

Approved March 27, 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./~~p.m.~~ on March 26, 1986 in room 529-S of the Capitol.

All members were present except:

Sen. Karr - Excused

Committee staff present:

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

Conferees appearing before the committee:

Ron Todd, Kansas Insurance Department  
Larry Magill, Independent Insurance Agents of Kansas  
Bill Anderson, Professional Insurance Agents of Kansas  
Terry Tiede, Kansas Insurance Department  
Wayne Morris, Security Benefit Life Insurance Company

The minutes of March 25 were approved.

The hearing began on HB 2797 dealing with limitations on refunds of fees and taxes paid by insurance companies which was requested for introduction by the Insurance Department. Ron Todd, Kansas Insurance Department, testified in support of the bill. The changes on the first page are editorial changes. The second change is on line 49 where newly added language appears. This language is necessary in the event that the court should find that the premiums tax is unconstitutional on a retroactive basis. The bill protects the state from having to make a refund should the court make such a decision. Mr. Todd said that he knows of no such case, but it is important that if it should happen, the court would have legislative intent available. This concluded the hearing on HB 2797.

Attention was turned to HB 3008 dealing with insurance agents and insolvent insurers. Larry Magill, Independent Insurance Agents of Kansas, testified in support of the bill. (See Attachment I.)

The chairman asked if the bill would affect the Iowa National situation, and Mr. Magill answered that it would not, but it would be of value in the future.

Bill Anderson, Professional Insurance Agents of Kansas, testified further in support of the bill. (See Attachment II.) Committee discussion and questions regarding the Iowa National Mutual Insurance Company's insolvency followed.

Terry Tiede, Kansas Insurance Department, stated that the department has no objection to the bill. This concluded the hearing on HB 3008.

Next to be heard was HB 3007 dealing with required deposits and legal reserves of life insurance companies. Wayne Morris, Security Benefit Life Insurance Company, testified in support of the bill. (See Attachment III.)

Sen. Burke asked what the accounting procedure is for the insurance industry. Mr. Morris answered statutory accounting for annual reports.

Sen. Werts had a question regarding Section I as to "investment income due and accrued." He asked how often it is accrued. Mr. Morris said it is calculated as of December 31, and that amount would be allowed towards the deposit for that year. Sen. Werts had further questions about the merger process of acquiring real estate as to what the book value would be. Mr. Morris answered with the assistance of Jim Woods also of Security Benefit.

The chairman stated that the end result of Section I is recognizing investment income

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON FINANCIAL INSTITUTIONS AND INSURANCE,  
room 529-S, Statehouse, at 9:00 a.m./~~p.m.~~ on March 26, 196.

as reserves, and Mr. Morris agreed, adding that it allows more of a company's assets to be used for the deposit requirement. Lengthly committee discussion followed regarding required deposits, assets, and reserves. The hearing on HB 3007 was concluded.

The chairman called for action on HB 2797, and Sen. Harder made a motion to recommend it favorable for passage. Sen. Burke seconded, and the motion carried.

Sen. Gordon made a motion to recommend HB 3008 favorable for passage. Sen. Reilly seconded, and the motion carried.

Sen. Burke made a motion to recommend HB 3007 favorable for passage. Sen. Werts seconded, and the motion carried.

Consideration was turned to HB 2645 which was previously heard, dealing with uninsured and underinsured motorists. The chairman noted that it had been discussed at great length in the interim committee, the members not knowing that Minnesota had a similar law on the books. The interim committee thought it was a viable process to protect the consumer.

Sen. Reilly made a motion to recommend HB 2645 favorable for passage. Sen. Strick seconded, and the motion carried.

The meeting was adjourned.

SENATE COMMITTEE

ON

FINANCIAL INSTITUTIONS AND INSURANCE

OBSERVERS

(Please print)

DATE	NAME	ADDRESS	REPRESENTING
3/26	James L. Woods	315 White hall, Topeka Ks	Security Benefit
	Wayne Morris	Topeka, KS	" "
	Ken Todd	" "	Ins. Dept.
	Terry Tiede	Topeka Ks.	Ins Dept
	Bill Anderson	Topeka, KS	<del>Ins</del> P.T.A of KS
	LARRY MAGILL	Topeka	IAK
	L M Cornish	"	16 H & P/C Assoc

Testimony on HB 3008  
Before the Senate Financial Institutions & Insurance Committee  
March 26, 1986  
By: Larry W. Magill, Jr., Executive Vice President  
Independent Insurance Agents of Kansas

We appreciate the opportunity to appear today in support of HB 3008 introduced on our request. This was the culmination of a joint effort between our association and the Professional Insurance Agents of Kansas to address problems caused by the Iowa National Mutual Insurance Company's insolvency, October 10, 1985.

Although the Kansas Insurance Guaranty Association Act (property and casualty) was passed in 1970, the Iowa National Mutual Insurance Company insolvency represented the first time that a "standard" insurer with a large number of Kansas agents and policyholders has been declared insolvent. The Iowa National's insolvency brought to our association's attention the problem with how insurance company liquidations are generally handled.

Our guaranty fund law provides \$300,000 coverage per claim including claims for unearned premiums subject to a \$100 deductible per claim. The limitation does not apply to workers' compensation claims, which are covered in full. The

act provides 30 days coverage for insureds after a court finding of insolvency unless the policy is replaced or expires by its terms sooner.

The liquidator's legal obligation is to collect all

S. FII 3/26/86  
Attachment I

assets of a company and pay all claims against the insolvent company according to an order of priority established by statute. The liquidator considers the full annual premium on all policies on agent's account currents (monthly billings) as an asset of the company. Generally because of the time allowed for payment of an account current, this will involve three months' accounts. The accounts are generally due 45 days after the close of the month in which the policy was billed by the insurance company. In Iowa National's case, they were declared insolvent October 10, 1985, so the October account which was in payment of August, the November account paying September and the December account paying for policies not replaced by October 10th were all open at the time of the insolvency.

It makes absolutely no sense to either agents or insureds to pay the full annual premium shown on these account currents to an insolvent insurance company when the vast majority of that premium is not earned and will never be earned by the then insolvent company.

The agent may or may not have been paid by the insured for premiums that appear on the agent's account current. This depends largely on the agent's collection practices and the consumer's ability to pay. The liquidator, on the other hand, does not know and therefore assumes that an agent has been paid for all items that appear on an account current.

The insured needs to purchase new insurance elsewhere once a company has been declared insolvent and does not want to pay twice for the same coverage nor may they be able to afford it.

If the premiums have been paid to the agent, the agent wants to give the insured an immediate credit for the unearned premium including unearned commissions, either as a refund or as a credit towards a new policy with a new carrier.

If the agent has not been paid, the agent does not want to advance money for the insured, possibly having to borrow those funds from a bank and then wait as much as six months or longer for a refund from the guaranty association. The first refund of unearned premium has yet to be issued by the Kansas Guaranty Association for Iowa National.

The following is a time table of the Iowa National insolvency, which is fairly typical:

September 19, 1985 - Iowa National placed in rehabilitation by the Iowa Insurance Department.

October 10, 1985 - Iowa National declared insolvent by an Iowa court.

November 9, 1985 - All coverage terminated if not sooner.

March 26, 1986 - Over five months later and still no refunds of unearned premiums.

Our proposal, HB 3008, would allow the agent to offset unearned premiums for all their insureds against earned premiums due and outstanding to the insolvent insurance company.

This would provide the following benefits:

1. Insureds would benefit by an immediate credit instead of waiting perhaps six months or longer for a return premium.
2. Agents benefit by not having to advance funds for insureds and wait for checks from guaranty funds.

Where the client has paid, many agents, to retain the goodwill of their clients, have already allowed a credit to their customer's account and purchased new coverage using that credit.

3. The Guaranty Fund and the liquidator should save on processing of claims for return premiums. This would result since individual refund checks would not have to be issued. The liquidator would reconcile with agents the credits they take on their account current and presumably offset these credits against what the liquidator would owe the Guaranty Fund.

Our research indicates that both the states of Illinois and Texas specifically recognize in statute the rights to certain set-offs in insurance company liquidation proceedings.

Section 1(b) of HB 3008 addresses the problem of a liquidator who ignores the terms and provisions of the agent's contract with the insolvent insurer. In the case of Iowa National, the contracts contained a typical provision allowing an agent to return an audit for additional premium if it was uncollectable and it was returned within 45 days. The liquidator has refused to accept the return of an audit for a Kansas agent, claiming that the contract no longer applied.

The liquidator's claim is based on a standard provision in agency agreements that provides that the contract is terminated on the insolvency of either party.

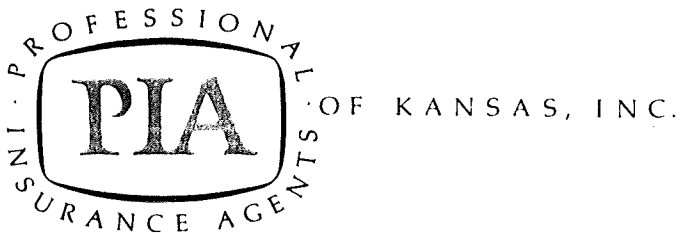
We do not believe that this provision should be allowed to be used by a liquidator to deny the protection of the contract to an agent on transactions which began prior to the liquidation. In other words, we believe this insolvency clause means that an agent cannot bind an insolvent insurance

company to a new risk or to an increase in an existing risk or in any other way continue to represent an insolvent company. Nevertheless, other provisions of the contract relating to open items between the agent and the insolvent insurer should continue to apply until all accounts are settled and all policies are terminated.

We are aware of one case in Missouri where an agency has an additional premium due on a commercial account's workers' compensation policy of \$1,468.00 and a return premium due on the same account's general liability of \$4,479.00. In this case, the liquidator is not allowing the agent to offset and is requiring the agent to pay the \$1,468.00 additional premium. The insured must then take a claim to the Missouri Guaranty Fund for the \$4,479.00 return premium on their general liability policy where the Missouri Guaranty Fund only covers a maximum of \$2,500 for return premium.

We believe the provisions of HB 3008 are much more realistic of the way business is conducted between agents, insureds and insurance companies today. It will provide immediate relief to agents and their clients and should not work an undue hardship on the Guaranty Fund or the liquidator. We urge the committee to recommend favorably for passage HB 3008.





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  
March 26, 1986  
9:00 A.M. - Room 529

Mr. Chairman  
Members of the Committee

My name is Bill Anderson, of the Anderson-Hart Agency here in Topeka. I am a member of the Professional Insurance Agents of Kansas appearing today for Jim Oliver, our executive director since he is out of town.

As Larry mentioned both the Independent Insurance Agents of Kansas and the Professional Insurance Agents of Kansas, whom I represent, have been involved in determining the problems for our members brought about by the insolvency of the Iowa National Mutual Insurance Company and in seeking a solution to those problems. Larry has explained the problems and suggests HB 3008 as a solution as it benefits insureds, agents, and the Kansas Guaranty Fund.

Our association whole heartedly supports HB 3008 and urges your favorable consideration.

Thank you.

S. FII 3/26/86  
Attachment II



# Security Benefit Life Insurance Company

A Member of The Security Benefit Group of Companies

March 25, 1986

TO: The Honorable Neil Arasmith, Chairman, and Honorable Members, Senate Committee on Financial Institutions and Insurance

FROM: Wayne Morris, Assistant Counsel

RE: H. B. 3007 -- Kansas Deposit Law

I am Wayne Morris, Assistant Counsel for Security Benefit Life Insurance Company. I appreciate the opportunity to review H.B. 3007, dealing with Kansas deposit laws.

Kansas law requires that all domestic (Kansas) life insurance companies deposit securities and other assets with the Commissioner of Insurance sufficient to cover the entire amount of its net reserves. To fulfill this obligation, the Commissioner employs staff and maintains a vault for these deposits in the State Office Building.

H.B. 3007 would amend two sections of the Kansas deposit law. Section one would amend KSA 40-404 to recognize investment income due and accrued on investments which are on deposit and which are not in default as part of a company's reserves. Companies would be required to file an annual form setting forth this amount. This income is virtually the same as cash, and would be readily available for the policyholders' benefit. It is currently reported on each company's annual statement, but it is not currently allowed as a reserve deposit.

Section two would amend KSA 40-404a to both update the procedure for appraising real estate that is to be deposited with the Commissioner and to also give companies the option of merely depositing real estate at its book value, without the need to obtain an appraisal. The section currently requires that there be an "appraisement" of all such real estate, which is to be done by "three disinterested resident freeholders of the county where the land is situated", and such freeholders may not be paid more than \$25.00 per day. The amendments would allow the real estate to be appraised by one appraiser approved by the Commissioner and the fee limitation (the fees are borne by the company) would be eliminated. At the same time, a company could deposit real

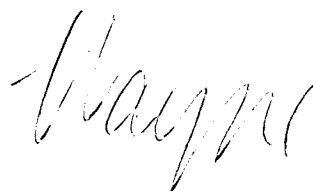
Page two

estate at its book value, as reported in its annual statement, and avoid the time and expense of obtaining an appraisal. Regardless of which procedure might be followed, the Commissioner would retain authority to require that the real estate be appraised or reappraised as necessary.

We believe these changes are prudent and conservative improvements in the deposit law. They will allow companies to more easily and less expensively comply with the deposit requirement, but they do not reduce the policyholders' security. We have also worked with the Insurance Department on these proposals. Security Benefit, along with the other members of the Kansas Life Association, respectfully requests your favorable consideration of this bill.

Thank you for this opportunity to appear in support of this bill. Either I, or Mr. Jim Woods, Security Benefit's Vice President for Securities and Portfolio Manager, would be happy to attempt to answer any questions you may have.

WM/aa

A handwritten signature in cursive script, appearing to read "Wagner".