

MINUTES OF THE House COMMITTEE ON Insurance

The meeting was called to order by Rep. Rex B. Hoy at \_\_\_\_\_  
Chairperson

3:30 XX a.m./p.m. on February 24, 1986 in room 521-S of the Capitol.

All members, were present except:

Rep. Turnquist, excused

Committee staff present:

Melinda Hanson, Research Department  
Gordon Self, Revisor's Office  
Deanna Willard, Committee Secretary

Conferees appearing before the committee:

Mr. Dick Brock, Kansas Insurance Department

The meeting was called to order by the Chairman.

Final action on: HB 2797 - prohibition on refunds of taxes paid by insurance companies.

Mr. Dick Brock, Kansas Insurance Department, reviewed for the committee the intent of this bill--if premium taxes are collected from insurance companies in accordance with the state statute (K.S.A. 40-252,) they are not refundable.

Rep. Blumenthal made a motion that the bill be reported favorably; Rep. DeBaun seconded the motion. The motion carried.

Final action on: HB 2290 - certified notice of premium due on an insurance policy.

Copies of the proposed substitute were distributed. The substitute bill limits the certified notice requirement to medicare supplement policies and accident and sickness policies for persons 65 years of age or over. Such notice must be sent within 45 days of the premium due date, after which payment must be made within 15 days to be reinstated as continuous coverage. Such notice is not required if policy is set up to be billed to other than the insured or a guardian, or if late premium payments have been received twice in the preceding 12 months. It applies to Blue Cross Blue Shield and HMOs, also. (Attachment 1.)

Rep. Weaver made a substitute motion that the wording be clarified to "if certified notice has been sent twice in the preceding 12 months." Rep. Lacey seconded the motion. The motion carried.

Rep. Neufeld moved that the substitute bill be reported favorably as amended; the motion was seconded by Rep. Blumenthal. The motion carried.

62 5

CONTINUATION SHEET

MINUTES OF THE House COMMITTEE ON Insurance,  
room 521-S, Statehouse, at 3:30 XX a.m./p.m. on February 24, 1986.

Page Two

Final action on: HB 2645 - Uninsured and underinsured motorist coverage.

Gordon Self discussed the amendments that are suggested on this bill. Page Two, Line 0051 is a clarification that coverage rejected by the named insured would constitute a rejection for all parties insured by the policy. The types of subsequent policies referred to on Line 0054 were defined. Page Three sets forth the subrogation mechanism and increases from 60 to 90 days the amount of subrogation time allowed to the uninsured motorist coverage insurer. (Attachment 2.)

Rep. Blumenthal moved that "motorists" be amended to "motorist"; Rep. Neufeld seconded the motion. The motion carried.

Rep. Graeber moved that the language be approved referring to rejection of coverage by the named insured; Rep. Neufeld seconded the motion. The motion carried.

Rep. Sprague moved that the language be approved referring to types of subsequent policies; Rep. Neufeld seconded the motion. The motion carried.

Rep. Blumenthal moved that the clarification of language regarding subrogation rights be approved; Rep. Bryant seconded the motion. The motion carried.

Rep. Bryant moved that the language referring to documentation of pecuniary losses be approved; Rep. Cribbs seconded the motion. The motion carried.

There was no motion to approve the change to 90 days of time allowed for subrogation.

Rep. Sprague moved that the bill be reported favorably as amended; Rep. Neufeld seconded the motion. The motion carried.

The minutes of the previous meeting were approved.

Rep. Cribbs asked the committee to introduce a bill that would address his concerns regarding the deductible provisions of certain health insurance policies. Rep. Hoy will introduce, if necessary, such a bill to the Ways and Means Committee.

The meeting was adjourned at 4:35 p.m. by the Chairman.



## PROPOSED SUBSTITUTE FOR HOUSE BILL NO. 2290

AN ACT concerning insurance; relating to notice of premium due of a medicare supplement policy of insurance; amending K.S.A. 1985 Supp. 40-19c09 and repealing the existing section.

Be it enacted by the Legislature of the State of Kansas:

NewSection 1. Except as otherwise provided in this act, no medicare supplement policy of insurance, as defined by the commissioner of insurance by rule and regulation, and no insurance contract insuring a person age 65 or over and providing benefits for hospital, medical or surgical services or benefits for accident or sickness other than by reason of the insured's disability, issued or delivered in this state shall be terminated for failure to pay premiums when due unless the insurer sends to the insured by certified mail and addressed to the insured's last address of record with such insurer, a notice indicating the policy terminated due to failure to pay the required premium as of the premium due date. Such notice shall be sent no later than 45 days following the date on which premium was due, and shall inform the insured of the amount of premium that would be required to reinstate the policy and of the time within which such premium must be remitted to the insurer to effect such reinstatement. Upon payment of the required premium by the insured to the insurer within 15 days of the insurer's having mailed such notice, the policy shall be automatically reinstated as continuous coverage without lapse by the insurer without imposing upon the insured any new exclusions, reductions or waiting periods and without requiring of the insured proof of insurability.

New Sec. 2. This act shall not apply to: (a) An insurance contract which is billed for by the insurer to other than the insured or a guardian, conservator or trustee of the insured;

(b) an insurance contract billed for by the insurer to the insured on a pre-authorized check or bank draft basis; and

(c) an insurance contract for which the insurer has received premium payments later than the due date more than twice in the preceding twelve months.

Sec. 3. K.S.A. 1985 Supp. 40-19c09 is hereby amended to read as follows: 40-19c09. Corporations organized under the nonprofit medical and hospital service corporation act shall be subject to the provisions of the Kansas general corporation code, articles 60 to 74, inclusive, of Chapter 17 of the Kansas Statutes Annotated, applicable to nonprofit corporations, to the provisions of sections 1 and 2 and to the provisions of K.S.A. 40-214, 40-215, 40-216, 40-218, 40-219, 40-222, 40-223, 40-224, 40-225, 40-226, 40-229, 40-230, 40-231-40-235, 40-236, 40-237, 40-247, 40-248, 40-249, 40-250, 40-251, 40-252, 40-254, 40-2,100, 40-2,101, 40-2,102, 40-2,103, 40-2,104, 40-2,105, 40-2,116, 40-2,117, 40-2a01 to 40-2a19, inclusive, 40-2-216 to 40-2,220, inclusive, 40-2,401 to 40-2,421, inclusive, 40-3,301 to 40-3,313, inclusive, and amendments thereto, except as the context otherwise requires, and shall not be subject to any provisions of the insurance code except as expressly provided in this act.

Sec. 4. K.S.A. 1985 Supp. 40-19c09 is hereby repealed.

Sec. 5. This act shall take effect and be in force from and after its publication in the statute book.

## HOUSE BILL No. 2645

By Special Committee on Financial Institutions and Insurance

Re Proposal No. 13

12-17

0017 AN ACT relating to insurance; concerning uninsured and un-  
0018 derinsured motorist coverage; amending K.S.A. 1985 Supp.  
0019 40-284 and repealing the existing section.

0020 *Be it enacted by the Legislature of the State of Kansas:*

0021 Section 1. K.S.A. 1985 Supp. 40-284 is hereby amended to  
0022 read as follows: 40-284. (a) No automobile liability insurance  
0023 policy covering liability arising out of the ownership, mainte-  
0024 nance, or use of any motor vehicle shall be delivered or issued  
0025 for delivery in this state with respect to any motor vehicle  
0026 registered or principally garaged in this state, unless the policy  
0027 contains or has endorsed thereon, a provision with coverage  
0028 limits equal to the limits of liability coverage for bodily injury or  
0029 death in such automobile liability insurance policy sold to the  
0030 named insured for payment of part or all sums which the insured  
0031 or the insured's legal representative shall be legally entitled to  
0032 recover as damages from the uninsured owner or operator of a  
0033 motor vehicle because of bodily injury, sickness or disease,  
0034 including death, resulting therefrom, sustained by the insured,  
0035 caused by accident and arising out of ownership, maintenance or  
0036 use of such motor vehicle, or providing for such payment (re-  
0037 spective of legal liability of the insured or any other person or  
0038 organization.

0039 (b) Any uninsured motorist coverage shall include an un-  
0040 derinsured motorist provision which enables the insured or the  
0041 insured's legal representative to recover from the insurer the  
0042 amount of damages for bodily injury or death to which the  
0043 insured is legally entitled from the owner or operator of another  
0044 motor vehicle with coverage limits equal to the limits of liability

Amendments to HB 2645

Attachment 2  
House Insurance 2/24/86

0045 provided by such uninsured motorist coverage to the extent such  
0046 coverage exceeds the limits of the bodily injury coverage carried  
0047 by the owner or operator of the other motor vehicle.

0048 (c) The insured named in the policy shall have the right to  
0049 reject, in writing, the uninsured ~~motorist~~ coverage required by  
0050 subsection (a) which is in excess of the limits for bodily injury or  
0051 death set forth in K.S.A. 40-3107 and amendments thereto. Un-  
0052 less the insured named in the policy requests such coverage in  
0053 writing, such coverage need not be provided in ~~or supplemental~~  
0054 ~~to a renewal policy~~ where the named insured had rejected the  
0055 coverage in connection with a policy previously issued to the  
0056 insured by the same insurer.

0057 (d) Coverage under the policy shall be limited to the extent  
0058 that the total limits available cannot exceed the highest limits of  
0059 any single applicable policy, regardless of the number of policies  
0060 involved, persons covered, claims made, vehicles or premiums  
0061 shown on the policy or premiums paid or vehicles involved in an  
0062 accident.

0063 (e) Any insurer may provide for the exclusion or limitation of  
0064 coverage:

0065 (1) When the insured is occupying or struck by an uninsured  
0066 automobile or trailer owned or provided for the insured's regular  
0067 use;

0068 (2) when the uninsured automobile is owned by a self-in-  
0069 surer or any governmental entity;

0070 (3) when there is no evidence of physical contact with the  
0071 uninsured motor vehicle and when there is no reliable compe-  
0072 tent evidence to prove the facts of the accident from a disinter-  
0073 ested witness not making claim under the policy;

0074 (4) to the extent that workers' compensation benefits apply;

0075 (5) when suit is filed against the uninsured motorist without  
0076 notice to the insurance carrier; and

0077 (6) to the extent that personal injury protection benefits  
0078 apply.

0079 (f) An underinsured motorist coverage insurer shall have  
0080 subrogation rights ~~subject to the following circumstances~~

0081 ~~(1) [Written notice must be given the underinsured motorist~~

motorist

A rejection by the insured named in the policy of the uninsured motorist coverage shall be a rejection on behalf of all parties insured by the policy.

any subsequent policy issued by the same insurer for motor vehicles owned by the named insured, including, but not limited to, supplemental, renewal, reinstated, transferred or substitute policies

under the provisions of K.S.A. 40-287 and amendments thereto.

0092 coverage insurer by its insured when a tentative agreement to  
0093 settle for liability limits has been reached with an underinsured

If

0084 tortfeasor; and  
0085 (2) within 60 days of receipt of this written notice, the  
0086 underinsured motorist coverage insurer may substitute its pay-  
0087 ment to the insured for the tentative settlement amount. The  
0088 underinsured motorist coverage insurer is then subrogated to  
0089 the insured's right of recovery to the extent of such payment and  
0090 any settlement under the underinsured motorist coverage. If the  
0091 underinsured motorist coverage insurer fails to pay the insured  
0092 the amount of the tentative tort settlement within 60 days, the  
0093 underinsured motorist coverage insurer has no right of subro-  
0094 gation for any amount paid under the underinsured motorist  
0095 coverage.

written notice must be given by certified mail to the underinsured motorist coverage insurer by its insured. Such written notice shall include written documentation of pecuniary losses incurred, including copies of all medical bills and written authorization or a court order to obtain reports from all employers and medical providers.

90

0096 Sec. 2. K.S.A. 1985 Supp. 40-284 is hereby repealed.  
0097 Sec. 3. This act shall take effect and be in force from and  
0098 after its publication in the statute book.