

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

2246

2001 SENATE INDUSTRY, BUSINESS AND LABOR
SB 2246

2001 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2246

Senate Industry, Business and Labor Committee

Conference Committee

Hearing Date January 31, 2001.

Tape Number	Side A	Side B	Meter #
3	x		2.4 to 24.5
(2/05/01) 2		x	41.1 to 48.3
(3/20/01) 1	x		39.2 to end
		x	0 to 1.9
Committee Clerk Signature <i>Don & Perez</i>			

Minutes:

The meeting was called to order. All committee members present. Hearing was opened on SB 2246 relating to the duties of a trustee of a life insurance trust; and to provide for retroactive application.

SUSAN RIBEIRO, President, Frontier Trust Company. This bill would allow a trustee to hold an insurance policy in an irrevocable trust for its insurance values and not its potential investment value. Written testimony attached.

SENATOR ESPEGARD: You will simply be holding the policy and not have the normal fiduciary responsibility that you have with other accounts?

S RIBEIRO: We will only hold the policy and not manage it. We believe it's not reasonable for trust departments to evaluate insurance companies and decide to move the policy. If the grantor chose that company it is best to leave it alone. Basically we are asking permission to leave it alone.

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Senate Industry, Business and Labor Committee

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Hearing Date January 31, 2001.

MARILYN FOSS, Frontier, ND Bankers' Assn. In favor. In ND these products (irrevocable life insurance trusts) have not been offered by trust departments, except for very large customers, because the litigation risk from beneficiary outweighs the income from holding the policy. This bill does not eliminate fiduciary duties.

PAT WARD, ND Domestic Insurance Companies, opposed, problem is that fiduciary responsibility avoided. Beginning of the bill says "notwithstanding any other provision of law" ND code says trustee should "invest and manage trust assets as a prudent investor", trustee to comply with prudent investor rule as defined in the code.

SENATOR KLEIN: Testimony heard before said this wouldn't be affected you say otherwise.

P WARD: SB 2247 and 2246 seen together seem to mean that an out of state insurance producer can take policies out of state and move them within their own agencies, and reissue them, with no accountability in ND.

VANCE MAGNUSON, ND Insurance Dept., neutral. Possible problem we see: depending on where the policy issued would determine if ND has jurisdiction or not. If the contract issued in Florida for all practical purposes ND has no jurisdiction, especially if companion bill 2247 passes. Concern this trusts will be inactively managed.

M FOSS: These bill have been referred to as companion bills and they are not. These issues can be and are usually addressed in the trust agreements.

Written testimony submitted by Paul J. Wolmoutka, CPA, in favor.

Hearing closed.

Feb 05/01. Tape 2-B-41.1 to 48.3

Committee reconvened. All members present. Discussion held regarding amendments submitted by Pat Ward.

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Senate Industry, Business and Labor Committee

Bill/Resolution Number SB 2246

Hearing Date January 31, 2001.

SENATOR ESPEGARD: Motion to adopt amendments. SENATOR KLEIN: Seconded.

Roll call vote: 7 yes; 0 no. Motion carried.

SENATOR ESPEGARD: Motion: do pass as amended. SENATOR TOLLEFSON: Second.

Roll call vote: 7 yes; 0 no. Carrier: SENATOR ESPEGARD

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Senate Industry, Business and Labor Committee

Bill/Resolution Number SB 2246

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March 20/01 Tape 1-A- 39.2 to end. 1-B- 0 to 1.9

Committee reconvened. All members present. Committee studied House amendments. Written testimony from **Marilyn Foss**, ND Bankers Assn., in agreement with House amendments. distributed.

Discussion held.

Senator Mutch: What does "reshopping" mean?

Senator Espegard: When you look at the policies you have and see there is a better policy out you cancel and reissue a new one. It is a fiduciary responsibility.

Discussion held.

Senator Krebsbach: Motion: accede to House amendments. **Senator Espegard.** Second.

Roll call vote: 7 yes; 0 no. Motion carried. Floor assignment: **Senator Espegard.**

PROPOSED AMENDMENTS TO SB 2246

Page 1, line 2, remove "; and to provide for"

Page 1, line 3, remove "retroactive application"

Page 1, line 7, remove "acquisition,"

Page 1, line 9, remove "acquisition," and remove comma after "retention"

Page 1, line 17, after "duties" insert ", except where a trustee purchases or acquires a new or replacement policy for the trust which was not selected by the original grantor under the trust instrument"

Page 1, remove lines 18 through 20

Renumber accordingly

Date: 2/05/01
 Roll Call Vote #: 1

2001 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2246

Senate Industry, Business and Labor Committee

Subcommittee on _____
 or
 Conference Committee

Legislative Council Amendment Number _____

Action Taken Adopt amendments

Motion Made By Sen Espigard Seconded By Sen Klein

Senators	Yes	No	Senators	Yes	No
Senator Mutch - Chairman	✓		Senator Every	✓	
Senator Klein - Vice Chairman	✓		Senator Mathern	✓	
Senator Espigard	✓				
Senator Krebsbach	✓				
Senator Tollefson	✓				

Total (Yes) 7 No 0

Absent _____

Floor Assignment _____

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

Date: 2/05/01
Roll Call Vote #: 2

2001 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2246

Senate Industry, Business and Labor Committee

Subcommittee on _____
or
 Conference Committee

Legislative Council Amendment Number DPA

Action Taken _____

Motion Made By Sen Espgaard Seconded By Sen Tollefson

Senators	Yes	No	Senators	Yes	No
Senator Mutch - Chairman	✓		Senator Every	✓	
Senator Klein - Vice Chairman	✓		Senator Mathern	✓	
Senator Espgaard	✓				
Senator Krebsbach	✓				
Senator Tollefson	✓				

Total (Yes) 7 No 0

Absent 0

Floor Assignment S Espgaard

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

REPORT OF STANDING COMMITTEE

SB 2246: Industry, Business and Labor Committee (Sen. Mutch, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2246 was placed on the Sixth order on the calendar.

Page 1, line 2, remove "; and to provide for"

Page 1, line 3, remove "retroactive application"

Page 1, line 7, remove "acquisition,"

Page 1, line 9, remove "acquisition," and remove the second comma

Page 1, line 17, after "duties" insert ", except if a trustee purchases or acquires a new or replacement policy for the trust which was not selected by the original grantor under the trust instrument"

Page 1, remove lines 18 through 20

Renumber accordingly

Date: 3/20/01
 Roll Call Vote #: 1

2001 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2246

Senate Industry, Business and Labor Committee

Subcommittee on _____

or

Conference Committee

Legislative Council Amendment Number _____

Action Taken Accede to house amendment

Motion Made By Sen Krebsbach Seconded By Sen Espegard

Senators	Yes	No	Senators	Yes	No
Senator Mutch - Chairman	✓		Senator Every	✓	
Senator Klein - Vice Chairman	✓		Senator Mathem	✓	
Senator Espegard	✓				
Senator Krebsbach	✓				
Senator Tollefson	✓				

Total (Yes) 7 No 0

Absent 0

Floor Assignment Sen Espegard

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

2001 HOUSE JUDICIARY

SB 2246

2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2246

House Judiciary Committee

Conference Committee

Hearing Date 03-06-01

Tape Number	Side A	Side B	Meter #
TAPE I	x		2498 to 6224
TAPE I		x	01 to 1223
Committee Clerk Signature <i>Juan Diers</i>			

Minutes: Chairman DeKrey opened the hearing on SB 2246. Relating to the duties of a trustee of a life insurance trust.

Susan Ribeiro: President of Frontier Trust Company (see attached testimony) has some amendments attached.

Chairman DeKrey: Right now there is no estate tax if the estate is under \$600,000.00, how many people would that effect. The tax rate is 65%, does that kick in right away.

Susan Ribeiro: No, there is a sliding scale. We have a lot of people over forty in the state of North Dakota that have at least that much. But also nationally.

Chairman DeKrey: Had a question about land in trust.

Susan Ribeiro: That will come up in the bill 2248.

Rep Delmore: I am not sure that this bill is customer friendly. I would want someone to make sure that things were kept in place and someone is responsible for it.

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House Judiciary Committee
Bill/Resolution Number SB 2246
Hearing Date 03-06-01

Susan Ribeiro: The person chooses the insurance and the agent and the company. It is not the trust company to second guess what was wanted. A change can be made by a third party, the trust cannot make those decisions. Raising our fees from 200 to 1,000 is also not customer friendly.

Rep Delmore: You are just a hold company.

Susan Ribeiro: That is correct. We do the paperwork to insure the policy is in effect by mailing notices etc. Upon the death of the customer we collect the amount and pay it out.

Rep Onstad: Why is not wise to have one heir full ownership, can you site some examples why this would be.

Susan Ribeiro: Gave an example with someone having five or six children.

Rep Onstad: Gives an example, under federal law, I can gift them that premium. You can currently do that now.

Susan Ribeiro: that is correct.

Rep Onstad: Why would I want to go to a trust.

Susan Ribeiro: Their are minor children or a "spend thrift" a trust is used to protect the funds. A trust takes into consideration age and life style.

Rep Klemin: On line 13, the trustee is not liable, who would be able to exercise a policy option.

Susan Ribeiro: A third party, someone who is called the "named" individual.

Rep Klemin: You say a properly constructed trust, what if it is not.

Susan Ribeiro: People that are in this business should do that.

Rep Klemin: Asks again, who would be able to exercise an option.

Susan Ribeiro: The trust doesn't have the duty, but that doesn't mean they can't.

Rep Klemin: It could just be put in a file.

