent adjusters--that's a misnomer, in my sense, I call them an anchored adjuster or something else--but that's what the statutes provide. Independent adjusters are attached to the insurance companies in the sense that that's who pays their...for their services. [LB743]

SENATOR McCOLLISTER: I see. Thank you. [LB743]

SENATOR WILLIAMS: There have been some discussions and questions about the cap, the 15 percent. And you certainly have some experience in that. Two questions, one is, in your experience have you seen that whatever you set as a cap, that's a negotiated number between the public adjuster and the insured? [LB743]

ANN FROHMAN: Yes. So...and first of all, it isn't always a percent. The members of the organization that I represent, they do a lot of flat fees. They negotiate...they're also negotiating...not...they...I think most individual homeowners, like in Nebraska if they have hail damage, they're not going to use a public adjuster. They're just not. We're not...I see it if you own...more on the commercial side. Now there may be residential needs, so they may have a complex claim where their home is...they may need beds. You know, I look at public adjusters, they go out and they get...they may get more than one bed. They'll look at the materials, they'll look at how they are doing this and they put this all together. In fact, insurance companies, many of them really like the fact that a public adjuster is on the other side, because the claims will come in clean, proof of claims and that sort of thing, not unlike an attorney. An attorney...some attorneys are really good at this. There are some that are not so good at this. Public adjusters spend all their time in this arena so they even educate attorneys. They put on classes and that sort of thing. It's a... [LB743]

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SENATOR WILLIAMS: Should we be concerned, then, with your comments then that on a smaller dollar claim the 15 percent might limit it to where you've eliminated an opportunity for an insured to use a public adjuster if they wanted to? [LB743]

ANN FROHMAN: Yes. See, I look at it in the context of the claim. It's very difficult because each of these are factually built. If you have, let's say, a catastrophe and you had one public adjuster going in and he's doing a commercial claim and he's spending all this time and he's got bids on everything and he's looking at everything and, you know, some of these guys are CPAs, they're down there in the numbers figuring things out, they don't view the cap...they don't take that much. I mean, they don't view that as a large deal. Now, most of the NAPIA members deal in the commercial area. They do some residential. Residential is more difficult I think. I think that's where the cap issue comes into play, because if you're dealing with one hail claim that's hard on the public adjuster, it's hard on the individual. You've got to figure that out. I know Iowa has said, well, if we have a catastrophe you're going to have...they'll put a cap on at 10 percent on a catastrophe because I think they're thinking on residential, the public adjuster can do more than one claim and maybe there's some aggregation. [LB743]

SENATOR WILLIAMS: Am I correct? This legislation has a catastrophe cap of 10 percent? [LB743]

ANN FROHMAN: Yeah. Yeah. [LB743]

SENATOR WILLIAMS: This proposal. [LB743]

ANN FROHMAN: Yeah. And NAPIA has no opinion on it. [LB743]

SENATOR WILLIAMS: Okay. Thank you. Any further questions for Ms. Frohman? Seeing none, thank you. We'd invite the next proponent. Good afternoon. [LB743]

JIM DOBLER: Good afternoon, Senator. Senator Williams, members of the committee, my name is Jim Dobler, that's D-o-b-l-e-r, I am a registered lobbyist and I appear today before the committee representing the Professional Insurance Agents of Nebraska. The PIA is an organization of independent agents. The membership is a little over a thousand and the member agents are located throughout the state of Nebraska. And I appear today in support of LB743. The public adjuster has been a part of the property insurance claims process for many, many years, been around a long time. Historically, the public adjuster has focused on large commercial risk. That's where their expertise can really be valuable. I don't remember very often ever seeing a public adjuster involved in a roof hail claim for a homeowner. So that's been their niche all

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along. I think today they have a broader presence in the marketplace than they used to and so, in part, I think that's what necessitates this bill and the licensing of public adjusters. When at one time all they did was work with big, industrial claims, big commercial claims, you have a lot of expertise on both sides and there wasn't really that need to license and regulate public adjusters. But, again, as they spread out and are involved in more types of claims I think it's a good public policy to license public adjusters. And I also think it's very useful to separate that business activity from the insurance consultants' activity. Two different things. And so in that sense I think LB743 is a good idea. The agents support the discontinuation of the 40-hour prelicensing requirement. And more than anything, without that there's a lot of flexibility in terms of how people can prepare to take the examination. If you've been working in an agency for quite a while you've already got a fair amount of knowledge and really may not need 40 hours. So that flexibility I think is a good thing. And in the end, you still have to pass the exam one way or the other. We also support the other continuing ed proposal to renew...require renewal of continuing ed programs every four years. To me, it's just common sense. It's a chance to look at that program again and make sure it's up to date and it reflects current law. So with that, I'd try to answer any questions. [LB743]

SENATOR WILLIAMS: Thank you, Mr. Dobler. Are there questions? I see no questions. Thank you for your testimony. [LB743]

JIM DOBLER: Thank you. [LB743]

SENATOR WILLIAMS: We'd invite the next proponent. Welcome this afternoon. [LB743]

JAMES CAVANAUGH: Thank you, Senator. My name is James Cavanaugh, I'm an attorney and registered lobbyist representing the Independent Insurance Agents of Nebraska. I appear here today on their behalf in support of LB743. That's Cavanaugh, C-a-v-a-n-a-u-g-h. I'd like to commend Senator Lindstrom for bringing this bill before you. We, the Independent Insurance Agents of Nebraska, have been working closely with the Department of Insurance for decades, first to establish continuing ed requirements for insurance agents. And then to maintain that section of the law, we find that these particular changes in the continuing education requirements are good in that the notice requirement that you've taken a course and completed it becomes mandatory on behalf of the course offer to the department. That has heretofore been a problem. Sometimes people take a course and the course offered is not reported to the department, they're unaware of the fact that it has not been reported. We think that the four-year renewal and approval of course offerings is a good reset button to keep course materials up to date and accurate and relevant. And the elimination of the requirement for mandatory prelicensing education is also appropriate. As a lawyer, we're not required to take prelicensing courses before we take the bar exam. It's highly recommended and it will improve your chances of passing and

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actually becoming a lawyer. And I think a lot of people recognize that and I'm sure a high percentage of bar applicants take that course on their own, but it's not required. And I think that the same applies here. The important thing is the bar of qualifications set by the Department of Insurance, and that's a high one and that's the way that we would like it to be. And you get the knowledge where you can get it, but you still have to pass that standard. And so we think that that's a good and appropriate change and we would ask that going forward maybe we look at the fact that if you do take prelicensing courses that maybe some of those hours could be applied to your first year of licensing so that you're not taking prelicensing courses, passing the test, and then in your first year taking continuation education courses, a lot of times on the same subject matter. Again, the bar association allows you to take continuing legal education courses and if you exceed the limit that they require for those courses per year, you can carry courses over into the next year. As far as the public adjusters' licensing changes, we think that that's good, sound consumer protection policy and we are encouraged that the NAIC model will be the model for Nebraska. We think those are steps in the right direction. I'd be happy to answer any questions you may have. [LB743]

SENATOR WILLIAMS: Questions for Mr. Cavanaugh? Seeing none, thank you for your testimony. [LB743]

JAMES CAVANAUGH: Thank you. [LB743]

SENATOR WILLIAMS: We'd invite the next proponent. Welcome, Mr. Mines. [LB743]

MICK MINES: Thank you, Senator Williams. Members of the committee, my name is Mick Mines, M-i-c-k M-i-n-e-s, I'm a registered lobbyist, today representing the National Association of Insurance and Financial Advisors of Nebraska. I may be the third insurance organization to appear, but we're number one in your heart. Like the two...Mr. Dobler and Mr. Cavanaugh, we like what the department has done and I'm just going to pile on and, us, too. And I'll answer any questions you might have. [LB743]

SENATOR WILLIAMS: At least you didn't say it was frosty outside. Any questions for Mick? [LB743]

MICK MINES: Thank you. [LB743]

SENATOR WILLIAMS: Thank you for your testimony. We'd invite the next proponent. Ms. Fox. [LB743]

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NICOLE FOX: (Exhibit 4) Good afternoon, members of the Banking, Commerce and Insurance Committee. My name is Nicole Fox, N-i-c-o-l-e F-o-x, and I am the Director of Government Relations for the Platte Institute. And I'd like to thank you for the opportunity to discuss occupational licensing of public adjusters in our state. Currently, individuals wanting to work solely as a public adjuster must complete 40 hours of approved education, pass a licensing exam, obtain an insurance producer license, and work for three years before they can pursue work in their desired area of specialty in the insurance field. And as Director Ramge explained, only two states in the country do it this way and that makes Nebraska out of sync with several states. Per conversations with the Department of Insurance, the Platte Institute understands that LB743 makes changes to current statute to lessen these onerous licensing requirements. Public adjusters will have their own specific license. LB743 adopts the National Association of Insurance Commissioners' model legislation on public adjusters. And I know the question was asked as to how many states have adopted this. I do not know the answer as well, but I do know that 44 states license public adjusters. Professionals will no longer have to obtain approved prelicensure education, and this will allow individuals to obtain education mainly as they see fit if they feel they need it, nor will they have to work for three years before they can work specifically as a public adjuster. Current Nebraska law allows reciprocity with other states, and LB743 will allow continued reciprocity. So the Platte Institute likes this for those that are moving into the state permanently, yet as Director Ramge made the remarks that it sounds as though there might be a shortage. So we see that this creates an opportunity so we're not relying on adjusters from outside the state. Also under current Nebraska law there is no board or commission granting licenses. Instead, licenses are granted by the Director of Insurance and LB743 will not change this either. While the Platte Institute prefers not to see the creation of additional occupational licenses in the state of Nebraska, we understand that in this case regulating public adjusters through licensing is needed to protect consumers, and LB743 provides for additional consumer protections. The requirements established for this new license are far less onerous than the requirements currently in statute, so the Platte Institute views LB743 as a win for individuals wanting to work solely as public adjusters as well as policyholders needing these services. On behalf of the Platte Institute, I ask that committee members advance LB743 out of committee. And with that, I conclude my testimony and would be happy to entertain any questions. [LB743]

SENATOR WILLIAMS: Thank you, Ms. Fox. Are there any questions for the witness? Seeing none, thank you. We'll invite our next proponent. Ms. Nielsen. [LB743]

COLEEN NIELSEN: Good afternoon, Senator Williams and members of the Banking, Commerce and Insurance Committee. My name is Coleen Nielsen, that's spelled C-o-l-e-e-n N-i-e-l-s-e-n, and I'm the registered lobbyist for the Nebraska Insurance Information Service, also known as NIIS. NIIS is a state trade organization here in Nebraska comprised of 20 member companies, all of whom are licensed to write property casualty insurance in Nebraska. As a group, NIIS writes the vast majority of auto insurance that is available in this state. NIIS

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supports LB743. This law brings clarity to the definition of a public adjuster and accountability to the profession and we also support the agents' licensing and educational changes in the bill as well. And I'd be happy to answer any questions. [LB743]

SENATOR WILLIAMS: Questions? Seeing none, thank you for your testimony. [LB743]

COLEEN NIELSEN: Thank you. [LB743]

SENATOR WILLIAMS: We invite our next proponent. Welcome, Mr. Fraizer. [LB743]

TAD FRAIZER: Good afternoon, Senator Williams, members of the committee. My name is Tad Fraizer, that's T-a-d F-r-a-i-z-e-r, representing the American Insurance Association, a national trade association of property and casualty insurers. We always like to appear in support of the department when it is bringing forward NAIC model legislation. We think this provides a resource to consumers in terms of licensing public adjusters, at the same time providing various consumer protections. And so we would just generally say we need to, we support the bill, and I'd try to answer any questions you might have. [LB743]

SENATOR WILLIAMS: Questions for Mr. Fraizer? Seeing none, thank you for your testimony. Additional proponents. Seeing none, now we'll open up for opponents of LB743. Good afternoon. [LB743]

STEVEN McCaffrey: (Exhibit 5, 6) Good afternoon, Vice Chairman Williams and members of the committee, senators. My name is Steven McCaffrey, spelled with a "v", last name M-c-C-a-f-f-r-e-y, and I'm here on behalf of the American Association of Public Insurance Adjusters, AAPIA. We're located out of Washington, D.C. And with all the testimony I'm going to just kind of change up my thoughts and comments so you don't hear redundancy, and try to answer some good questions that I think kind of got posed during the testimony so far. So first I want to thank the Department of Insurance and Commissioner (sic: Director) Ramage for putting together the NAIC model bill. It is a great bill and a model from the NAIC. And just a little bit of history, I've been a public insurance adjuster--I'm the licensed public adjuster in the room--for 33 years. I'm licensed in all 45 of those states, Puerto Rico, the Virgin Islands, Hawaii and Alaska. I don't adjust too many claims out in Hawaii, but. And my company, we've represented hundreds of thousands of claims. And 85 percent of those claims--there's a lot of focus today on commercial losses--we do handle commercial losses, but 85 percent of our claims are the consumer and residential grassroots-type claim. I like to refer to it as Main Street, not Wall Street. And so I was involved in this industry, I'm very active for many, many years and got involved with the NAIC model act when it was being constructed. I personally testified in committees like this. I worked directly with the subcommittee, the producer working group licensing so that we could put

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together a fair and balanced model act. That process took over two years. We, personally with our team went to several state departments of insurance, went to all the NAIC model hearings and acts and were in on many conference calls to create a bill and a model act that states could adopt that was fair and balanced, good for the consumer, and created open and free marketplaces. And so overall, the model act in its current form, we fully support 100 percent. Where we have opposition to this bill is in the fee caps. And I'll explain why and I think it's some good contrast to understand that when it comes to the average consumer, we're not dealing with large commercial losses, we're not dealing with total losses. And every public adjuster in this industry would love to handle only large losses, but when you take the fact that 11 percent of policyholders have a claim every nine years, okay, or 11 percent each year, an average homeowner has a claim every nine years, the majority of all claims are not those large catastrophic losses. A majority of those claims fall in the range between \$2,000 and \$8,000. So how is one to go out there and perform a service as a public adjuster and offer a service if there's not proper compensation? So in your paperwork there, I'm not going to read through the entire thing, I just want to highlight a couple of points. But services of a public adjuster...it can commonly be misconstrued, it's an easy process. And I'm sure the department is dealing with issues today where consumers are being faced with percentage deductibles, a lot of unanswered questions, a lot of policy changes. I see advertising on TV where insurance companies, some of the biggest and you would think the best, are using language in such a way to make people feel they're covered and in reality they're taking coverage away. If we go back to ISO, which is the Insurance Services Organization and we look at their policy--and we'd be happy to provide copies of that--every insured would be properly insured in this state. But when you take a lot of these companies have taken that policy for their own benefit and altered it and then advertised as if it's the same thing, many consumers are in a situation where they don't have information, they don't understand their policy. And most people don't understand their policy, they don't know what their deductible is, they don't know what's covered, and they don't understand a loss when it occurs. So you take what a public adjuster does, we do a lot in educating our clients before the loss ever occurs. And when the loss occurs we evaluate their policy, we coordinate emergency services and mitigation, we are certified in Haag certification, which is roofing, so we can evaluate roofs, how the insurance company is going to want them evaluated. We are certified in IACRC. When we talk about education, the prelicensing education, our company, our adjusters go through about 200 hours before they ever meet an insurance company. And regularly we provide ten hours a week of education that is just part of the normal process. So there's a lot of other aspects to a claim. Evaluating the RCV and ACV, that we make sure that the statutes aren't overlooked; meeting with all the experts, engineers; moralizing a loss; policy language; we create satellite views using technology of the roof when they have a roofing claim. We use scientific adjusting, we measure moisture, we do moisture mapping when there's a water loss. We identify things like vapor plating, and that occurs when there's smoke damage in a house. There's just...bimetallic reaction of lighting fixtures and things when water hits it. There's a lot of components of the current home and the average homeowner does not know these and they're not

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always identified with the insurance company. I could tell you that the consumer out there is at a disadvantage and there's a lot of examples. And you take North and South Carolina from Hurricane Matthew...and I apologize if I'm over time and you can stop me at any time if you'd like, but I'll continue to talk just to finish my thoughts here. When you take that those two states which had imposed...North Carolina imposed a catastrophic fee cap at 10 percent and South Carolina didn't. South Carolina residents were faced with very large deductibles where insurance companies would say, oh, your loss is under your \$50,000 windstorm deductible they didn't even know they had and we turned those losses in some cases for over \$100,000 past their \$50,000 deductible whereas North Carolina, we weren't even able to represent people because of the fee cap that existed there. So people got taken care of in the state and it created a fair and open marketplace. Three things just to leave you with is, number one, this bill with the fee cap takes away the choice for the consumer for all those types of losses. So we encourage you to think of it from that perspective, to create open and fair marketplaces, and to maintain a bill that is business friendly. And I think if you address the fee cap issue it will be a business-friendly bill. So thank you and I'd open up to any questions you may have. [LB743]

SENATOR WILLIAMS: Questions for Mr. McCaffrey? I have one. You've isolated your testimony on the cap kind of issue. Is there a solution to that where you could have a cap representing that, but yet take care of...if it's a catastrophic loss, am I safe in assuming the 15 percent or up to 15 percent covers you or the 10 percent that's in the bill? [LB743]

STEVEN McCAFFREY: Yeah, I mean on a...yes. [LB743]

SENATOR WILLIAMS: So we're primarily concerned with low-dollar claims, correct, where 15 percent would not compensate your adjuster enough? [LB743]

STEVEN McCAFFREY: That is correct. And when I talk about a fair and open marketplace, without a fee cap those larger losses are going to get negotiated. They're not going to get negotiated at 15 percent, they're probably going to get negotiated at 8 percent and 9 percent or even lower. And so with the smaller losses, an individual homeowner, they're just going to be in a situation where they don't have access to public adjusters if there's not of a percentage they can charge. Now, the other thing that this bill does--and I applaud the commissioner for this--it does have a provision in there...and somebody used the example, if the house was blown down by a tornado. There's a provision there and I believe...I think it's ten days where if the insurance carrier commits to a total-loss settlement, then we're prohibited from taking a fee. And that's good, balanced legislation. That is where the consumer is protected, because they don't need a public adjuster. You know, a meteorite hits the house, they're going to get paid. It's the in-between losses where there's a lot of factors that are in question. [LB743]

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SENATOR WILLIAMS: In your experience with working with so many different states, have you seen legislation that would maintain some form of cap, but still protect the small claims? For instance, having a flat dollar amount that would cover either or type of situation. [LB743]

STEVEN McCaffrey: So the majority of the claims that get handled in the industry for residential is done on a contingency fee basis and not a flat dollar amount. In fact, if you want to look at a state that does have a flat dollar amount, it's Louisiana and it's very difficult to operate in that state for the smaller losses, period. So we do have a state that we can refer to. And the...I had a thought, lost it there for a second. But as far as...oh, the NAIC--and we went back and forth with regulators and commissioners and really had this candid discussion on a lot of conference calls and it was decided that the best practice was, there is no fee cap, you allow the open marketplace. And I would ask that...the question is, how many complaints exist now of public adjusters? And I don't believe there's many or maybe none, quite frankly, so if that becomes an issue in the future, it's something you can always address. I would like to see this bill go through without the fee caps and then monitor that and you could always address it at a future date and that way you'll give the open marketplace. [LB743]

SENATOR WILLIAMS: Any further questions? Senator Schumacher. [LB743]

SENATOR SCHUMACHER: Thank you, Senator Williams. And thank you for your testimony today. If I understood you right, you said the great bulk of the claims that your company deals with are in the \$2,000 to \$8,000 range? [LB743]

STEVEN McCaffrey: Correct. And that's just the industry. That's the claims that occur in the insurance industry, period, yes. [LB743]

SENATOR SCHUMACHER: Okay. So we're talking 300 bucks, a \$1,200 fee if we're talking 15 percent. So I guess I'm trying to find, if you're talking that size of claim, where your services are actually used. If I have a hailstorm come through and damage my roof, chances are all I do is pick up the phone and call whoever sold me the policy and say, hey, who do I make a claim to? And then a few days later some insurance adjuster shows up and tells me what he thinks it's worth and I probably haggle with him a little simply for the fun of it and end up settling it for somewhere around \$2,000 to \$8,000. So where do you guys come into the picture at if that's kind of how most of them are settled? [LB743]

STEVEN McCaffrey: Well, Senator, as I talked to you earlier, you're an attorney so you would have more skills than the average homeowner to haggle your loss, so I applaud you for that. But the average homeowner... [LB743]

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SENATOR SCHUMACHER: I'd just haggle for the fun of it. [LB743]

STEVEN McCaffrey: The average homeowner doesn't. I'll give you some examples of situations which occurred right now with Hurricane Irma. But in your exact situation, the insurance company comes out, they evaluate the loss what they believe it's worth at the time, and then where does the homeowner turn when it's not adequate to replace. It's rare that the insurance industry wants to come out and totally replace your roof, just because of the cost. So that's where we can come in and be hired to negotiate the difference. So we may...in that situation, we'll come in at a higher fee, but we're going to protect your current...say you were offered \$2,000. We're not going to take a fee on that first \$2,000, we're only going to take it on additional money that roof receives. So again, you can see where...because that's the benefit to the consumer. They've already received the \$2,000 and if they can have a professional increase that and not take a fee on that amount, you can see why we may need a larger fee. I could tell you in real life what's going on in Florida right now and you're going to see it in the media, I can guarantee this. Is that the insurance companies, what they were doing with their independents is advising them that when they would turn in pictures and their estimate to replace a roof that they, in their professional opinion believe should be replaced, the insurance company adjuster from inside some office in Florida basically said, we will not accept your estimate. We don't see it in the pictures unless you take the replacing the roof out. They refused to take the estimate with the roof in there and then the independent can't get paid. So what's the independent...and we've talked about independents here today. What's their choice? They take it out. Now the insurance company is off the hook in that situation for the Unfair Claims Practices Act because it was the independent who took it out. This will come out in the media, I'm sure, in the future because it's a practice that we see quite often down in Hurricane Irma and it's a way for insurance companies to save money. And I'm not painting a broad brush that every insurance company is like that, but these are the types of things that consumers are faced with and the challenges and if they don't have a place to turn, they're going to be stuck with the offer that they get from the independent adjuster or the insurance company. Excuse me for not... [LB743]

SENATOR WILLIAMS: Any additional questions? Seeing none, thank you for your testimony. [LB743]

STEVEN McCaffrey: You're welcome. [LB743]

SENATOR WILLIAMS: Next opponent. While we have the...I'll let everybody know that as soon as we are finished with this bill we will be taking a ten-minute break before we start on Senator Kolterman's bill. Welcome, Bub. [LB743]

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BUB WINDLE: (Exhibit 7) Vice Chairman Williams, members of the committee, my name is Bub Windle, B-u-b W-i-n-d-l-e, I'm here on behalf of Millard Roofing and Gutter, in opposition to LB743. Our concern is fairly simple, we've kind of touched on it around the edges. But it's the contractors essentially doing work as construction contractors interfacing with insurance companies, kind of in the normal course of business as a construction contractor, get kind of swallowed up in this bill and could be deemed to be adjusting, right, because they get paid for their work as contractors, they're interfacing with the insurance company and the definition of public adjuster is simply pretty broad. So what I circulated is an amendment that we feel like addresses this concern. It simply says, adds to the exemptions in Section 4(4), I think it is, adds a new subsection that simply says that a construction contractor, when acting in the capacity as a construction contractor for an insured, if the construction contractor is not separately compensated for negotiating on behalf of the insured, would not be considered a public adjuster. That goes to the exemptions like an attorney acting on behalf of their client is not a public adjuster. Just a similar exemption kind of on the other side of the spectrum. It's kind of our belief and we've heard it here today I think, the director kind of explicitly said, this is not meant to reach contractors kind of operating in their normal course of business. We don't believe that's the intent of the bill or at least as we've heard it today. So it seems that this amendment could be appropriate, could still achieve the objectives of the bill and I know it would address our concerns from a contractor's point of view. With that, I can take questions. [LB743]

SENATOR WILLIAMS: Questions for Mr. Windle. I guess I have a question. Under the definition that I am seeing of public adjuster, I'm not seeing any way that a contractor, be they a roofing contractor, a plumbing contractor, could be possibly considered a public adjuster, because they are not objective, completely loyal, the good faith, you know, all the things that are in here. So I'm missing and I think I asked the director that question also. What's your response of... [LB743]

BUB WINDLE: Yeah. You know, as I understand it, it kind of comes down to what it means to negotiate a claim on behalf of an insured. And if you're a roofing contractor and you're walking the roof, right? We don't expect a homeowner to get up there so the contractor may walk the roof with the insurance company's adjuster, walking through damages, talking about what needs to be done to repair the roof, that could end up being considered kind of the negotiation of the settlement. You are, in essence, talking about what is and is not covered by the policy in that moment, what is or is not covered damage under the policy. Again, if we're not trying to reach that, we understand. But I think we would just feel more comfortable if it's addressed in the act. But taking kind of a broad view of negotiation on behalf of an insured, it's our concern the contractors would be... [LB743]

SENATOR WILLIAMS: A further question I have then is the, in the case of a roofing contractor, they certainly have great expertise in recognizing the damage on the roof and all of that. But

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you're talking about them interpreting the policy that the insured has and is that what you're concerned, that they're going to be doing that? [LB743]

BUB WINDLE: No. Just kind of the talking through the damage. You know, that sort of stuff being interpreted as negotiation. [LB743]

SENATOR WILLIAMS: Okay, so if you're talking through the damage...okay, so your question is not when they would be talking about the insurance policy itself or putting themselves in the position of the insured. It's just simply talking about the damage that would be and how you fix that damage. Okay, got you. Any further questions? Seeing none, thank you. [LB743]

BUB WINDLE: Thank you. [LB743]

SENATOR WILLIAMS: Next opponent. [LB743]

JAMES EGGERS: Good afternoon, Chairman and committee members. My name is James Eggers, last name E-g-g-e-r-s, I am the general manager, vice president of Millard Roofing and Gutter Company in Omaha, Nebraska. I'd like to touch on Senator Williams' questions to Bub regarding some of the positions that a contractor takes that could be misconstrued as public adjusting. If I was at your house and you're asking me to represent you to go over the damage on your roof, your gutters, your siding, your windows, questions would come up on ordinance of law. Ordinance of law is a specific requirement that I have to abide by and the policy in Nebraska for insurance companies, based on my experience, is to sometimes exclude it. And we need to...as a contractor, we need to understand what's excluded and what's not excluded in the insurance claim. So we have to be able to discuss what the ordinance of law might be in that specific city or county in Nebraska. A lot of times insurance companies are overwhelmed and they bring guys in from Alabama, Kentucky, Florida, and they don't experience snow. And one of the key items that come up is ice and water shield. And our code requires specific coverage for ice and water shield on the eaves of a house so we don't have a ice-damming issue later on. Well, what happens in that process of meeting with a adjuster who doesn't know, we have to educate them. That can be misinterpreted as us telling him what's covered under the policy. I have hundreds of experiences where we're challenging the insurance company on behalf of the homeowner that the code requires this. And they, then, immediately go into, you're acting as a public adjuster. No, I'm acting as a contractor who's done this 10,000 times and this is what's required. I have a direct line to the city enforcement office. I know every enforcement officer down there and I know what's required. When we pull a permit, they're going to say, you have to do it this way. And that's what protects the homeowner. One of the big concerns for me in this bill is not that we have public adjusters, but that we're "dummying" down the requirements for adjusting. And when we really look at this, the math is not very good for a homeowner. Senator

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Schumacher pointed out, not only is he going to have to pay...a homeowner is going to have the percentage, but he's also going to have to pay a deductible. Everyone forgets the homeowner has to pay a deductible. And you start adding that up, you're well into 50 percent. Well, if I have a little old lady who has a...I did a job where we did a...she hired a public adjuster because her son-in-law said it was a good friend of his and it was a \$20,000 claim. By the time it was all said and done, she had to go out of pocket half of the \$20,000, because that \$20,000 is for what's damaged. Not only did she have to hit her deductible, but she had to hit his fee. So I don't know how creating more public adjusters is in the best interest of everyone that's involved. I open it up for any questions. [LB743]

SENATOR WILLIAMS: Questions for Mr. Eggers? Thank you for your testimony. [LB743]

JAMES EGGERS: Thank you. Thank you. [LB743]

SENATOR WILLIAMS: Next opponent. Good afternoon. [LB743]

THEODORE BOECKER: (Exhibit 8, 9) Good afternoon. Theodore Boecker, testifying on behalf of...I'm an attorney in Nebraska and I represent both several roofing companies and insureds. A lot of that is commercial, low income housing tax credit apartment owners that have had issues with roof replacement. [LB743]

SENATOR WILLIAMS: Could you spell your name for us, please? [LB743]

THEODORE BOECKER: B-o-e-c-k-e-r. [LB743]

SENATOR WILLIAMS: Thank you. [LB743]

THEODORE BOECKER: And my primary concern is just to raise the issue such as Mr. Eggers and Mr. Windle about an unintended consequence, and in particular I echo the concerns about a misinterpretation of the statute being used to affect and exclude contractors from doing work. And, in particular, in August of 2017 interpreting a similar law, not the NAIC, but a variation on it, a Texas Court of Appeals actually concluded in a case called Railes v. Lon Smith Roofing and Construction, that a contractor was engaged in public adjustment when they were arguing with the insurance company regarding what should and shouldn't be covered. The court in that case said, by contracting to pursue the homeowner's best interest and to reach a settlement with the Keys' insurance company, Lon Smith Roofing Company explicitly agreed to advocate on behalf of a consumer, the Keys, which is conduct prohibited by the same insurance commission bulletin that Lon Smith Roofing Company claims authorized its conduct. NAIC is relatively new and I

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think that there hasn't been anything conclusively stated on how many states have adopted it. I looked at a 2014 article that quoted Eric Nordman, the director of the Regulatory (Services) Division of the NAIC. And at that time, they stated: Though the NAIC adopted the public adjuster licensing model in 2005, only six states have adopted the national model. According to Nordman, three of the six states, Illinois, North Carolina, and Virginia, added their own legislation in addition to adopting the model. Meanwhile, 47 jurisdictions, which include U.S. states and territories and the District of Columbia do not adhere to the model, but address public adjuster licensing through their own requirements. My point is--and even if there are some states that have gone the direction of adopting the NAIC in the last two or three years--there hasn't been a long time that that's been on the books. And we have at least one example in the last year, literally within the last six months, where someone took the idea and said, oh, I'm going to use this to put a block on contractors advocating for the insurance company and saying, you're engaged in public adjusting. And I would respectfully submit that an exception would be appropriate. And I proffered something that had Mr. Windle's language or actually the alternative was, out of your present statutory framework for the definition of the roofing contractor in another statutory section and just literally lifted that section and said: which regulated exterior remodeling and roofing contracts and provides certain restrictions on those contracts. Just literally lift out that language as an exception. And it's precisely to avoid any potential confusion. If the notion is that we don't want to regulate contractors, then I would respectfully submit, let's make it clear. There is this recent Texas case, Railes v. Lon Smith at 527 S.W.3d, 604--that's how it's reported published for the lawyers in the room at Texas Appellate, 2017. So these things can be misinterpreted if you don't clarify. You have the opportunity to clarify it here and avoid a situation where it's misinterpreted. I also offer an excerpt from a Hawaii bill that was...it's a hold-over bill this year. And in Hawaii, I don't think they went far enough, but even in their language they created an exception for contractors into their public adjustment definition. I think that maybe going a little bit more definition of a contractor, such as suggested in my alternative submittal, might be appropriate. But even in that state, which was looking to adopt a public adjusting bill, they threw in a carve out for contractors. To me, it simply makes sense. And I've experienced this myself on the ordinance of law coverage issue. It gets into a gray area of are you interpreting the policy or are you just advocating on behalf of the insured? I'm a lawyer and I have represented claimants, both contractors and owners of structures. I don't know a thing about the code, but when I'm out there with the adjuster and the contractor and they're talking things about what's required for the siding and are you entitled to the entire replacement of the siding, I have no idea. I leave that to my contractor to advocate to say what's the code require in this regard and let them negotiate with the adjuster out there. And I think that sort of paradigm should be left in place or unimpeded by the statute. So I would recommend that you clarify the statute to avoid the confusion that would arise if we had a similar situation such as the Texas case. I'd be happy to answer any other questions you have. [LB743]

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SENATOR WILLIAMS: Questions for Mr. Boecker? Seeing none, thank you for your testimony. [LB743]

THEODORE BOECKER: Thank you. [LB743]

SENATOR WILLIAMS: Additional opponents. Seeing none, is there anyone here to testify in a neutral capacity? Seeing none, Senator Lindstrom is introducing a bill in front of the Education Committee and he told me he would waive closing, so that will end the hearing on LB743 and we will take a short, ten-minute break and be back and start right away with Senator Kolterman's bill. [LB743]

BREAK

SENATOR WILLIAMS: Everyone, we're going to get started. All right, we'll call ourselves back to order and begin with Senator Kolterman's LB799. Senator Kolterman. [LB799]

SENATOR KOLTERMAN: Thank you and good afternoon, Vice Chairman Williams and fellow members of the Banking, Commerce and Insurance Committee. I'm Senator Mark Kolterman, M-a-r-k K-o-l-t-e-r-m-a-n, and I represent the 24th District in the Nebraska Legislature. Director Bruce Ramage asked that I introduce this LB799 on his behalf. LB799 cleans up a couple of items in the Surplus Lines Insurance Act. Surplus lines insurance is insurance for specialized risks that cannot be found on the admitted market in Nebraska. LB799 makes two simple changes. First, it harmonizes the filing date of a quarterly report with the dates of the quarterly tax filings of surplus lines licenses where specialized insurance producers who sell surplus lines of insurance to consumers. Second, the bill amends the penalty provisions of the Surplus Lines Insurance Act to allow the department to pursue a penalty on a surplus lines licensee without first issuing a cease and desist order. I know that Director Ramage will testify behind me to provide more explanation. And I'd be glad to try and answer any questions. I will say that the surplus lines business in Nebraska is a viable business. Not every agent is licensed to market surplus lines in the state of Nebraska. What we are doing is giving the department here some flexibility so that they don't have to issue a cease and desist order in order to work with the companies and the agents that sell surplus lines. So with that, I would entertain any questions you might have. [LB799]

SENATOR WILLIAMS: Questions for Senator Kolterman? Seeing none, thank you. We'd invite the first proponent. Director Ramage, welcome back. [LB799]

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BRUCE RAMGE: (Exhibit 1) Thank you. Members of the Banking, Commerce and Insurance Committee, my name is Bruce Ramge spelled B-r-u-c-e R-a-m-g-e, and I am the Director of Insurance for the state of Nebraska. I am here today to testify in support of LB799. Thank you, Senator Kolterman, for introducing LB799 on the department's behalf. For some insurance customers, surplus lines insurance is an important backstop, with a unique regulatory structure from traditional insurance. With traditional insurance, policies sold in Nebraska must be sold by companies licensed by the Nebraska Department of Insurance. This is called the admitted market. However, sometimes a consumer may have a risk that is so specialized, large, or risky that traditional Nebraska licensed insurers will not accept the risk. This forces the consumer to seek insurance in the nonadmitted market. This is called surplus lines insurance. Policies sold on the nonadmitted market are not regulated by the Department of Insurance and do not enjoy all the consumer protections of products in the traditional market. Such policies are sold by companies not licensed to do business in Nebraska and are placed by specialized insurance producers called surplus lines licensees. Surplus lines licensees are licensed by the department and are required to quarterly report to the department the amount of business generated and pay the amount of taxes due on such policies. As Senator Kolterman has already explained, LB799 makes two small changes to the Surplus Lines Insurance Act. First, it harmonizes the quarterly report filing date with the tax filing date to make it easier for the licensees to file both the report and taxes in a timely manner. Second, it changes the penalty provision to allow the department to take an administrative action against the licensee without having to first issue a cease and desist order. Current law requires a cease and desist order first before an administrative action. The most common violation is failure to file taxes in a timely manner and it seems unduly harsh to issue a cease and desist order on a licensee in such a situation when an administrative fine would be a better solution. I would be happy to answer any questions the committee might have on LB799. Thank you for your time. [LB799]

SENATOR WILLIAMS: Questions for Director Ramge? Seeing none, thank you for your testimony. [LB799]

BRUCE RAMGE: Thank you. [LB799]

SENATOR WILLIAMS: We will invite any proponents. Seeing none, is there anyone here to testify in opposition? Seeing none, is there anyone here to testify in the neutral capacity? Seeing none, Senator Kolterman waives closing. We will close the hearing on LB799 and Senator Schumacher, if you are ready we will open the hearing on LB815. [LB799 LB815]

SENATOR SCHUMACHER: Thank you, Senator Williams. Members of the Banking, Commerce and Insurance Committee, my name is Paul Schumacher, S-c-h-u-m-a-c-h-e-r, representing District 22 in the Legislature. Director Ramge asked that I introduce this legislation

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on his behalf, probably because he didn't want me sitting over there asking a bunch of questions about captives and valuating captives. But this particular bill is a good bill. It provides the department with authority to issue a rule and regulation governing the valuation of assets, the amount and form of security, and the circumstances where a credit for reinsurance would be eliminated or reduced for a captive utilized by a life insurer for reserving term and universal life policies. To provide a bit of explanation, all insurers are required to carry adequate reserves for the policies they've issued. These reserves are examined by the various departments of insurance nationwide. Nebraska department examines the reserves of Nebraska domestic insurers utilizing the laws that govern the amount and valuation of the reserves. A credit for reinsurance is allowed against these reserves when an insurer has an agreement with a reinsurer to provide insurance to the company should claims reach certain levels. Some insurers, specifically life insurers, have formed captives to reinsure the parent company. Because of how reserves are calculated for captives, these can allow for lower reserves in some circumstances, which better represent the risk the parent company is actually accepting in the form of policies. Unfortunately, some states--not Nebraska, of course--were allowing captives to be formed and not being very transparent on how the captives were being valued. As a result, the National Association of Insurance Commissioners has passed a model rule to govern how these reserves are valued nationwide. Very specifically, the rule will apply to universal and term life insurance and the director has asked that I introduce LB815 to give authority to the department to promulgate the rule that has been suggested. Thank you for your time. I know he's here to testify next and I ask that I be excused because we've got a Revenue and Appropriations Committee meeting in which we will learn about all the wrinkles in the new federal tax law and how they may affect Nebraska. [LB815]

SENATOR WILLIAMS: And I'm assuming you will waive closing then? [LB815]

SENATOR SCHUMACHER: I will waive closing. [LB815]

SENATOR WILLIAMS: Thank you, Senator Schumacher. Director Ramage. [LB815]

BRUCE RAMGE: (Exhibit 1) Members of the Banking, Commerce and Insurance Committee, my name is Bruce Ramage, spelled B-r-u-c-e R-a-m-g-e, and I am the Director of Insurance for the state of Nebraska. I am here today to testify in support of LB815 and I would like to express my gratitude to Senator Schumacher for introducing LB815 on the Department of Insurance's behalf. LB815 would amend the credit for reinsurance law to provide the department regulatory authority to adopt rules and regulations governing the valuation of assets, the amount and form of security, or the circumstances where a credit would be eliminated or reduced for reserving term and universal life policies. The changes are based upon a model law adopted by the National Association of Insurance Commissioners, known as the NAIC, and are vital to the

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department's continued accreditation through the NAIC. The NAIC is the United States' standard-setting and regulatory support organization created and governed by the chief insurance regulators from the fifty states, the District of Columbia and five United States territories. Through the NAIC, state insurance regulators establish standards and best practices, conduct peer review, and coordinate their regulatory oversight. NAIC members, together with the central resources of the NAIC, form the national system of state-based insurance regulation in the United States. In its simplest form, LB815 provides the department authority to adopt a new rule and regulation related to reinsurance arrangements for certain life and health and annuity products. The rule that is intended to be promulgated upon passage of LB815 would only apply to reserving methodologies of special purpose financial captives utilized by insurers to reserve term and universal life insurance policies. How this legislative bill came about allows me to tell a brief story about how the NAIC works to solve an issue. Historically, captive insurers have been utilized by noninsurance business to manage and self insure risks unique to their businesses. Eventually, some life insurers began to form and utilize captives to avoid, in their view, overly conservative statutory reserving requirements. These types of captives are called special purpose financial captives. Nationwide, insurance regulators became concerned with regulatory inconsistency in how the assets of these special purpose financial captives were being valued. This unevenness in regulation and valuation was causing an unbalanced competitive environment nationwide. As a result, the NAIC worked with the life insurance industry to develop several model laws and regulations to help cure this competitive imbalance. First, the NAIC adopted a model law on principle-based reserving, to help address the life insurers' concerns about overly conservative reserves. Nebraska adopted this principle-based reserving model by way of LB755 in 2014 and at this time nearly all jurisdictions have adopted the same. Second, the NAIC issued an actuarial guideline to help guide state regulators properly and consistently calculate the insurance reserves backing term and universal life insurance policies, including the calculation of assets held by special purpose financial captives. Finally, the NAIC adopted a model rule, discussed above, to provide regulatory guidance on the actuarial guideline and the proper reserving of these policies by the special purpose financial captives. To give the various commissioners and directors the necessary statutory language to promulgate the model rule, the NAIC also adopted changes to the Credit for Reinsurance Model Law, which is before you today. My colleagues in other states are also asking their state legislatures to adopt these changes to bring uniformity to the reserving of term and universal life insurance policies across the United States. Thank you, again, for the opportunity to testify in support of LB815. I would be happy to answer any questions the committee might have. [LB815]

SENATOR WILLIAMS: Questions for Director Ramage? Senator Kolterman. [LB815]

SENATOR KOLTERMAN: Thank you, Senator Williams. Does...Director Ramage, give me an example. Is this where...let's say we've got an insurance company that's highly invested in term

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insurance and they're becoming uncompetitive. So what do they do? Do they start another company under a different name? [LB815]

BRUCE RAMGE: Yes. They would form a special company to act as a reinsurer. And it's typically only the excess reserves, because historically term and universal life policies were more stringently reserved than what the experience has turned out to be. [LB815]

SENATOR KOLTERMAN: Okay. So they're just using the system to their advantage and you're just trying to close up that loophole? [LB815]

BRUCE RAMGE: Yeah, we're trying to make it more consistent across the various jurisdictions and to make things so that...it helps to maintain a level of confidence among the states. And also, this would allow us to bring our requirements to current actuarial standards. [LB815]

SENATOR KOLTERMAN: Are we seeing any domiciled companies in the state of Nebraska using these practices? [LB815]

BRUCE RAMGE: There are only four captives licensed here in the state, so it's not really very common. But there has been situations where companies have deemed it to be a good solution. [LB815]

SENATOR KOLTERMAN: Okay. Thank you. [LB815]

BRUCE RAMGE: Thank you. [LB815]

SENATOR WILLIAMS: Further questions? Senator Baker. [LB815]

SENATOR BAKER: Thank you, Senator Williams. Director Ramge, I'm not in this industry so every occupation has its own jargon. I'm probably the only person in the room who needs clarification on the term "captives." Talk about that, would you please? [LB815]

BRUCE RAMGE: Sure. That just means that the company that is being used to reinsure these reserves is also owned by the insurance company's parent company, so it would be a sister company. They would be related. [LB815]

SENATOR BAKER: Okay. Thank you. [LB815]

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SENATOR WILLIAMS: Senator McCollister. [LB815]

SENATOR McCOLLISTER: Thank you, Senator Williams. When an insurance company, maybe a highly leveraged insurance company, uses such a device, is the public served or are you simply looking at the same asset base or does it, when you employ reinsurance, you bring in extra capital that diminishes the risk in some way? [LB815]

BRUCE RAMGE: It allows the company to apply excess capital that would otherwise be held so that they can not only provide lower premiums--and that benefits the policyholders--but perhaps they have other uses of that capital expansion into other lines of business, for example, or insurance. [LB815]

SENATOR McCOLLISTER: I think I'm still missing the point here. When that occurs, is the leverage to the parent company somewhat lessened? Is that how the public is served? [LB815]

BRUCE RAMGE: Yes. The financial amounts that have to be held into these reserve accounts would be lessened and there would be less stringent requirements in terms of how those monies are invested, so it allows more flexibility. [LB815]

SENATOR McCOLLISTER: But by using that mechanism, is extra capital provided to the reinsurance company? [LB815]

BRUCE RAMGE: It would not provide extra capital, it would just give them more flexibility on how they use their existing capital, if that makes sense. I wish I had an actuary here to explain, because it is very... [LB815]

SENATOR McCOLLISTER: Okay. Thank you, sir. [LB815]

BRUCE RAMGE: Thank you. [LB815]

SENATOR WILLIAMS: Additional questions? Seeing none, thank you for giving your testimony again. [LB815]

BRUCE RAMGE: Thank you, yes. [LB815]

SENATOR WILLIAMS: We'll invite proponents. Mr. Ullstrom. [LB815]

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GALEN ULLSTROM: Vice Chairman Williams, members of the Banking, Commerce and Insurance Committee, for the record my name is Galen Ullstrom, that's G-a-l-e-n U-l-l-s-t-r-o-m, I'm Senior Vice President and registered lobbyist for Mutual of Omaha Insurance Company appearing today in support of LB815. We were a company, along with others, who participated in the project of drafting some of the regulations and this model of limitation law with the NAIC. As a company that does business in 50 states, as the director mentioned there was not uniform treatment of these transactions among states. This attempt was to provide uniformity. It's also important that it was adopted as an accreditation standard by the NAIC, so that we hope that a reinsurance transaction approved by the Nebraska standards would also be acceptable in other states. By enacting this type of legislation by the NAIC and by the states, it would provide that certainty. So it basically provides for reciprocity across state lines and provides some good guidance as to what is appropriate and what is not. So that sums up my testimony. I'd be glad to answer any questions if I could. [LB815]

SENATOR WILLIAMS: Any questions for Mr. Ullstrom? Senator McCollister. [LB815]

SENATOR McCOLLISTER: Thank you, Senator Williams. Can you help answer my question that I gave to the director? [LB815]

GALEN ULLSTROM: From a standpoint of...there's not a whole lot of difference in the obligation...the policy owner is protected either way. When the risk is ceded to this captive reinsurer, the reinsurer is on the hook. But it's usually backed up by capitalization in the reinsurer sufficient to handle those risks. And then it is also usually backed up by some other letters of credit held by the parent company that also support that or a parental guarantee. Nebraska allows a parental guarantee. For example, in a reinsurance situation that we've been involved in, not only did we fund the captive with sufficient capital and surplus to handle the risks, we had to guarantee those obligations in the parent company. And so there's, in a way, a double protection, both as to the reinsurance in the company because we've got assets down there to protect it, and then there's also a guarantee by us if those assets would not be sufficient. So there's protection both ways. [LB815]

SENATOR McCOLLISTER: Thank you, Galen. [LB815]

GALEN ULLSTROM: You bet. [LB815]

SENATOR WILLIAMS: Senator Kolterman. [LB815]

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SENATOR KOLTERMAN: Thank you, Senator Williams. Is it fair to...are these companies rated by the various rating agencies like A.M. Best or Moody's or Standard and Poor's? [LB815]

GALEN ULLSTROM: I don't know that they've rated the captives, Senator. I'm sure that they have. Each state that passed a captive law--and this goes back quite a few years--there were a number of states on the East Coast that allowed for captives, South Carolina, Vermont. We were looking at this as a way to effectively have reduction of duplicative reserves. I mean, the mortality tables were out of sight, we were having high reserves set. We felt by using the reinsurance mechanism we could do that. Nebraska did not have a captive law. At the time, we mentioned to the Director of Insurance, who at that time was Tim Wagner, he said, well, we're thinking about doing a captive law in Nebraska. We'd rather have you do it here than not. And I said, that's fine. We would be glad to do it here, we just didn't have the law. So effectively, we worked with the director and the law and this special purpose financial captive to allow to be based here. So I'm not sure that Best has gone that far to rate them, but this will set some of the standards, this regulation, of what's acceptable and what's not as far as collateral looks down on the reinsurer. And so I think it will provide some uniform standards that will be better recognized. [LB815]

SENATOR KOLTERMAN: But the consumer can still...like in your case where Mutual of Omaha has used one of these captives, you've also reinsured it, so to speak, by Mutual of Omaha. [LB815]

GALEN ULLSTROM: Correct. [LB815]

SENATOR KOLTERMAN: And so the parent company is really underwriting, to a certain extent, the captive. [LB815]

GALEN ULLSTROM: Yeah. In our case, effectively what's happened, United of Omaha has issued the risks, ceded to the captive company. Mutual of Omaha has put a parental guarantee on top of that to support that reinsurance transaction, in our case. [LB815]

SENATOR KOLTERMAN: Okay. Thank you. [LB815]

GALEN ULLSTROM: You bet. [LB815]

SENATOR WILLIAMS: Additional questions? Seeing none, thank you for your testimony. [LB815]

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GALEN ULLSTROM: Thank you. [LB815]

SENATOR WILLIAMS: Next proponent. Seeing none, are there any opponents? Seeing none, is there anyone here to testify in a neutral capacity? If not, we will close the hearing then on LB815. And that's the end of our scheduled hearings today. [LB815]