

THURSDAY, APRIL 26 REGULAR CALENDAR

COMMERCE AND CONSUMER AFFAIRS

SB 311, clarifying rules of construction under the New Hampshire Trust Code. **MAJORITY: OUGHT TO PASS. MINORITY: INEXPEDIENT TO LEGISLATE.**

Rep. John Hunt for the **Majority** of Commerce and Consumer Affairs. This bill amends RSA 564-B:1-112 to clarify that RSA 551:10 does not apply to trusts. RSA 551:10, which is in the “Wills” chapter of the New Hampshire statutes, provides children (and their descendants) who were inadvertently omitted from a will with the same share of the estate they would have received had there been no will. In consideration of this, drafters of wills that are intended to disinherit one of more children understand that they must include specific language to avoid any question of inadvertent omission. In 2001, in *Robbins vs. Johnson*, the NH Supreme Court was asked to extend RSA 551:10 to trusts, but declined to do so, because by its plain language the statute applies only to wills, and the court did not find “clear indication from the legislature that this is its intention...” In a recent case before the court, it is again being asked to apply RSA 551:10 to a trust. By passing this bill, the legislature will preserve the status quo, and prevent disruption for settlers, trustees and trust practitioners, by clearly indicating that RSA 551:10 was never intended to apply to trusts. **Vote 11-6.**

Rep. Kermit Williams for the **Minority** of Commerce and Consumer Affairs. The minority is concerned that a broad exemption for trusts under the rules of construction would have unintended consequences, especially for family trusts. Rules of construction require that heirs not mentioned in a trust would be entitled to be a beneficiary. If a trust declarant wishes to exclude anyone, they can do that specifically in the trust documents. Unforeseen circumstances, such as the death of a declarant prior to the birth of a child, could be addressed in probate court under rules of construction, while intentional exclusions continue to be allowed.

SB 314, (New Title) relative to regulation of mortgage bankers, brokers, servicers, and originators. **MAJORITY: OUGHT TO PASS. MINORITY: INEXPEDIENT TO LEGISLATE.**

Rep. Michael Costable for the **Majority** of Commerce and Consumer Affairs. This bill exempts from regulation as a mortgage banker, mortgage broker, mortgage servicer or mortgage originator, a person who is not regularly engaged in such activities. Current federal and state law already exempts individuals; however there is currently no definitive number of transactions. This bill clarifies no more than three transactions with in 12 consecutive months. **Vote 12-4.**

Rep. Richard Abel for the **Minority** of Commerce and Consumer Affairs. The minority of the committee believes that any individual who acts as a mortgage banker, mortgage broker, or mortgage originator should be licensed, without exemption. The minority believes this will protect consumers from unscrupulous business practices.

SB 485, (New Title) establishing a committee to study the relationship between concierge medicine and New Hampshire and federal health insurance law. **OUGHT TO PASS.**

Rep. David Luneau for Commerce and Consumer Affairs. Concierge medicine is a relationship between a physician and a patient where the patient pays an annual fee or retainer for medical services. The committee felt that much could be learned about concierge medicine and how fees for this practice could be treated as out of pocket payments applicable to a patient’s deductible in accordance with a health insurance plan. The bill establishes a committee to study this. **Vote 16-3.**

SB 546-FN, relative to purchasing alliances. **MAJORITY: REFER FOR INTERIM STUDY. MINORITY: OUGHT TO PASS.**

Rep. Kermit Williams for the **Majority** of Commerce and Consumer Affairs. This bill would modify the rules for purchasing alliances formed to buy group health insurance. The bill reduces the minimum size of an alliance to 250 enrollees, which would make it much more likely for that group to become financially insolvent based on large claims. There are issues with how federal law, including the Employee Retirement Income Security Act (ERISA), would apply to such purchasing alliances. The majority believes that there are too many issues with this bill, and thus recommends referring it for interim study. **Vote 14-5.**

Rep. Michael Costable for the **Minority** of Commerce and Consumer Affairs. The minority on the committee feels that this bill should be adopted. New Hampshire has the highest cost of health insurance in the nation. We have seen average annual premium increases of 50% and higher. Current law carves out 3 industry associations who (at the time the law passed) had to have at least 300 lives in order to create an alliance and purchase insurance in the group market. The minority does not believe that 3,000 lives is an absolute number for both sustainability and negotiating power. This bill simply lowers the number of lives to qualify for the group market and the opportunity to lower their insurance premiums. Efforts are underway federally to do the same thing. It is time for our state to reject the status quo mentality and pass this legislation.