

MINUTES
HOUSE BUSINESS COMMITTEE

DATE: Wednesday, March 11, 2015

TIME: 1:30 PM or Upon Adjournment

PLACE: Room EW41

MEMBERS: Chairman Barbieri, Vice Chairman Clow, Representatives Collins, Crane, Palmer, Thompson, Batt, Hixon, Kauffman, Monks, Anderst, Beyeler, DeMordaunt, Dixon, Troy, Smith, Rusche, Jordan

**ABSENT/
EXCUSED:** Representative(s) Thompson

GUESTS: Peter Kolbe, USMI; Sid Sullivan AceCo Manufacturing; Al Youngwerth, Rekluse/VersaBuilt; Sheri Johnson, SWI-MA; Steve Keys, DBS; Brad Giesen, Campbell Company; Dwayne Dayley, Rekluse; Dawn Justice, ID Bankers; Tom Donovan, Department of Insurance; Aaron White, Idaho AFL-CIO; Randy Lake, L.U. 291 IBEW; Ed Huskey, L.U. 291, IBEW; Colby Cameron, Sullivan & Reberger; Garth Sickles, Pneumotech

Chairman Barbieri called the meeting to order at 1:32 PM.

MOTION: **Rep. Beyeler** made a motion to approve the minutes of February 25, 2015. **Motion carried by voice vote.**

MOTION: **Rep. Beyeler** made a motion to approve the minutes of March 3, 2015. **Motion carried by voice vote.**

MOTION: **Rep. Kauffman** made a motion to approve the minutes of March 5, 2015. **Motion carried by voice vote.**

S 1078: **Peter Kolbe**, Vice President and Associated Counsel of Genworth Mortgage Insurance Company, presented to the committee **S 1078** which would repeal Idaho Insurance Code Section 41-2653 (1). He said the Code Section requires a mortgage guaranty insurer retain no more than 25% coverage of the borrower's indebtedness to the insured lender. Mortgage guaranty insurance insures a lender against loan default by a borrower. Typically a lender requests mortgage guaranty insurance coverage on 25% of an outstanding home loan balance; however, it is also very common for lenders to request additional coverage.

Mr. Kolbe said Idaho's current law forces a mortgage guaranty insurer to reinsure any risk above 25% coverage with a separate legal reinsurer entity for each 25% slice of the coverage. In order to write 100% coverage, Idaho's law requires four insurers each holding 25% of the coverage. All this reinsurance is placed with reinsurers affiliated with the primary mortgage guaranty insurer. When the Idaho requirement was enacted, it was assumed it would result in shifting a portion of the insured risk of borrower loan default to unaffiliated non-mortgage guaranty reinsurers. The act of reinsuring risk to third party non-mortgage guaranty reinsurers would bring additional capital into the mortgage guaranty insurance industry. In addition, risk would be further distributed to reinsurers that were not exclusively focused on real estate-related risks. These results never materialized because the market for first-dollar-loss mortgage reinsurance of mortgage guaranty insurance risk has been thin to nonexistent.

Consequently, **Mr. Kolbe** said, mortgage guaranty insurers formed affiliated reinsurers to take that risk under their respective holding company systems in order to write risk in excess of 25% coverage. As a result, reinsurance exists in form but lacks the real substance of risk spreading and diversification. Instead, capital and other corporate resources are spread among related entities without contributing either new capital or independent risk assessment.

In addition to the absence of any discernible benefit, **Mr. Kolby** said the mandatory reinsurance requirement creates significant costs for the companies as they are forced to establish, license and maintain multiple separate legal entities. Because all of the risk remains within the same holding company structure, these additional costs and administrative burdens are difficult to justify.

In response to questions, **Mr. Kolby** said this legislation would not have any impact on the consumer. It is possible the costs to the consumer may be lower because it reduces the barrier to new entrances into the market place as it is cheaper to set up one company as opposed to four legal entities. Although savings may not translate directly to the borrower, it should reduce cost given the premium volume and losses paid. He said reinsurance is a good idea to diffuse risks. However, because there is no appetite for it, coverage is unobtainable.

Tom Donovan, Acting Director of the Department of Insurance, said the Department does not see a problem in terms of increased risk. There is a provision that limits the outstanding risk of liability to a company of no more than 25 times its policy holders surplus. The Director may waive that provision.

MOTION: **Rep. Rusche** made a motion to send **S 1078** to the floor with a **DO PASS** recommendation.

Rep. Palmer indicated he may vote against the legislation on the floor.

VOTE ON MOTION: **Motion carried by voice vote. Rep. Rusche** will sponsor the bill on the floor.

H 238: **Rep. Batt** presented to the committee **H 238**. She said this legislation makes the presumption that industrial equipment is safe. The Electrical Board will have the opportunity to make the decision if equipment is a hazard to life or property.

Sheri Johnson, President of the Board of Directors of the Southwest Idaho Manufacturers' Alliance, testified **in support** of the **H 238**. She said, currently based on interpretation of the existing law, local manufacturers placing industrial equipment on their production floors must get the equipment certified by a Nationally Recognized Laboratory (NRTL). NRTL is a United States Occupational Safety and Health Administration (OSHA) designation given to testing facilities that provide product safety testing and certification services to manufacturers. The proposed amendment clarifies this distinction by eliminating the requirement that, as buyers of equipment, consumers have to obtain a NRTL certification after the equipment is purchased.

Ms. Johnson said businesses in Southwest Idaho are crippled from the excessive and unnecessary regulation cost of business time and money. It negatively impacts expansion, productivity, and creation of jobs. As manufacturers, they are incredibly concerned about safety which is why they have agreed to a list of items excluded by the Division of Building Safety (DBS). She said certifications should be for the original manufacturer, not for the consumer utilizing the product.

Al Youngwerth, President of VersaBuilt and Chairman of Rekluse Motor Sports, testified **in support** of **H 238**. He said the intent of legislation is to remove Idaho's regulation requiring industrial equipment be approved by either a listing from the NRTL or by field inspection. It puts industrial equipment on the same playing field as virtually all other electrical equipment installed in Idaho. In response to a question, Mr. Youngwerth said because the National Electrical Code (NEC) and most states do not require a listing, most industrial equipment is not. There is no evidence of any injuries or deaths in Idaho caused by an industrial equipment electrical safety problem.

Brad Giesen, Campbell Company, testified **in support** of **H 238**. He said removing this barrier would be a significant benefit to their company.

Aaron White, representing the Idaho AFLCIO, a member of the International Brotherhood of Electrical Engineers Local Union 291 and a journeyman electrician by trade, testified **in opposition** to **H 238**. He said the NEC is painstakingly developed by industry to provide protection for person and property. The DBS is instituted to provide a mechanism for facilitating the NEC in the field. The inspections protect all parties, including the journeyman and his license to do business, the customer, and their workers. The proposed language states the rule of law does not apply unless there is an undue hazard to life or property. He said the DBS inspectors are already too busy to be placed in this type of position. Certifications should be continued.

Steve Keys, Deputy Administrator for the Division of Building Safety, said they do not have any control on how much a third party charges for the inspection. The inspectors typically charge travel cost and expenses which get expensive. In response to a question, he said he believes the current language still requires the installation be done by licensed personnel/contractors. The legislation only refers to the equipment not the installation.

Dwayne Dayley, President of Rekluse Motor Sports, testified **in support** of **H 238**. He said because safety is a top priority in their company, they value the inspections from OSHA, the electrical inspectors, and others who come into their facilities for inspections. They learn and improve because of these inspections; however, the current requirement for the NRTL labeling or Professional Engineer certification does not enhance the safety of their industrial equipment. OSHA inspects their practices, guarding, and equipment for safety. The areas they inspect are associated with known causes of injury in the United States. He said he expects the electrical inspectors to verify that proper circuit breakers, listed and properly sized wiring, and correct grounding are in place for all hard-wired equipment.

Sid Sullivan, an executive at AceCo Precision Manufacturing, testified **in support** of **H 238**. He said it is difficult for businesses to compete economically against those who do business in areas that do not have these regulations.

MOTION:

Rep. Palmer made a motion to send **H 238** to the floor with a **DO PASS** recommendation.

Rep. Batt closed the debate by saying this legislation will help those businesses who are driving Idaho's economy.

Rep. Rusche spoke against the motion. He said he believes this is a blanket repeal of Article 54, Chapter 10, which has value in the protection of the workers and those who install this type of equipment.

Rep. Hixon spoke in favor of the motion. He said this will help the businesses which are the job creators in the state. He emphasized that everybody is concerned about public safety but the fine line needs to be managed between public safety and making it so these company can compete in the state of Idaho.

**VOTE ON
MOTION:**

Motion carried by voice vote. Reps. Rusche, Jordan, and Smith requested to be recorded as voting **NAY**. **Rep. Batt** will sponsor the bill on the floor.

ADJOURN:

There being no further business to come before the committee, the meeting adjourned at 2:58 PM.

Representative Barbieri
Chair

Francoise Cleveland
Secretary