

Insurance Corporation, the Resolution Trust Corporation or any other federal banking agency, the gross negligence standard is being established instead of the traditional state standard of negligence. Now first of all, is it true that there are certain financial institutions and certain banks that are not regulated by these federal agencies?

SENATOR KRISTENSEN: Yes.

SENATOR BEUTLER: Okay. And these institutions and banks are regulated by the state. Is that correct?

SENATOR KRISTENSEN: Yes.

SENATOR BEUTLER: Now let's take one particular act and it really doesn't matter what the act is, but let's say it's an act of negligence. Now if that same act is done in a state bank or in an other kind of financial institution that is regulated only by the state, that act...and it's negligence, that act could be prosecuted by the regulatory authority. Is that not true?

SENATOR KRISTENSEN: By the state regulatory authority?

SENATOR BEUTLER: Yes.

SENATOR KRISTENSEN: Yes. Now the word prosecute I don't think is accurate, but because that "connotes" criminal action, but you could bring the action.

SENATOR BEUTLER: You could bring the action, right. But that same act, whatever it is, that same act if it happens to be in a federal bank instead of in a state bank and it's negligence and it doesn't come to gross negligence could not be prosecuted, right? Is that true or not true?

SENATOR KRISTENSEN: Well, make sure that you correctly state who the actions would be brought by because what we're not changing what our state regulators could do to the state banks.

SENATOR BEUTLER: Precisely, and so the answer to the question...

SENATOR KRISTENSEN: Is that if the state wants to bring that action, they still can do it under ordinary negligence for state violations, not federal. The state can't enforce the federal