

Approved February 20, 1986
Date

MINUTES OF THE SENATE COMMITTEE ON FINANCIAL INSTITUTIONS AND INSURANCE

The meeting was called to order by Sen. Neil H. Arasmith at
Chairperson

9:00 a.m. ~~pm~~ on February 19, 1986 in room 529-S of the Capitol.

All members were present except:

Committee staff present:

Bill Wolff, Legislative Research
Myrta Anderson, Legislative Research
Bruce Kinzie, Revisor of Statutes

Conferees appearing before the committee:

John Peterson, Kansas Cemetery Association
David Newcomer, Kansas Cemetery Association
Gerald Duree, American Association of Retired Persons
Jim Snyder, Kansas Funeral Directors and Embalmers Association
Ron Todd, Kansas Insurance Department
Jim Oliver, Professional Insurance Agents of Kansas
Larry Magill, Independent Insurance Agents of Kansas

The minutes of February 18 were approved.

The hearing on SB 499 resumed after being continued from yesterday.

John Peterson, Kansas Cemetery Association, testified in opposition to SB 499. He informed the committee that in 1982 a law had been enacted under which cemeteries are audited and regulated by the Secretary of State. No consumer has lost money under that act. It has worked well for three years, but because a couple of cemeteries have sold pre-need caskets, the funeral directors are asking for a change in the law. The effect of the change would limit availability by requiring all money to be placed in trust. The pre-need plan is not bought as an investment, and the reason the money is put in trust is to guarantee it. He concluded that the bill should not be passed until some form of auditing provision is considered because it moves all casket laws in an area not being audited. Mr. Peterson will submit written testimony later.

David Newcomer, Kansas Cemetery Association, gave further testimony in opposition to SB 499. He used charts and statistics as an aid. (See Attachments I through III).

Gerald Duree, American Association of Retired Persons, followed with testimony in opposition to SB 499. (See Attachment IV).

Sen. Werts asked Mr. Peterson if the cemetery association would object to funeral directors being able to offer the same plan. Mr. Peterson answered that he would have no objection and that he feels everyone should have the same rules. The solution to this problem would simply be to add on the last line, "or any licensed funeral home which files a letter of intention with the Secretary of State."

Short committee discussion followed as to how the casket is delivered in pre-need plans when the casket is needed with Mr. Newcomer answering questions from the committee.

At this time, the chairman reminded the committee that he had distributed copies of letters sent to him regarding the bill yesterday as he had promised the senders. (See Attachments V). He also distributed copies of information which he had requested of the Kansas Board of Mortuary Arts. (See Attachment VI).

The hearing on SB 499 was concluded with the testimony of Jim Snyder, Kansas Funeral Directors and Embalmers Association, in which he offered an amendment. (See Attachment VII).

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON FINANCIAL INSTITUTIONS AND INSURANCE,
room 529-S, Statehouse, at 9:00 a.m./~~pm~~ on February 19, 1986

The committee's attention was turned to SB 531 dealing with minimum educational requirements for insurance agents. Ron Todd of the Kansas Insurance Department testified in support of the bill. He said it is noncontroversial. Changes on lines 30 and 52 are needed to eliminate confusion because the organizations offering these courses have changed the number of their courses.

Sen. Burke began a discussion as to why this could not be included in the rules and regulations for the insurance commissioner so that the legislature would not have to be asked to make these changes every year, especially since the insurance commissioner understands more about them than the legislature. Mr. Todd said that he feels it is more practical to have the legislature amend in this manner. Also, he said there has never been a consensus to give the insurance commissioner this authority when it was discussed in the past. Staff added that the original courses that qualify for training did not come from the insurance department. The insurance commissioner enforces proposals of special interest groups. Sen. Burke suggested that the special interest groups could go to the insurance commissioner and ask him to change the regulations.

Jim Oliver, Professional Insurance Agents of Kansas, testified in support of SB 531 with one amendment. (See Attachment VIII). The chairman asked him to clarify what the amendment does. Mr. Oliver said it makes Certified Insurance Counselors and the life and health institute course equal to all other educational courses.

Sen. Werts asked if a quotation would not be needed after "curriculum" in the second paragraph, sixth line, of his handout. Mr. Oliver agreed that a quotation is needed.

Larry Magill, Independent Insurance Agents of Kansas, stated that he wanted to point out to the committee that the basis for this law was set up a number of years ago. He would not object to Sen. Burke's suggestion that the insurance commissioner deal with the requirements. Mr. Oliver said he was in agreement with Mr. Magill.

There being no further time, the meeting was adjourned.

SENATE COMMITTEE

ON

FINANCIAL INSTITUTIONS AND INSURANCE

OBSERVERS
(Please print)

DATE	NAME	ADDRESS	REPRESENTING
2-19-86	Linda McGill	Topeka	Ks. Funeral Dir. Assn.
"	Pete McGill	"	"
"	Bin Smith	Derby	"
"	Fred Rowley, Jr.	Lebo	"
"	Mack Smith	Topeka	Ks. St. Bd of Mortuary Arts
"	Jim Glavin	Topeka	Prof. Sec. Cgt of Ks
"	Jim Snyder	"	K.F.D.A.
"	W. Newcomb	"	K.F.D.A.
"	Jim Milligan	Leawood, KS	K.F.D.A.
"	Rebecca Crawford	Topeka	Ks. Cemetery Assn.
"	John Peters	"	Ks. Cemetery Assn.
"	Larry K. McElwain	Lawrence, Ks.	Ks. Fun. Dir. Assn.
"	Mrs. Robert E. Cochran	Topeka	
"	Robert E. Mucke	"	PRES KANSAS CEMETERY ASSN
"	Shirley M. [unclear]	Prairie Village	DW Newcomb's Sons (KCA)
"	John D. Wassberg	Kansas City, Missouri	Funeral Security Plans, Inc.
"	Tom Poku	Topeka	Group Life Services
"	Gerald G. Pierce	Topeka 1415 W. [unclear]	A.A.P.P.
"	Chip Wheelen	Topeka	Funeral Directors Assn.
2-19-86	Sharon F. McDonough	Hutchinson, Ks	Trickum Green Park
"	JACK ROBERTS	TOPEKA	BC-B.S.
2-19-86	Earl L. Jackson	Topeka	Mauburn, Ct.

D. W. Newcomer IV
Testimony To The Kansas State Financial Institution
and Insurance Committee - February 18, 1986

Mr. Chairman and Senators:

I am David W. Newcomer IV, a resident of Prairie Village, Kansas a Kansas licensed funeral director, a Kansas Cemetery owner, and the President of Funeral Security Plans, Inc. a company that sells preneed arrangements for various cemeteries and funeral homes in 6 states.

I oppose S.B. 499 for many reasons which I have presented to you by letter before this hearing. Most of them have been addressed by others who have previously testified, so I will not take time to back track.

I will address four important issues to consider in deciding the fate of this Bill.

The proponents have argued that:

- 1) Removing caskets from the Cemetery Merchandise Act will benefit the consumer; by stoping sales people from bothering them.
- 2) There is already plenty of prearrangement sold in Kansas under the Funeral Act, KSA 16-301.

Let's review the facts on these issues.

First, consumers do not like to pay taxes on prearranged funerals.

They do not see funeral plans as an investment - it is a purchase.

The only reason funds are placed in trust are to secure the promises made. In the case at point, the promise is the delivery of a casket.

The cemetery merchandise law provides for 10% more funding than is necessary to provide a casket. The seller pays the taxes.

If S.B. 499 passes, caskets would be trusted under the funeral act, which requires the consumer to pay taxes, because of the 100% earnings refund right. A consumer could actually pay more in taxes over the life of a contract than the original price of the plan. This is why so many of our customers have converted to the cemetery merchandise plan.

Second, there are no problems with sales persons. We have been operating under the merchandise law for nearly three years and there have been no complaints about sales persons by consumers.

S. FII 2/19/86
Attachment I

Third, consumers are fully protected by the FTC cooling off period for in the home sales. A cancelation request form must be given to each purchaser which fully explains their rights in large bold type. This regulation requires a full refund be given when the form is returned to the company during the cooling off period.

Consumer protection is not the real reason to legislate sales people out of work. Competition is the real reason.

Funeral directors know that nearly 2/3 of the general public believe they make better spending decisions in advance of bereavement. Half of these people readily admit they will probably not get around to visiting a funeral director before it is required.

Nearly half wouldn't mind a salesperson contacting them.

One third would be willing to prepay funeral expenses.

More than half of the people do not know funeral directors offer prepayment.

Three out of four do not have specific insurance to cover funeral and burial costs.

Finally, one of two would purchase a casket from some other place if it saved them 20%.

A study by the National Funeral Directors Association shows that consumers spend 20% less on prearranged funerals.

Fear of competition and satisfaction with high at need prices is the real reason the KFDA sponsored this special interest piece of legislation.

The final question that needs to be asked is will eliminating calling on prospective clients and withdrawing funds to pay sales persons reduce prearrangement.

The answer is yes.

Facts from the Kansas Funeral directors trust and a survey made by the association show that each funeral firm in Kansas makes between two and four prarrangements per year.

Whereas in Missouri, a state that has none of these prohibitions, the average funeral firm wrote 77.4 prearranged contracts in a year.

Nearly all the states surrounding Kansas have less restrictive funding laws:

Colorado 85-15
Missouri 80-20
Mississippi 50-50
Iowa 80-20
Oklahoma 85-15

Nebraska Legislature is debating a bill to reduce their 100% law.

In closing, I ask again who benefits from the passage of S.B. 499:

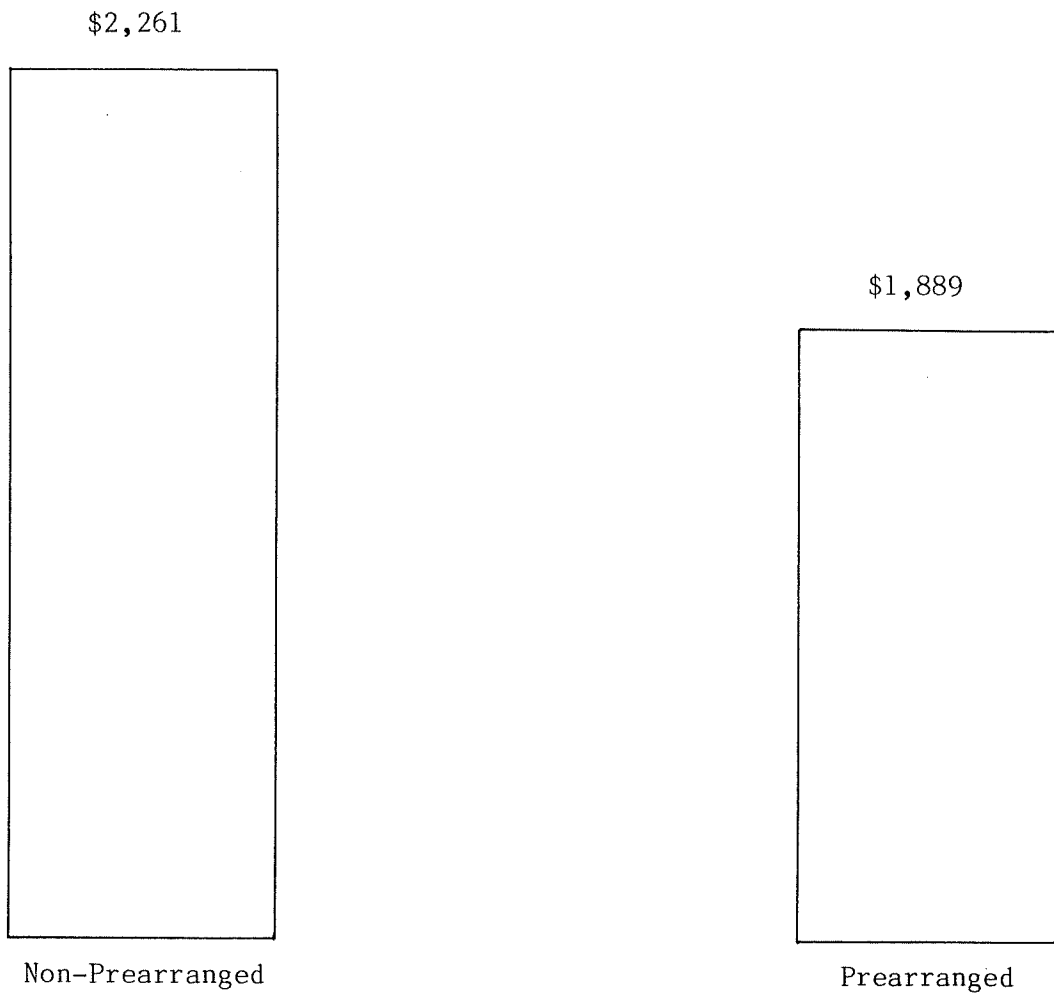
The consumer
The disadvantaged
The business person concerned about lowering funeral costs
The thoughtful

or those special interests that prefer to have consumers shopping during a vulnerable time on one of the worst days of their lives.

PLEASE VOTE NO ON S.B. 499

FACTS AND FIGURES

A Statistical Abstract of Funeral Service
1984 Edition
97,040 Funerals



PREARRANGED FUNERALS COST 20% LESS

S. FII 2/19/86
Attachment II

ATTITUDES TOWARDS DEATH AND FUNERALS

Northwestern University Graduate School of Management
Sample 1121 persons (About size of Gallop Poll)

Should Prearrange Funeral	62.0%
Probably Won't Get Around To It	30.9%
Would Not Mind Being Contacted	43.7%
Already Have Prearranged	9.2%
Not A Good Idea	10.0%
Willing To Prepay All or Part in Advance	34.8%

ATTITUDES TOWARDS DEATH AND FUNERALS

Sample 1121 persons

Discussed Own Arrangements	48.2%
Casual Comments	26.9%
Written Instructions	3.5%
Not Aware Funeral Homes Offer Prepayment	52.5%
Do <u>Not</u> Have Insurance To Specifically Pay For Funeral Costs	72.6%
Would Buy A Casket From Some Other Place If It It Saved Them 20%	49.8%

K.S.A. 16-301 INHIBITS SALES

Kansas		Missouri
100%-100% Trusting 2 years	KFDA Survey 30 years	80-20% Trusting
Kansas Funeral Trust		Sales Reported To State Board 1984
<u>\$1,574,000</u>	<u>\$40,000,000</u>	<u>\$63,400,000</u>
180 Firms	350 Firms	410 Firms
<u>\$2,000</u> Average Funeral	<u>\$1,000</u> Average Funeral	<u>\$2,000</u> Average Funeral
<u>2.1</u>	<u>3.8</u>	<u>77.4</u>
Funerals per firm per year	Funerals per firm per year	Funerals per firm per year

There is nearly 2,000% more preneed sold where state law allows educational materials to be offered and allows expenses to be recovered up front.

WHO BENEFITS FROM:

RESTRICTIONS ON DISTRIBUTION OF PRICE INFORMATION AND EDUCATIONAL MATERIALS

RESTRICTION OF FUNDS TO PAY EXPENSES OF MARKETING PREARRANGEMENT

PLACING THE TAX BURDEN ON THE PURCHASER INSTEAD OF THE SELLER

ELIMINATING CASKETS FROM THEIR PRESENT SRS EXCLUSION UNDER THE
MERCHANDISE LAW

ENCOURAGING ARRANGEMENTS AT THE TIME OF BEREAVEMENT

THE AGED ?

THE DISADVANTAGED ?

THE THOUGHTFUL ?

THE FUNERAL DIRECTOR ?

XXX FUNERAL SECURITY PLANS, INC. XXX
 People Profile

Year	Payments	Starting Balance	Earnings	Ending Balance	Taxes Paid	Total Taxes
1	200.00	200.00	16.00	216.00	4.00	4.00
2	200.00	416.00	33.28	449.28	8.92	12.92
3	200.00	649.28	51.94	701.22	12.98	25.90
4	200.00	901.22	72.09	973.31	18.02	43.92
5	200.00	1,173.31	93.86	1,267.17	23.46	66.78
6	0.00	1,267.17	101.37	1,368.54	25.34	92.12
7	0.00	1,368.54	109.48	1,478.02	27.37	119.49
8	0.00	1,478.02	118.24	1,596.26	29.56	149.05
9	0.00	1,596.26	127.70	1,723.96	31.92	180.97
10	0.00	1,723.96	137.91	1,861.87	34.47	215.44
11	0.00	1,861.87	148.94	2,010.81	37.23	252.67
12	0.00	2,010.81	160.86	2,171.67	40.21	292.88
13	0.00	2,171.67	173.73	2,345.40	43.43	336.31
14	0.00	2,345.40	187.63	2,533.03	46.90	383.21
15	0.00	2,533.03	202.64	2,735.67	50.66	433.87
16	0.00	2,735.67	218.85	2,954.52	54.71	488.58
17	0.00	2,954.52	236.36	3,190.88	59.09	547.67
18	0.00	3,190.88	255.27	3,446.15	63.81	611.48
19	0.00	3,446.15	275.69	3,721.84	68.92	680.40
20	0.00	3,721.84	297.74	4,019.58	74.43	754.83
21	0.00	4,019.58	321.56	4,341.14	80.39	835.22
22	0.00	4,341.14	347.29	4,688.43	86.82	922.04
23	0.00	4,688.43	375.07	5,063.50	93.76	1,015.80
24	0.00	5,063.50	405.08	5,468.58	101.27	1,117.07
25	0.00	5,468.58	437.48	5,906.06	109.37	1,226.44
26	0.00	5,906.06	472.48	6,378.54	118.12	1,344.56
27	0.00	6,378.54	510.28	6,888.82	127.57	1,472.13
28	0.00	6,888.82	551.10	7,439.92	137.77	1,609.90
29	0.00	7,439.92	595.19	8,035.11	148.79	1,758.69
30	0.00	8,035.11	642.80	8,677.91	160.70	1,919.39
31	0.00	8,677.91	694.23	9,372.14	173.55	2,092.94
32	0.00	9,372.14	749.77	10,121.91	187.44	2,280.38
33	0.00	10,121.91	809.75	10,931.66	202.43	2,482.81
34	0.00	10,931.66	874.53	11,806.19	218.63	2,701.44

Date Payments

S. FII 2/19/86
 Attachment III



1985-1986
KANSAS STATE LEGISLATIVE COMMITTEE

CHAIRMAN
Mr. Morton F. Ewing
1806 Tracy Lane
Hutchinson, KS 67501
(316) 665-8767

VICE CHAIRMAN
Mr. James V. Behan
P.O. Box 339
Satanta, KS 67870
(316) 649-2960

SECRETARY
Mr. Oscar M. Haugh
1512 University Drive
Lawrence, KS 66044
(913) 843-7613

AMERICAN ASSOCIATION OF RETIRED PERSONS

Senate Bill 499

The American Association of Retired Persons has 49 chapters in Kansas and a total membership of 256,559. Our position on Senate Bill 499 is not on behalf of the cemetery industry, not on behalf of the funeral industry, but on behalf of Kansas consumers. Although the high costs of funerals falls most heavily on senior citizens, we believe that all Kansans should be concerned about these issues.

AARP believes that competition within the funeral and cemetery industry benefits the public. That competition can best aid the public through the availability of pre-need sales, when a consumer is able, both emotionally and timewise to shop around, to compare prices, to make rational, unemotional decisions and plans.

Several years ago, the Kansas Legislative Post Audit review of the State Board of Embalming cited advantages to pre-need sales:

Such agreements provide assurance to individuals that their funeral will be conducted according to their wishes. They allow individuals and their families to make these decisions without time pressures and disorientation, and they protect survivors from making hasty decisions about funeral arrangements at a difficult time. In addition, they allow the consumer the opportunity and the time to investigate alternatives and compare prices. It is also possible that consumers arranging their own services would be more inclined to "cut corners" than family members who might feel guilty about such cost savings.

That report concluded that the current Kansas funeral prearrangement laws, which were passed in the early 50s, requiring 100% trust funds:

appear to be an unnecessary exercise of the State's police power, potentially restricting pre-need sales of funeral arrangements, and do

S. FII 2/19/86

Attachment IV

not appear to protect the public. In fact, such restrictions serve to limit the availability of prearrangement and its advantages to interested consumers.

We agree. We oppose Senate Bill 499 because it would force all pre-need sales of caskets under the restrictive funeral directors law.

The cemetery merchandise law which was enacted four years ago protects the consumer without restricting either competition or the availability of pre-need sales. Everyone selling under the cemetery merchandise law is audited annually by the Secretary of State's office and must maintain in trust 110% of the then current wholesale cost of the merchandise sold.

If SB 499 passes, unless the funeral contract is made irrevocable, each year the consumer must pay income taxes on the interest earned by their funds in trust. Under the Cemetery Merchandise Act, all such taxes are paid by the trust.

In order to enhance competition, and to have that competition under equal and fair rules, we believe that a funeral home, marker company or any other company in this business should be allowed to file under the Cemetery Merchandise Act and sell under those same rules and protections for the consumer. Such a provision is currently contained in House Bill 2715 which was introduced by the House Committee on Local Government. We support such a change.

But SB 499 removes those protections for consumers, it removes any auditing or accountability and instead requires those sales to be made under a law which places an economic stranglehold on pre-need sales and competition.

We urge the legislature to vote not for one segment of an industry or another, but to vote for the consumer. Funeral directors may argue that all caskets should be sold by them. Cemeteries may argue that all vaults and markers should be sold by them. But even if you agreed with their argument, should the legislature make that decision? It is the consumer who should be free to make those decisions, in a free, open and competitive environment.

In the name of free enterprise and free competition, the legislature should not remove caskets as merchandise that can be sold under the Cemetery Merchandise Act. We oppose SB 499.



Resthaven GARDENS OF MEMORY

11800 West Highway 44

Wichita, Kansas 67209

Phone (316) 722-2100

Honorable Neil Arasmith
Kansas Senate
State Capitol Building
Topeka, Kansas 66612

February 4, 1986

Dear Senator,

For years in Kansas, consumers were forced to wait until they died before someone could make funeral arrangements and thus families had to make this purchase under an emotional condition where they could easily overspend. This is born out by all of the testimony of the FTC hearings under FUNERAL PRACTICES.

On the other hand, families in Kansas as in most other states have been allowed to purchase cemetery property - memorials and vaults (which in Kansas are classed as funeral merchandise) in advance of need, without emotion and have not only peace of mind, but have saved great sums of money.

In 1982, Kansas Legislators passed legislation requiring a funding of all these merchandise items sold for future delivery. It calls for proper escrowing of the costs for safety, but still permits advance of need arrangements which includes caskets.

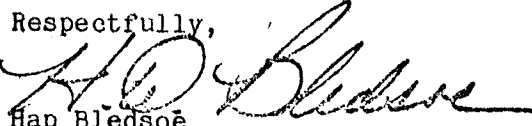
Now the funeral directors through your Senate Bill No. 499 want to take caskets out of the pre-need legislation. That then, would place caskets under KA 16-301, which makes advance of need arrangements economically impossible, and thus force families to again wait until death and have someone else make this purchase and this again increases THE HIGH COST OF DYING.

Funeral directors say they are now at a disadvantage to sell pre-need. Therefore, our Kansas Cemetery Association has supported House Bill No. 2715, a House Local Government Committee Bill which would permit both cemeteries and funeral homes to sell caskets in advance of need when properly funded, thus providing consumers an economical vehicle to make arrangements in advance of need and eliminate overspending.

Senate Bill No. 499, what appears to be a simple harmless clean-up piece of legislation really has deep binding restrictions for the consumer, all of which is born out by the five years of investigations and findings in the final report of the Federal Trade Commission on Funeral Practices.

I respectfully ask and urge that you seriously study and investigate Senate Bill No. 499 and its effect before taking action on it.

Respectfully,


Hap Bledsoe
Chairman of the Board

TELEPHONE
662-3431



P.O. BOX 2706

FAIRLAWN Cemetery and Memorial Mausoleum

HUTCHINSON, KANSAS 67504-2706

Senator Neil H. Arasmith
State Capitol Bldg.
Topeka, Kansas 66612

Dear Senator Arasmith,

The Saturday Evening Post had an article stating that other than the purchase of a home or an automobile, the purchase of final arrangements is the largest single purchase the average family will be required to make. I ask you, "Shouldn't they be given a choice of where and how to buy?"

The Readers Digest had an article entitled "Can you wife afford to be a widow?" The sub-title said "The wise time to face the subject is before you have to." -- Makes sense, doesn't it?

Senate Bill No. 499 removes the word "Casket" from an excellent consumer orientated law K.S.A. 16-320 that enables the consumer to purchase his casket whenever and wherever he wants to. Passage of Senate Bill No. 499 will return caskets to the pre-need funeral law of 1953 -- K.S.A. 16-301 which has the absolute result of returning caskets to a monopoly sale for the funeral director with no competition and no provision for auditing of the money placed in trust.

The Local Government Committee on the house side has a committee sponsored bill No. 2715 to ammend K.S.A. 16-320 to permit any person, association, partnership, firm or corporation to operate under the regulations of K.S.A. 16-320. Passage of this bill will provide the consumer with freedom of choice, competitive prices and is certainly in the best interest of the consuming public.

I urge you to vote against Senate Bill No. 499 in Committee and pass House Bill No. 2715 when it comes over to the Senate.

Respectfully Yours,

Sam McDonough
R.S. "Sam" McDonough, Pres.
Fairlawn Burial Park Assoc.

The Wichita
Eagle-Beacon

TUESDAY FEBRUARY 4, 1986

Planning Ahead on Funeral Costs

NO one likes to think about death, but sooner or later, all families are touched by it. It makes sense, then, to plan ahead in making funeral arrangements.

The Kansas Funeral Directors Association is pushing legislation in Topeka, however, that would restrict all pre-need sales of caskets and other funeral materials. Currently, pre-need casket sales by funeral directors are regulated by a 1953 law that requires the consumer to put the entire retail cost of the casket in trust. The consumer must pay taxes on the trust earnings, and there is no state audit of the trust account. This law actually discourages pre-need casket sales because it often can end up costing the consumer more than buying at the time of the death of a loved one.

Cemetery owners also are involved in pre-need casket sales. They're regulated by a 1984 law that's less restrictive: 110 percent of the wholesale cost of the casket must be put in trust, and the seller — not the con-

sumer — must pay the trust tax. Further, the trust is audited by the secretary of state. The benefits to consumers — in cost, convenience and security — are much greater.

Now the funeral directors association is trying to get all pre-need casket sales regulated under the earlier, more restrictive law. This would discourage competition within the funeral industry — and consumers would pay the cost.

"We encourage pre-planning," says a Federal Trade Commission official, "because at time of need, decisions must be made in a hurry, when people are under emotional stress." Studies show families pay 20-25 percent more on funeral arrangements at the time of death.

Instead of discouraging pre-planning, the Legislature should support H.B. 2715, which was introduced at cemetery owners' request. It wisely would bring all funeral sellers under the 1984 regulations, and give consumers the incentive to plan ahead.

This Editorial "Tells it like it is!"

*Sam McDonough
Hutchinson, Ks*

D.W. NEWCOM
KANSAS CITY

D.W. NEWCOMER
8201 Metcalf
Overland Park, Kansas 66204
ONS

February 3, 1986

Senator Neil Arasmith
59 Sunset Drive
Phillipsburg 67661

Dear Senator Arasmith:

I am a member of the Kansas Funeral Directors Association, but I strongly disagree with Senate Bill 499 being touted by Jim Snyder and Pete McGill.

By exempting caskets from the products that can be sold under the cemetery merchandise law, you are hurting both the consumer and those in funeral service who elect to provide prearrangement.

One hundred percent trusting is not a consumer protection. It is a self-saving ploy of those funeral directors who prefer to sell families funerals while they are under the duress and strain of death. Studies by the National Funeral Directors Association show consumers spend 20% less on prearranged funerals.

Studies by the American Association of Retired Persons (AARP) show that people believe they will make better spending decisions if they prearrange.

Caskets (and funerals) sold under the funeral preneed law will actually cost the consumer more than those sold under the cemetery merchandise law, because each year the consumer must report and pay taxes on the income from the trust funds under the funeral preneed law.

A person in the lowest tax bracket will pay more in taxes on a Snyder and McGill type plan than they will pay originally for the casket, if they live for 21 years.

IV

Funeral homes offering such plans will have to raise prices on all funerals to pay sales costs.

Finally, the funds under the KFDA's plan are not audited, so the consumer could easily lose all deposits.

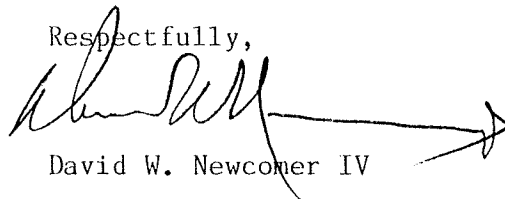
House Bill 2715 eliminates the consumer issues I have mentioned, and also gives funeral directors an opportunity to compete on even terms with cemeterians.

I urge you not to endorse the proposal by the Funeral Directors Association.

Instead, support the House Committee on Local Governments House Bill (HB.2715).

If you wish additional information please call me at 1-800-821-6147, or visit with Representative Barr, or John Peterson.

Respectfully,

A handwritten signature in black ink, appearing to read "David W. Newcomer IV". The signature is written in a cursive style and is positioned above the printed name. A long horizontal line extends from the end of the signature to the right, ending in a small arrowhead.

David W. Newcomer IV

Copy: John Peterson

1-7-8

Senator Neil Arasmith
Statehouse
Topeka, Kansas 66601

MR. & MRS. ROBERT L. HUNT
1338 West 34th North
Wichita, Kansas 67204

Honorable Arasmith,

I am writing in support of SB 499. In light of the confusion & misrepresentation created by HB 2715 & the need a defining of cemetery merchandise is necessary.

We believe the consumer is best served by 100% of goods & service escrowed in trust.

He is also in control of his trust should circumstances change.

Our profession already suffers from the door to door campaign of cemetarians & their ~~list~~ of high pressure sales persons. Avoid further damage, please

Thank you,

Bob & Mardella Hunt

Robert E. McCracken, Sr.
General Manager

CEMETERY ASSOCIATION

MOUNT HOPE CEMETERY Company
400 SW 17th St. TOPEKA KANSAS 66604
913/272-1122 Office 273-2146 After Hrs.

Coming Together



BOARD OF DIRECTORS

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LAKEVIEW GARDENS, WICHITA, KS

RAY HAUKENBERRY, 1986
MEMORIAL PARK CEMETERY, TOPEKA, KS

MAXINE LOWE, 1987
ROCHESTER CEMETERY, TOPEKA, KS

DAVID NEWCOMER IV, 1987
JOHNSON COUNTY MEMORIAL GDNS.
KANSAS CITY, MO

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FLORITA M. SMITH, SECRETARY/TREASURER
MAPLEWOOD/MEMORIAL LAWN CEMETERIES
EMPORIA, KS

February 5, 1986

Senator Neil H. Arasmith
Chairperson Financial Institutions & Insurance
State Capitol Building
Topeka, Kansas 66612

Dear Senator Arasmith:

The Kansas Cemetery Association would like to respectfully request that you vote NO on the Senate Bill # 499 !

Senate Bill No. 499, is not a good consumer bill , because its main purpose is to limit the preneed sale of funerals , including "caskets".

1. Preneed sales of funerals, cemetery merchandise and other similar products, are in the best interest of the consuming public.

2. The sale of these items, including "caskets", by the largest number of providers, whether they be cemeteries or funeral directors, enhances the competition and therefore benefits the consuming public.

3. The Cemetery Merchandise Law (K.S.A. 16-320) is audited annually by the Secretary of State's Office and the present Funeral Director Service and Merchandise Law (K.S.A. 16-301) is not !

4. The Cemetery Merchandise Law (K.S.A. 16-320) requires an updating of the minimum funding each year to the current 110 % of the wholesale costs of the merchandise (including caskets). The present Funeral Director Service and Merchandise Law (K.S.A. 16-301) requires none !!

PLEASE SEE ENCLOSED NEWSPAPER ARTICLE "NICKEL-A-WEEK PLAN NOT ENOUGH ANYMORE"

IV

5. Studies by the National Funeral Directors Association show consumers spend 20% less on pre-arranged funerals.

6. Studies by the American Association of Retired Persons (AARP) show that people believe they will make better spending decisions if they pre-arrange.

7. " Caskets " sold under the present Funeral Director Service and Merchandise Law (K.S.A. 16-301) will actually cost the consumer more than those sold under the Cemetery Merchandise Law (K.S.A. 16-320) , because each year the consumer must report and pay taxes under K.S.A. 16-301 --- a person in the lowest tax bracket will pay more in taxes under K.S.A. 16-301 than the total cost of the original casket selection , if they live 21 years or more !!

8. All suppliers of merchandise should be able to sell under the same rules and requirements, but those rules and requirements should not be prohibitive of preneed sales.

9. The Kansas Cemetery Association supports House Bill No. 2715 ; a bill introduced by the House Committee on Local Government. H.B. 2715 would make "all" of the above " Consumer Points " possible and treat both Cemeterians and Funeral Directors the same !

PLEASE VOTE NO ON SENATE BILL # 499 AND VOTE YES FOR THE "CONSUMER", WHEN HOUSE BILL # 2715 IS PASSED ON TO THE SENATE !!

Sincerely,



Robert E. McCracken, Sr.

President

REM: jbn
Enclosures

Nickel-a-week plan not enough anymore

It's said that death and taxes are the only certainties in life. At the age of 70, Joseph M. Kelly, Tabernacle, N.J., feels he's at least paid for his funeral, and he's not paying one nickel more.

In 1915, Kelly's parents bought him a nickel-per-week funeral policy to pay for a first-class send-off when the time came. Kelly took over the payments, dutifully sending \$2.60 per year to the Oliver H. Bair Co. in Philadelphia. In 1974, he was notified that the policy, known as a funeral bond, was fully paid at about \$150.

Then, he said, a representative of the company contacted him last summer about "providing for the costs of your inevitable needs before the need occurs."

The company wants an additional \$930 to cover expenses not anticipated when the bond was purchased

70 years ago, when a simple wooden box and horse-drawn hearse were sufficient.

"I don't want to pay it," said Kelly, who has taken his complaint to a consumer affairs office. "To me, a contract is a contract."

Kelly's deal was called "Outfit N." It promised a black casket with silver handles and engraved nameplate, a casket casing of oiled chestnut, black draping for the doors of the deceased's home, and advertising. It also included a hearse and five coaches, for a cost not to exceed \$32, and opening and

filling of the grave, which was to cost no more than \$7.

Kelly says the funeral company now wants an additional \$350 for parking and use of the funeral home, at least \$125 for a viewing, \$100 for a limousine, \$105 for a hearse (less \$38 allowed in the contract) and \$200 for opening of the grave (minus the contract's \$7).

Renee Borstad of the Burlington County Consumer Affairs Office said she is investigating complaints filed by Kelly and an 84-year-old woman whose funeral bond was purchased in 1907.

Norman J. Christiansen, *President and Publisher*Davis Merritt Jr., *Executive Editor*William R. Handy, *Managing Editor*George Neavoll, *Editorial Page Editor***2B**

Editorials/Opinion

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Planning Ahead on Funeral Costs

NO one likes to think about death, but sooner or later, all families are touched by it. It makes sense, then, to plan ahead in making funeral arrangements.

The Kansas Funeral Directors Association is pushing legislation in Topeka, however, that would restrict all pre-need sales of caskets and other funeral materials. Currently, pre-need casket sales by funeral directors are regulated by a 1953 law that requires the consumer to put the entire retail cost of the casket in trust. The consumer must pay taxes on the trust earnings, and there is no state audit of the trust account. This law actually discourages pre-need casket sales because it often can end up costing the consumer more than buying at the time of the death of a loved one.

Cemetery owners also are involved in pre-need casket sales. They're regulated by a 1984 law that's less restrictive: 110 percent of the wholesale cost of the casket must be put in trust, and the seller — not the con-

sumer — must pay the trust tax. Further, the trust is audited by the secretary of state. The benefits to consumers — in cost, convenience and security — are much greater.

Now the funeral directors association is trying to get all pre-need casket sales regulated under the earlier, more restrictive law. This would discourage competition within the funeral industry — and consumers would pay the cost.

"We encourage pre-planning," says a Federal Trade Commission official, "because at time of need, decisions must be made in a hurry, when people are under emotional stress." Studies show families pay 20-25 percent more on funeral arrangements at the time of death.

Instead of discouraging pre-planning, the Legislature should support H.B. 2715, which was introduced at cemetery owners' request. It wisely would bring all funeral sellers under the 1984 regulations, and give consumers the incentive to plan ahead.

KANSAS STATE BOARD OF MORTUARY ARTS

REPORTING OF PREFINANCED FUNERAL AGREEMENTS

In accordance with K.A.R. 63-3-20, the following information concerning prefinanced funeral agreements entered into pursuant to K.S.A. 16-301 et. seq. shall accompany each funeral home's biennial application for renewal of its establishment license, as required by K.A.R. 63-3-19.

*** This first report shall include all such prefinanced funeral agreements for which any merchandise or service has not yet been rendered.

Failure of any funeral home to report as required by K.A.R. 63-3-20 shall be grounds for refusal or revocation of its establishment license.

EXAMPLE:

Fun. Home Agreement #	Institution of Deposit	City	Bank Account #	Purchase Amount	Date
1	First National Bank	Topeka	5112-367	\$1,500.00	1/1/74

The funeral home agreement shall be an individual number available at the funeral home for each separate agreement. Please list each prefinanced agreement separately as in the above example.

Extra forms are available upon request.

63-3-20. Reporting of prefinanced funeral agreement. (a) Each funeral home licensed in the state of Kansas shall report to the state board of mortuary arts, on forms provided by the board, the following information concerning prefinanced funeral agreements entered into pursuant to K.S.A. 16-301 et. seq.:

- (1) The numbers which identify the accounts, in the records of the funeral home, of each purchaser of merchandise and services pursuant to those agreements.
 - (2) The name of each bank, trust company, savings and loan association or credit union into which each purchaser's funds were deposited and the number of each named account.
 - (3) The amounts of each purchase pursuant to those agreements; and
 - (4) The dates of those purchases.
- (b) These reports shall accompany each funeral home's biennial application for renewal or its establishment license, as requires by K.A.R. 63-3-19, and any notification of the secretary of the board made pursuant to K.A.R. 6302-7(b). The reports shall include all pre-financed funeral agreements entered into by each funeral home since the last issuance of its license or since the last reports submitted under K.A.R. 63-2-7(b). The first report of each funeral home due after the effective date of this regulation shall include all such prefinanced funeral agreements for which any merchandise or service has not yet been rendered.
- (c) Upon written complaint, the state board may require that a funeral home report the name and address of any purchaser and the corresponding account number described in (a) (1) above. The funeral home shall report such additional information within 10 days of having received a written request therefor by the board.
- (d) Failure of any funeral home to report as required by this regulation shall be grounds for refusal or revocation of its establishment license.

S. FII 2/19/86
Attachment VI

FUNERAL HOME NAME: _____ ESTABLISHMENT # _____

CITY: _____ KANSAS STATE BOARD OF MORTUARY ARTS

FUNERAL HOME AGREEMENT #	INSTITUTION OF DEPOSIT	CITY	BANK ACCOUNT #	PURCHASE AMOUNT	DATE

I certify that the above information is correct.

DATE: _____ FUNERAL DIRECTOR'S SIGNATURE _____

LICENSE NUMBER _____

THE KANSAS FUNERAL DIRECTORS AND EMBALMERS ASSOCIATION RESPECTFULLY REQUESTS THE INTRODUCTION OF THE ATTACHED BILL, EITHER AS AN AMENDMENT TO SB 499 OR AS A SEPARATE BILL, IF NOT GERMANE TO SB 499.

IT PROPOSES TO:

1. Place the review of all future pre-need contracts under KSA 16-301et seq, under the Kansas Commissioner of Insurance and his department.
2. Provide for a "certificate of authority" for those wishing to sell preneed.
3. Provide for auditing consistent with the present procedure of auditing insurance companies doing business in Kansas.
4. Provide for suspending or revoking of the certificates under the Kansas administrative procedures act.
5. Funding the amount estimated to be needed in order to enforce this act.

S. FII 2/19/86
Attachment VII

SECTION 1.

The following definitions shall apply to this act:

- (a) "Commissioner" means the Commissioner of Insurance of this state.
- (b) "Final disposition" means the final disposal of a dead human body whether by interment, entombment, cremation, or any other means.
- (c) "Funeral director" means any person licensed in this state to practice funeral directing pursuant to the provisions of chapter 16.
- (d) "Funeral Merchandise" means any personal property offered or sold by any person for use in connection with the final disposition or memorialization of a dead human body.
- (e) "Preneed contract" means a contract to furnish funeral merchandise or service in the future.
- (f) "Service" means any service offered or provided by any person in connecting with the final disposition of a dead human body.

SECTION 2. The administration and enforcement of the provisions of this act are vested in the commissioner, which shall prepare and furnish all forms necessary under this act, including forms for applications for certificates of authority, for renewals thereof, for annual statements, and for other required reports. The commissioner may adopt reasonable regulations necessary to effect any of its statutory duties pursuant to this chapter.

SECTION 3. (a) No person may sell a preneed contract without first having a valid certificate of authority.

(b)(1) No person may receive any funds for payment on a preneed contract who does not hold a valid certificate of authority.

(2) The provisions of paragraph (1) do not apply to any bank, savings and loan association or credit union which bank, association or union receives any money pursuant to the sale of a preneed contract.

(c) No person may obtain a certificate of authority under this chapter for preneed sales of services unless such person holds a license as a funeral establishment under chapter 65.

SECTION 4. (a) An application to the commissioner for a certificate of authority shall be accompanied by the statement and other matters described in this section in the form prescribed by the commissioner. Annually thereafter on or before July 1, the person authorized to engage in the sale of preneed contracts shall file with the commissioner a full and true statement of his financial condition, transactions, and affairs as of the preceding March 31 or at such other time or times as the department may provide by regulation, together with information and data which may be required by the department.

(b) The statement shall include the following:

(1) The types of preneed contracts proposed to be written.

(2) The name and address of the place of business of the person offering to write preneed contracts.

(3) Evidence that the person offering the statement:

a. Has the ability to discharge his liabilities as they become due in the normal course of business and has sufficient funds available during the calendar year to perform his obligations under his contract;

b. Has complied with the requirements for the funds received under contracts issued by himself as hereinafter described;

c. Has complied with this act and any rules of the commissioner.

(4) Any other information considered necessary by the commissioner to meet its responsibilities under this chapter.

(c) If the person is an individual, the statement shall be sworn by him; if a firm or association, by all members thereof; or, if a corporation, by the president and secretary thereof.

(d) The fee payable to the commissioner for issuance of the original certificate of authority and each annual renewal thereof shall be \$50, which sum

shall accompany each application for an original certificate and, thereafter, each annual statement.

(e) Upon the commissioner's being satisfied that the statement and matters which may accompany it meet the requirements of this chapter and of its rules, it shall issue or renew the certificate of authority if upon investigation by the commissioner it appears that the principals, including directors, officers, stockholders, employees, and agents of such person, are of good moral character and have reputations for fair dealing in business matters.

(f) The certificate of authority shall expire annually on September 1, unless renewed, or at such other time or times as the commissioner may provide by regulation.

(g) An application for an initial certificate of authority or for the annual renewal of the certificate shall disclose the existence of all preneed contracts for service or merchandise funded by any method other than a method permitted by this act, which contracts are known to the applicant and name the applicant or his business as the beneficiary upon the death of the purchaser of the preneed contract. Such disclosure shall include the name and address of the contract purchaser, the name and address of the institution where such funds are deposited, and the number used by the institution to identify the account. With respect to contracts entered into before July 1, 1986, the commissioner may not deny or refuse to renew a certificate of authority solely on the basis of such disclosure. The commissioner may use the information disclosed to notify the contract purchaser and the institution in which such funds are deposited should the holder of a certificate of authority be unable to fulfill the requirements of the contract.

SECTION 5. Preneed contract forms and related forms shall be filed with and approved by the commissioner.

SECTION 6. All of the funds paid to or collected by any person under a preneed

ntract for services or funeral merchandise shall, within 30 days, be deposited pursuant to K.S.A. 16-301 et seq.

SECTION 7. The commissioner shall, as often as it may deem necessary, examine the business of any person writing preneed contracts to the extent applicable in the same manner as is provided for examination of insurance companies. The examination shall be at the expense of the person examined as provided in K.S.A. 40-223 and shall be made by the commissioner or his designated representative. The written report of each such examination, when completed, shall be filed in the office of the commissioner and, when so filed, shall constitute a public record. Any such person being examined shall produce, upon request, all records of the company. The commissioner or his designated representative may at any time examine the records and affairs of any such person, whether in connection with a formal examination or not.

SECTION 8. (a) The department shall deny, refuse to renew, suspend, or revoke the certificate of authority of a person to issue preneed contracts upon a determination that any one or more of the following grounds exist and are applicable to such person:

- (1) Lack of one or more of the qualifications for the certificate of authority.
- (2) Material misstatement, misrepresentation, or fraud in obtaining the certificate of authority or in attempting to obtain the certificate of authority.
- (3) Willful use of the certificate of authority to circumvent the provisions of this act.
- (4) Willful misrepresentation of any preneed contract.
- (5) Fraudulent or dishonest practice in the conduct of business under the certificate of authority.
- (6) Willful failure to maintain the funds received from contracts in the unimpaired state, and to disburse income on, and appreciation of, trust or

escrowed funds pursuant to Section 6.

(7) Upon proper request, willful failure to cancel a contract or refund that part of the amount paid on the contract as required by Section 6.

(8) Willful failure to secure the release, upon the death of a beneficiary, of the entire amount received on a contract as required by K.S.A. 16-301 et seq.

(9) Refusal to produce records in connection with the business.

(10) Revocation, suspension, or denial of licensure to sell preneed contracts by a licensing authority of another jurisdiction.

(11) Being convicted or found guilty, regardless of adjudication, of a crime in any jurisdiction which directly relates to the sale of preneed contracts.

(12) Solicitation by the certificate holder or his agents, employees or representatives through the use of fraud, undue influence, intimidation, overreaching, or any other form of vexatious conduct.

(b) The commissioner may deny, refuse to renew, suspend, or revoke the certificate of authority of a person to issue preneed contracts upon a determination that the person has violated any provision of this act or regulation or order of the commissioner for which suspension is not mandatory.

(c) Any suspension or revocation of the certificate of authority shall be by order of the commissioner after notice and a hearing. All proceedings conducted pursuant to this section shall be in compliance with the Kansas administrative procedures act, K.S.A. 77-501, et seq.

(d) A person whose certificate of authority has been suspended or revoked may not solicit or write any new business in this state during the period of any such suspension or revocation.

SECTION 9. (a) If the commissioner finds that one or more grounds exist for the discretionary suspension or revocation of a certificate of authority issued under this act, it may, in lieu of such suspension or revocation, impose a fine upon the certificateholder in an amount not to exceed \$1,000 for each nonwillful violation and in an amount not to exceed \$10,000 for each willful violation.

the supervision of the department, which shall have all powers with respect thereto granted to it under the laws of the state with respect to the dissolution and liquidation of companies pursuant to K.S.A. , as applicable. The venue of delinquency proceedings against a certificateholder shall be in the district court in the judicial district of the certificateholder's principal place of business.

SECTION 11. (a) Any person selling preneed contracts on or after July 1, 1986, shall be registered with the commissioner. The application for registration shall be signed by the sales agent or other sales person and by the certificateholder to whom the sales agent or sales person will be responsible. The commissioner shall register such person upon receipt of the application and a registration fee of \$20. The registration shall be renewed biennially on October 1, and each even-numbered year thereafter, upon receipt of the renewal fee of \$20. The certificateholder who has registered such sales agent or sales person shall notify the commissioner within 10 days after such person's status as sales agent or sales person has terminated.

(b) The registration of any sales agent or sales person who violates this act may be suspended or revoked after notice and a hearing. Any such proceedings shall comply with all applicable requirements of the Kansas administrative act, K. S. A. 77-501, et seq.

SECTION 12. The provisions of this act do not apply to any person qualified and operating under K.S.A. 16-320, et seq, except that preneed funeral services or merchandise sales being made shall have all proceeds placed in trust pursuant to this act and K.S.A. 16-301, et seq.

SECTION 13. No person shall engage in this state in any trade practice which is defined in this act as, or determined in section 14 to be, an unfair method of competition or an unfair or deceptive act or practice.

SECTION 14. Unfair methods of competition and unfair or deceptive acts or practices are defined as the following:

(a) MISREPRESENTATION AND FALSE ADVERTISING OF PRENEED CONTRACT. Knowingly making, issuing or circulating, or causing to be made, issued, or circulated, any estimate, illustration, circular, statement, sales presentation, omission, or comparison which:

(1) Misrepresents the benefits, advantages, conditions, or terms of any preneed contract.

(2) Is misleading, or is a misrepresentation as to the financial condition of any person.

(3) Uses any name or title of any preneed contract misrepresenting the true nature thereof.

(4) Is a misrepresentation for the purpose of inducing, or tending to induce, the lapse, forfeiture, exchange, conversion, or surrender of any preneed contract.

(b) FALSE INFORMATION AND ADVERTISING GENERALLY. Knowingly making, publishing, disseminating, circulating, or placing before the public, or causing, directly or indirectly, to be made, published, disseminated, circulated, or placed before the public:

(1) In a newspaper, magazine, or other publication;

(2) In the form of a notice, circular, pamphlet, letter, or poster;

(3) Over any radio or television station; or

(4) In any other way;

an advertisement, announcement, or statement containing any assertion, representation, or statement which is untrue, deceptive, or misleading with respect to any preneed contract.

(c) DEFAMATION. Knowingly making, publishing, disseminating, or circulating, directly or indirectly, or aiding, abetting, or encouraging the making, publishing, disseminating, or circulating of, any oral or written statement, or any pamphlet, circular, article, or literature, which is false or maliciously critical of, or derogatory to, any person and which is calculated to injure such person.

(d) FALSE STATEMENTS AND ENTRIES. Knowingly:

- (1) Filing any false statement with any supervisory or other public official;
 - (2) Making, publishing, disseminating, or circulating any false statement;
 - (3) Delivering any false statement to any person;
 - (4) Placing any false statement before the public;
 - (5) Causing, directly or indirectly, any false statement to be made, published, disseminated, circulated, delivered to any person, or placed before the public;
- or

(6) Making any false entry of a material fact in any book, report, or statement of any person.

(e) UNFAIR CLAIM SETTLEMENT PRACTICES.

(1) Attempting to settle a claim on the basis of a material document which was altered without notice to, or without the knowledge or consent of, the contract purchaser or his representative or legal guardian.

(2) Making a material misrepresentation to a contract purchaser or his representative or legal guardian for the purpose and with the intent of effecting settlement of a claim or loss under a prepaid contract on less favorable terms than those provided in and contemplated by, the prepaid contract; or

(3) Committing or performing with such frequency as to indicate a general business practice any of the following acts:

a. Failing to adopt and implement standards for the proper investigation of claims;

b. Misrepresenting pertinent facts or prepaid contract provisions relating to

issues on coverage of funeral merchandise or services;

c. Failing to acknowledge and act promptly upon communications with respect to claims;

d. Denying claims without conducting reasonable investigations based upon available information;

e. Failing to affirm or deny coverage of a claim upon written request of a contract purchaser or his representative or legal guardian within a reasonable time; or

f. Failing to provide promptly a reasonable explanation to a contract purchaser or his representative or legal guardian of the basis, in the prepaid contract in relation to the facts or applicable law, for denial of a claim or for the offer of a compromise settlement.

(f) FAILURE TO MAINTAIN PROCEDURES FOR HANDLING COMPLAINTS. Failing to maintain a complete record of every complaint received since the date of the last examination. For purposes of this subsection, the term "complaint" means any written communication primarily expressing a grievance.

(g) DISCRIMINATORY REFUSAL TO ISSUE A CONTRACT. Refusing to issue a contract solely because of an individual's race, color creed, marital status, sex, or national origin.

SECTION 15. The commissioner has the power to examine and investigate the affairs of every certificateholder in this state to determine whether such person has engaged, or is engaging, in any unfair method of competition or in any unfair or deceptive act or practice prohibited by Section 13.

SECTION 16. Whenever the commissioner has reason to believe that any person has engaged, or is engaging, in this state in any unfair method of competition or any unfair or deceptive act or practice as defined in Section 14, or is engaging in the sale of preneed contracts without being properly licensed as required by this act, and that a proceeding by the commissioner or his agent in respect thereto

ld be in the interest of the public, the commissioner shall conduct or cause to have conducted a hearing in accordance with the Kansas administrative procedures act, K. S.A. 77-501, et seq.

SECTION 17. After the hearing provided in Section 16, the commissioner shall enter an order in accordance with with the Kansas administrative procedures act. If it is determined that the person charged has engaged in an unfair or deceptive act or practice or the unlawful transaction of preneed contracts, the commissioner shall also issue an order requiring the violator to cease and desist from engaging in such method of competition, act, or practice or in the unlawful sale of preneed contracts. Further, the department may, at its discretion, order any one or more of the following:

(a) Suspension or revocation of the charged person's license, or eligibility for any license, if he knew, or reasonably should have known, that he was in violation of this act.

(b) An administrative penalty not to exceed \$1,000 for each preneed contract offered or effectuated, if it is determined that the person charged has provided or offered to sell preneed contracts without proper licensure.

SECTION 18. Any person subject to an order of the commissioner under Section 18 may obtain a review of such order by filing an appeal therefrom in accordance with the provisions of the Kansas administrative procedures act, K.S.A. 77-501, et seq.

SECTION 19. Any person who violates a cease and desist order of the commissioner while such order is in effect, after notice and hearing as provided in Kansas administrative procedures act, shall be subject, at the discretion of the department, to any one or more of the following:

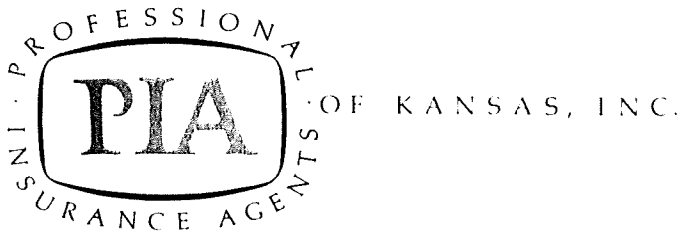
(a) A monetary penalty of not more than \$50,000 as to all matters determined in such hearing.

(b) Suspension or revocation of such person's certificate, or eligibility to hold a certificate.

SECTION 20. In addition to the penalties and other enforcement provisions of this act, in the event any person violates any provision of this chapter or any regulation adopted or promulgated pursuant to this act, the commissioner is authorized to resort to proceedings for injunction in the district court of the county where such person resides or has his or its principal place of business, and therein apply for such temporary and permanent orders as the commissioner may deem necessary to restrain such person from engaging in any such activities, until he has complied with such provisions and regulations.

SECTION 21. The provisions of this act are cumulative to rights under the general civil and common law, and no action of the commissioner shall abrogate such rights to damages or other relief in any court.

SECTION 22. All active investigatory records of the commissioner made or received pursuant to this act, and any active examination records necessary to complete an active investigation, are confidential and are not subject to public inspection under the provisions of _____ for so long as reasonably necessary to complete the investigation.



James R. Oliver, Executive Director 627 Topeka Ave., Topeka, Kansas 66603-3296 Phone (913) 233-4286

Testimony before the Senate Committee on
Financial Institutions and Insurance
February 19, 1986

My name is Jim Oliver, executive director of the Professional Insurance Agents of Kansas, an association of some 650 independent insurance agents across Kansas.

Our association supports SB 531 with one exception. We would propose to delete part of line 33 and all of line 34 of the bill (except the or), which reads "in combination with $\frac{1}{2}$ of any option outlined in subparagraphs (a) (c) (d) (e) (f) (g) and (h). This would leave subparagraph (i) to read (i) "the life and health institute course of the Society of Certified Insurance Counselors curriculum and make that institute fully qualify as completing the requirements for life and health insurance additional education.

When this legislation was adopted about three years ago, some of the life insurance agents involved in the proposed legislation were not familiar with the Certified Insurance Counselors program and thus did not propose full credit for attending the life and health institute of the Society.

The Kansas Association of Life Underwriters have proposed to clean-up this bill by eliminating, in lines 9 and 10, reference to numbers parts (HS 301, 303, etc.), which are no longer appropriate. The KALU no longer opposes the inclusion of the CIC Life and Health institutes as full qualification for the required additional education, so we propose the amendment I have mentioned.

S. FII 2/19/86
Attachment VIII

Page 2

Testimony before the Senate Committee on
Financial Institutions and Insurance
February 19, 1986

Professional Insurance Agents of Kansas

In the material I have passed out you will find a copy of the NAIC model continuing education bill and a copy of the Kansas Insurance Continuing Education Program both of which allow 25 hours credit for Certified Insurance Counselors institutes. We feel this recognition of the CIC program merits your approval of our proposed amendment.

Thank you.

2) GUIDELINES FOR APPROVING EDUCATION ACTIVITIES

A) LIST OF APPROVED CONTINUING EDUCATION ACTIVITIES

- 1) Any part of the Life Underwriter Training Council Life Course Curriculum, 50 Hours: Health Course - 25 Hours.
- 2) Any part of the Health Institute of America Association's curriculum - 25 Hours.
- 3) Any course of the Life Office Management Association curriculum - 25 Hours.
- 4) Any part of the American College of Life Underwriters "CLU" diploma curriculum including ChFC and Masters in Financial Sciences of the American College - 30 Hours.
- 5) Any part of the Insurance Institute of America's program in General Insurance, Associate in Claims Program, Associate in Management Program, Associate in Risk Management Program, Associate in Underwriting Program, Associate in Loss Control Management Program, Accredited Adviser in Insurance Program, and Associate in Premium Auditing Program - 25 Hours.
- 6) Any part of the American Institute for Property and Liability Underwriter's Chartered Property Casualty Underwriter professional designation program - 30 Hours.
- 7) Any part of the Certified Insurance Counselor program - 25 Hours.
- 8) Any insurance related course approved by the Committee taught by an accredited college or university per credit hour granted - 15 Hours.

- 9) Any course or program of instruction or seminar developed and/or sponsored by any authorized insurer, recognized agents association or insurance trade association or any independent program of instruction, shall, subject to the approval of the Committee, qualify for the equivalency of the number of classroom hours assigned thereto by the Committee.
- 10) Any correspondence course approved by the Committee shall qualify for the equivalency of the number of classroom hours assigned thereto by the Committee.

B) ASSOCIATION AND COMPANY PROGRAMS

1) ACTIVITIES RECOMMENDED FOR APPROVAL

- a) Participation in relevant workshops, institutes, conferences, seminars and other non-credit courses either conducted or sponsored by the national, state or local agent's associations or insurance companies.
- b) Participation in educational programs within the independent agent association annual or mid-year meetings.
- c) Programmed instruction when administered under a classroom environment. Credit awarded should be subject to predetermined hours of study.
- d) Instructional credit should be awarded to an approved and qualified instructor on the basis of two hours credit for each equivalent classroom hour. Provided that in no instance will credit

AGENTS CONTINUING EDUCATION

Model Regulation

Section I. Authority

This regulation is promulgated pursuant to the authority granted to the Commissioner by Section(s) _____ of the Insurance Law.

Section II. Purpose

The purpose of this regulation is to establish requirements and standards for continuing education programs for natural persons licensed to solicit or sell insurance.

Section III. Applicability

This regulation shall apply to resident persons licensed to engage in the sale of the following types of insurance:

1. Life insurance, annuity contracts, variable annuity contracts and variable life insurance.
2. Sickness, accident and health insurance.
3. All lines of property and casualty insurance.
4. All other lines of insurance for which an examination is required for licensing.

(Drafting Note: This regulation is not intended to include non-resident agents. Adoption of the model regulation by all states would in effect require all non-resident agents to comply with the requirements. States may want to consider inclusion of non-residents consistent with their reciprocity practices.)

Section IV. Exemptions

This regulation shall not apply to those natural persons holding resident

licenses for any kind or kinds of insurance for which an examination is not required by the law of this state, nor shall it apply to any such limited or restricted license as the Commission may exempt.

Section V. Educational Requirements

A. Resident persons licensed to sell insurance and not exempt under Section IV hereof shall annually satisfactorily complete such courses or programs of instruction as may be approved by the Commissioner in the minimum number of classroom hours as follows:

1. Any person holding a license issued for (a) life and/or health insurance, of (b) property and/or casualty insurance, or (c) any combination thereof, issued subsequent to the effective date of this regulation shall during each of the first four 12-month periods following the date of its original issue satisfactorily complete courses or programs of instruction or attend seminars equivalent to a minimum of 25 classroom hours of instruction, with a maximum of 100 accumulated classroom hours for the 48 month period.
2. Any person holding a license issued for (a) life and/or health insurance, or (b) property and/or casualty insurance, or (c) any combination thereof, issued prior to the effective date of this regulation, or who has complied with Subsection A. 1. above, shall for each 12-month period satisfactorily complete courses or programs of instruction or attend seminars equivalent to 15 classroom hours of instruction.

B. The courses or programs of instruction successfully completed which shall be deemed to meet the Commissioner's standards for continuing educational requirements and the number of classroom hours for which they are equivalent are:

1. Any part of the Life Underwriter Training Council Life Course Curriculum - 50 hours; Health Course - 25 hours.
2. Any part of the American College "CLU" diploma curriculum - 30 hours.
3. Any part of the Insurance Institute of America's program in general insurance - 20 hours.
4. Any part of the American Institute for Property and Liability Underwriters' Chartered Property Casualty Underwriter (CPCU) professional designation program - 30 hours.
5. Any part of the Certified Insurance Counselor program - 25 hours.
6. Any insurance related course approved by the Commissioner taught by an accredited college or university per credit hour granted - 15 hours.
7. Any course or program of instruction or seminar developed and/or sponsored by any authorized insurer, recognized agents association or insurance trade association or any independent program of instruction, shall, subject to the approval of the Commissioner, qualify for the equivalency of the number of classroom hours assigned thereto by the Commissioner.
8. Any correspondence course approved by the Commissioner shall qualify for the equivalency of the number of classroom hours assigned thereto by the Commissioner.

C. A person teaching any approved course of instruction or lecturing at any approved seminar shall qualify for the same number of classroom hours as would be granted to a person taking and successfully completing such course, seminar or program.

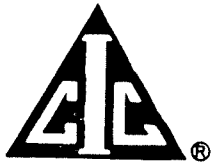
Section VI. Compliance

- A. Any person previously licensed to sell insurance whose license was not in effect on the effective date of this regulation shall comply with all of the terms and requirements of Section V. A. 1. of this regulation.
- B. Any person previously licensed to sell insurance whose license was in effect on the effective date of this regulation, or who has complied with Section V. A. 1., shall comply with all of the terms and requirements of Section V. B. 2. of this regulation, even though such person may, subsequent to the effective date of the regulation, become licensed for an additional kind or kinds of insurance.
- C. Excess classroom hours accumulated during any one year period may be carried forward to the next year.
- D. For good cause shown, the Commissioner may grant an extension of time during which the requirements imposed by Section V. A. may be completed, but such extension of time shall not exceed the period of one year.
- E. Every person subject to this regulation shall furnish, in a form satisfactory to the Commissioner, written certification as to the courses, programs or seminars of instruction taken and successfully completed by such person. Such certification shall be executed by or on behalf of the sponsoring organization.

Section VII. Penalty

Any person failing to meet the requirements imposed upon him by this regulation and who has not been granted an extension of time within which to comply pursuant

to Section VI hereof, or who has submitted to the Commissioner a false or fraudulent certificate of compliance therewith shall, after a hearing thereon which hearing may be waived by such person, be subjected to the suspension of all licenses issued for any kind or kinds of insurance, and no further license shall be issued to such person for any kind or kinds of insurance until such time as such person shall have demonstrated to the satisfaction of the Commissioner that he has complied with all of the requirements of this regulation and all other laws applicable thereto.



SOCIETY OF CERTIFIED INSURANCE COUNSELORS PROGRAM
INSTITUTE CONTENT OUTLINE

AGENCY MANAGEMENT INSTITUTE
(Minimum Institute Hours—20)

- *Agency Planning (2)
- *Personnel Management (2)
- *Marketing and Sales Management (2)
- *Internal Management and Automation (3)
- *Financial Management (2)
- *Legal Responsibility (2)
- *Group Discussions (4)

OWNERS/PRINCIPALS

- Personnel Management (1)
- Internal Management and Automation (1)
- Marketing and Sales Management (1)
- Financial Management (1)

PRODUCERS/STAFF

- Personal and Professional Development (1)
- Internal Management and Automation (2)
- Marketing and Sales Management (1)

- Mergers, Acquisitions and Sales (3-4)
- Agency Valuation (2-3)
- Promotion and Advertising (2-3)
- Motivational Techniques (1-2)
- Time Management (1-2)
- Communications (1-2)
- Agents Errors and Omissions (1-2)
- Additional Group Discussions (1-2)
(outlines to be approved)
- Current Trends in Automation (2-3)

COMMERCIAL PROPERTY INSTITUTE
(Minimum Institute Hours—20)

- *Essentials of Property Insurance (4)
- *Commercial Property Policy (4)
- *Time Element Coverages (2)
- *Commercial Package Policies (2)
- *Commercial Inland Marine Coverages (4)
- Consent to Rate Procedures (1)
- Excess or Surplus Lines (1)
- Specific Rating Problems (1)
- Innovations and Developments in Property Insurance (1-2)
- Commercial Risk Management (2-3)
- Boiler and Machinery (2-3)
- Commercial Property Appraisal (1)
- EDP Coverages (2-3)
- Ocean Cargo (2)
- Shared Ownership of Properties (3-4)
(Include Set of Covenants)
- Difference in Conditions (1)

() = Number of Minimum Lecture Hours
= Mandatory Subject

COMMERCIAL CASUALTY INSTITUTE
(Minimum Institute Hours—20)

- *Workers Compensation (4)
- *Commercial General Liability (6)
- *Business Automobile Coverages (4)
- *Commercial Umbrella Coverages (2)
- Commercial Risk Management (2-3)
- Garage Liability (2)
- Bonding (2-3)
- Retrospective Rating (1)
- Excess or Surplus Lines (1)
- Federal Crime (1)
- Professional Liability (1-3)
- Crime (2-3)
- Experience Rating (1)
- Pollution Liability (2-3)
- Aviation (2)
- D & O Liability (2)
- EDP Liability (2)
- Premium Audit (2)

PERSONAL LINES INSTITUTE
(Minimum Institute Hours—20)

- *Family or Personal Automobile Coverages (4)
- *Related Vehicle and Trailer Coverages (1)
- *Homeowners Coverages (4)
- *Related Homeowners Coverages (2)
- *Condominiums (2)
- *Personal Umbrella (2)
- Mobile Home Coverages (1-2)
- Yacht and Boat Coverages (2)
- Personal Risk Management (2)
- Professional Liability Coverages (2)
- Windstorm (1)
- Farmowners/Ranchowners (2-3)
- Flood (2)
- Federal Crime (1)
- Dwelling Fire Forms (1-2)
- Insurance to Value (1-2)
- Innovation in Personal Lines (2)

LIFE AND HEALTH INSTITUTE
(Minimum Institute Hours—20)

- *Essentials of Life Insurance (4)
- *Essentials of Health and Disability Insurance (2)
- *Applications of Life and Health Insurance to Personal Needs (4)
- *Applications of Life and Health Insurance to Business Needs (4)
- *Organizational Structure and Marketing Techniques for Life and Health Insurance (4)
- Group Insurance (2)
- Estate Planning (2)
- Social Security (2)
- Innovations in Life and Health Insurance (2)
- Financial Planning for Individuals and Business Owners (2)