

Approved 2-3-87  
Date

MINUTES OF THE House COMMITTEE ON Insurance

The meeting was called to order by Rep. Dale Sprague at  
Chairperson

3:30 XX a.m./p.m. on January 27, 1987 in room 521-S of the Capitol.

All members were present except:

Committee staff present:

Emalene Correll, Research Department  
Chris Courtwright, Research Department  
Bill Edds, Revisor's Office  
Deanna Willard, Committee Secretary

Conferees appearing before the committee:

Lee Wright, Farmers Insurance Group  
Sylvia Hoagland, Health Care Plus  
Dick Brummett, M.D., Health Care Plus

The meeting was called to order by the Chairman.

Mr. Lee Wright, Farmers Insurance Group, requested a bill which would address the stated value law, K.S.A. 40-905. The bill would concern only fires of incendiary origin on homes that are overinsured. In the event of a total loss, the insurance company would only need to pay replacement cost, rather than the face value of the policy. The purpose would be to reduce the incentive for arson. Rep. Brady moved that a preliminary bill be drafted, at which time the committee would take action as to its introduction; Rep. Brown seconded the motion. The motion carried.

Ms. Sylvia Hoagland, Health Care Plus, along with Dr. Dick Brummett, medical director of Health Care Plus, gave a presentation on Managed Care: HMO's, PPO's, and CMP's. (See Att. 1 for outline of their remarks, Att. 2 for the text of the presentation.) (Att. 3 - Health Care Plus Fact Sheet.) Health Care Plus is joining with EQUICOR in March, 1987. Committee members were given a booklet entitled "EQUICOR Healthcare Survey - V, A Survey of Hospital Patients and Other Heavy Users of Healthcare Services," from EQUICOR Equitable HCA Corporation, 195 Broadway, New York, NY 10007. Also, introduced was Mr. Doug Stratton, Health Care Plus.

The Health Care Plus conferees expounded on areas in which questions were raised. All HMO's must be licensed by the state; in addition, they may apply for federal qualification. They are required to provide all health services mandated by the state; the range of services is more extensive than indemnity insurance. There is usually no pre-existing condition clause. A "gatekeeper" is the primary care physician assigned to or chosen by each member who acts as a case manager and provides all services for which he is qualified to that member. If a member must be referred to another caregiver, the gatekeeper is responsible for the costs; the providers, thus, share in the risk. The cost to the members is based on a community rating, rather than being experience rated; managed care is basically for groups. Of the three types, HMO's have the most effective form of oversight.

PPO's are formed by negotiations between providers and purchasers. There is financial incentive for employees to use

CONTINUATION SHEET

MINUTES OF THE House COMMITTEE ON Insurance,  
room 521-S, Statehouse, at 3:30 XX a.m./p.m. on January 27, 1987

the PPO providers; thus, the providers have a "guaranteed clientele." There are no specific regulations for PPO's; often an insurance company is involved, and regular regulations for insurance companies would apply.

Mr. Dick Brock, Kansas Insurance Department, presented for the minutes the updated version of Legislative Proposal No. 1, as well as Proposals No. 9 and 10, all of which were mentioned in his testimony to the committee on January 20, 1987. (Att. 4.) Copies of these proposals are being sent to each committee member.

The meeting was adjourned at 4:30 p.m.





MANAGED CARE: HMO'S, PPO'S, AND CMP'S

2959 North Rock Road  
P.O. Box 780008  
Wichita, Kansas 67278-0008  
(316) 681-1152

Presented to the  
House Insurance Committee  
Chairman Dale Sprague

- I. Changing Health Care and Health Insurance System
  - A. Government and Market impetus for change
  - B. Pre-paid vs. fee-for-service
- II. Managed Care defined
  - A. HMO's (Health Maintenance Organization)
  - B. PPO's - (Preferred Provider Organization)
  - C. CMP's - (Competitive Medical Plan)
- III. HMO's
  - A. Health delivery and insurance combined
  - B. Variable operations and structures
  - C. Basic health services
  - D. Enrollment, eligibility and choice
  - E. Risks and incentives
  - F. Federal and State Regulations
- IV. PPO's: Preferred Provider Organizations
  - A. Forms and structures
  - B. Enrollment, eligibility and choice
  - C. Providers, buyers and payers
  - D. Regulation
- V. State Regulation
- VI. Kansas HMO's and PPO's
- VII. Trend toward national/multiple product insurance and health care companies--EQUICOR.

## HOW COSTS ARE CONTROLLED BY HMOS

Many employers offer HMO coverage because they believe

(1) the managed care aspects will lower health care costs,

(2) and they want to give their employees a comprehensive benefit package at a fixed monthly budget.

HMOs have few out-of-pocket costs for members; the pre-paid fixed amount can be budgeted, and consumers don't have to complete claim forms.

The incentive in the HMO system is to control high costs while providing complete health care service. Patients in an HMO, on the average, spend fewer days in a hospital and other acute care settings. The overall costs are reduced by eliminating unnecessary hospitalization. Nationally HMOs experience 440 inpatient hospital days per 1000 enrollees vs. 800 inpatient days covered under insurance.

## STATE LICENSING AND FEDERAL QUALIFICATION

All HMOs must be licensed in Kansas through the Kansas Insurance Commission. Many HMOs will also apply for federal qualification. You do not need to be federally qualified to offer HMO services. State Licensed Only HMOs may offer services to employers.

State Licensed HMOs must conform to state law as outlined. Like in indemnity products state regulation stresses adequacy of fiscal reserves.

A federally qualified HMO has been approved by the Office of Prepaid Health Care for complying with a set of quality assurance and financial standards.

In order to be federally qualified, the HMO must conform to the 42 CFR which outlines the Health Benefits, Community rating requirements, availability and accessibility, organizational and fiscal requirements.

## KANSAS STATUTE

KSA - 40-3201 thru 40-3227  
Health Maintenance Organization

Regulatory authority rests in the Commissioner of Insurance and covers application, contracts, investment and fiduciary responsibilities, rates and examinations, as well as the definitions, responsibilities, and powers of the HMO.

The original Legislation was drafted in 1974.

## BASIC HEALTH SERVICES

All federally qualified HMOs must offer a basic level of health services and may offer supplemental health services. The combination of optional health services vary from company to company and are determined, as in indemnity, by the employer, based on need and cost.

In Kansas, the benefits offered under a State Qualified Only HMO is less specific covering broad categories.

Federally qualified HMOs are required to offer the following comprehensive services to all enrollees:

- Physician services (including consultant and referral)
- Inpatient and outpatient hospital services
- Diagnostic laboratory services
- Home health services
- Mental health services (including 20 outpatient visits)
- Preventive services
  - a. voluntary family planning services
  - b. periodic health examinations for adults
  - c. eye examinations for children
  - d. children's hearing examinations
  - e. pediatric and adult immunization
  - f. well-child care from birth
- Health education
- Medical social services

## ELIGIBILITY, ENROLLMENT, AND COMMUNITY RATING

Generally, since HMOs are offered through employers, any employee and their family is eligible to join during an open enrollment period.

Few HMOs in Kansas enroll individuals outside of the employer group.

Only medicare beneficiaries under Medicare Risk Contract HMOs are enrolled individually.

Federally qualified HMOs are community and not experience rated. In Kansas, there are no specific provisions in statute preventing state licensed HMOs from experience rating. Review is on a case basis. As of now, there are no experience rated HMOs.

Most HMOs do not have pre-existing condition clauses.

## CHOICE

Employees generally have a choice between regular indemnity type of insurance and the HMOs. HMOs generally fall into one of four basic organizational groups based on their relationship with their physicians:

- Staff Model
- Group Model
- Network Model
- IPA (Independent Physician Association)

## PPOS (PREFERRED PROVIDERS ORGANIZATION)

### WHAT IS A PPO

PPOs are the newest form of a managed system. There is no one definition of a PPO. Generally, PPOs are formed through negotiations between those who pay for care, employers and insurers, and providers who deliver care, hospitals, physicians, and practitioners.

They combine health care financing and delivery by providing financial incentives to consumers to utilize a particular panel of providers.

### HOW DO THEY WORK

Payers, employees or insurers, agree to encourage their employees or subscribers to use providers who have agreed to supply services at a lower cost. The PPO is usually reimbursed on a negotiated fee-for-service basis or on a predetermined set of charges for the services covered.

The agreement between the providers and payers should insure lower costs for the payer and a greater supply of patients for the providers.

Employees or subscribers generally may choose or not choose to use the provider panel; if they do not, they pay an additional charge. There is a financial incentive to the consumer to use the PPO.

There is generally an emphasis on strong utilization controls such as pre-certification, authorization, and concurrent reviews. Like HMOs, control of cost is emphasized.

## HOW DO HMOs WORK

### CHOICE AND SELECTION

Since PPOs are not specifically regulated in Kansas, it is not clear how many Kansans are currently enrolled. Estimates run over 100,000, with approximately 60,000 in Wichita and Sedgwick Counties alone. There are between 9-13 PPOs in Kansas. Kansas PPOs usually are sponsored by insurance companies or hospitals and physicians jointly. Generally, they are offered along with indemnity health insurance. Many employers select triple option plans that include HMOs, PPOs, and health insurance.

Employers choose PPOs because they can offer premium savings. The employee gets to choose from a network of practitioners and participating hospitals.

The PPO is generally offered along with traditional health insurance allowing the PPO to give reduced costs. Consumers receive a financial incentive to use the PPO but may also use the regular health insurance offered.

### STATE AND FEDERAL REGULATION

PPOs that are sponsored by insurance companies are regulated by the Insurance Commissioner through regulation of the company. Hospital and physician sponsored PPOs are not specifically regulated. Self-Insured PPOs have broad outlines under ERISA.

HMO members must use the HMO's organized services. Referrals to all health care is made by the HMO physician chosen by the member.

Hospital costs, preventive care, ancillary services, home health etc. are paid by the HMO according to the structure of the HMO.

Since the HMO is capitated, services must be provided through the HMO system for them to be paid. There are always provisions for payment for emergency and urgently needed services under the guidelines of each HMO.

Members select their physician from the doctor who works for or contracts with the HMO.

Generally, the physician selected becomes the Primary Care Physician (PCP) or the "Gatekeeper". The PCP oversees and directs the care by referring to specialists when needed, admitting to the hospital, and overseeing all other health services for the person.

This "Gatekeeper" system is essential to the HMO concept.



## WHAT IS AN HMO

An HMO combines the delivery of Health Care and the insurance of health care into one organization (or legal entity).

HMOs provide or arrange for the delivery of all health care through physicians and hospitals they contract with or who work for them.

Usually, the HMO contracts with an employer to provide HMO health care to its employees as an alternative to regular health insurance.

A fixed pre-paid charge is paid to the HMO on a capitated basis to deliver the health care services.

These payments (pre-determined and fixed) are made on behalf of each person or family unit enrolled, usually paid monthly, regardless of the amount of actual services used by the member. The HMO must provide all the health care services agreed on.

If costs are higher than the capitations, the HMO loses money. If they stay below estimates they make money or increase reserves.

The incentive in a pre-paid system is to decrease utilization through more preventive care, greater utilization controls, and emphasis on the whole health of the person rather than on a specific illness.

## COMPETITIVE MEDICAL PLANS (CMPs)

There is no real certainty on what constitutes a CMP. The term was first used in TEFRA-Tax Equity and Fiscal Responsibility Act.

The term generally applied to Medicare patients under the provisions enacted in 1985, which allowed medicare to pay for Elderly beneficiaries care through HMOs. It allowed HMOs to contract with medicare to provide service to older persons. HMOs are offered on an individual basis, to medicare enrollees.

**FACTS ABOUT GROWTH: HMOs AND PPOs**

<u>Kansas</u> (Sept. 1986)	<u>U.S.A.</u> (June 1986)
350,000 members (Approx. 9/86)	23.7 million members
10 HMOs State Certified	595 HMOs (1985)
8 Federally Qualified	438 Federally Qualified
2 State Licensed Only	157 State Licensed Only
9-13 PPOs	332 PPOs

**Models:**

- 2 Staff Models
- 1 Group Model
- 1 IPA
- 5 Combined IPA, Network, and Group Model
- 1 Non-operational for new members

\*Initial HMO regulation enacted 1974.

\*Only one HMO was in operation prior to 1981.

\*3 HMOs have begun since 1985.

\*4 HMO Applications are pending.

\*25% of the Insured Population are expected to be in HMOs by 1990.

\*40% of all Insured are supposed to be in PPOs and HMOs by 1990, reaching over 70 million.

**Locations:**

\*3 HMOs cover primarily Kansas counties

\*6 HMOs primarily serve Greater Kansas City area.

**GUIDE TO MANAGED CARE: HMOs, PPOs, and CMPs**

Today, there are major changes going on in both the health care and health insurance systems.

In response to rising costs and the need for greater efficiency and cost containment, a variety of alternatives have been developed to meet the market needs of Government and Business.

HMOs, PPOs, and CMPs are critical elements in these managed care systems.

We offer this brief guide to assist you in understanding HMOs and PPOs.

**A GUIDE TO MANAGED CARE**

**HEALTH MAINTENANCE ORGANIZATIONS (HMOs)**

**PREFERRED PROVIDER ORGANIZATIONS (PPOs)**

**COMPETITIVE MEDICAL PLANS (CMPs)**

**HEALTH CARE PLUS OF AMERICA**

**2959 ROCK ROAD**

**WICHITA, KANSAS 67226**

House Insurance Committee

Jan. 27, 1987

Att. 2

HEALTH CARE PLUS OF AMERICA

FACT SHEET

- . Over 135,000 members
- . 330 employees
  - 209 employees in Kansas
  - 175 employees in Wichita
- . Network and IPA Model
- . KANSAS LOCATIONS
  - Wichita
  - Lawrence
  - Salina
  - Hutchinson
  - Topeka
  - Emporia
  - Manhattan
  - Johnson County - Kansas City
  - Tri-County (McPherson, Marion, Harvey)
- . Counties or portions of Counties covered (34)
  - Jefferson, Leavenworth, Miami, Anderson, Franklin, Douglas, Shawnee, Osage, Coffee, Lyons, Greenwood (P), Waubaunsee, Pottawatomie, Riley, Geary, Clay, Dickson, Morris, Chase, Butler, Sedgwick, Sumner, Kingman, Harvey, Marion, McPherson, Saline, Ottawa, Ellsworth, Rice, Reno, Stafford, Pawnee, Rush, Barton.



STATE OF KANSAS

# KANSAS INSURANCE DEPARTMENT

420 S.W. 9th  
Topeka 66612-1678 913-296-3071

1-800-432-2484  
Consumer Assistance  
Division calls only

FLETCHER BELL  
Commissioner

## M E M O R A N D U M

TO: Committee on Insurance  
House of Representatives

FROM: Dick Brock *DB*  
Kansas Insurance Department

SUBJECT: Legislative Proposals No. 1, 9 and 10

DATE: January 27, 1987

When I appeared before you on January 20, I noted that we were looking at updated "numbers" for inclusion in Legislative Proposal No. 1 which deals with no-fault automobile insurance. I also advised that Legislative Proposals No. 9 and 10 were not in your original packet as they had been finalized immediately prior to my appearance.

In view of the foregoing, the updated version of Legislative Proposal No. 1 as well as Proposals No. 9 and 10 are attached for the completion of your records.

Attachments

House Insurance Committee  
Jan. 27, 1987  
Att. 4

Explanatory Memorandum For  
Legislative Proposal No. 1

The primary purpose of Legislative Proposal No. 1 is to raise the personal injury protection benefits required by the no-fault law so that they keep pace with inflation. The no-fault law was enacted fourteen years ago by the 1973 legislature. Since that time, inflation has eroded the minimum benefits required by the law. As such, the benefits are no longer adequate to serve the purpose for which they were originally enacted.

To correct this problem, Legislative Proposal No. 1 increases the individual benefits within the personal injury protection package by the approximate corresponding increase in the Consumer Price Index since 1973. This will be of great advantage to many Kansans injured in automobile accidents because they will have more benefits available to compensate them more adequately for their injuries.

To maintain the same relationship between the personal injury protection benefits and access to general damages as was contemplated by the original law, it has also been necessary to adjust the threshold. This has been done by incorporating the general damages benefit and threshold provisions developed by the 1984 interim legislative committee. These are the same provisions that were incorporated in House Bill No. 2422 which is the most recent no-fault bill passed by the legislature except the dollar amounts have been adjusted to reflect the latest available CPI and earnings figures. With the introduction of "general benefits" - first party coverage for noneconomic loss - there is established a second threshold. This new threshold is reached when medical expenses or the value thereof equal \$1,500 and it is at this point that coverage for noneconomic loss (general benefits) is triggered. Thus, for those whose only interest is compensation for noneconomic loss, \$1,500 is the figure that should be compared to the current threshold of \$500. Further, this first party coverage, which begins when the value of medical expenses reaches \$1,500 continues until an additional \$1,500 in medical expenses have been incurred. At this point, \$3,000 in medical expenses have been incurred (\$1,500 + \$1,500) and the second threshold of \$3,000 has thereby been reached so that, without any gaps, an action may be brought seeking compensation for additional noneconomic losses.

Even with the increase in the dollar amount of the tort threshold, under Proposal No. 1 Kansans will still be able to sue for all damages in the vast majority of cases. Kansans are still going to be able to sue in every case for all property damages without any restrictions. Also, Kansans will still be able to sue in every case for all economic losses (whether past, present or future) without any restrictions. And, Kansans will still be able to sue in every case for the intangible pain and suffering damages where they have sustained permanent disfigurement, a loss of a body member, a permanent type of injury, a permanent loss of a bodily function, death, and when their injury is of a kind that requires more than \$3,000 in medical treatment. So, in all of these cases, Kansans will still have an unlimited right to sue for damages and these cases represent the vast majority of those that arise in Kansas. In addition, without the need to sue, they will receive compensation for non-economic loss when their medical expenses equal or exceed \$1,500.

Legislative Proposal No.1 is a recommendation which would greatly benefit the insuring public of the state of Kansas.

LEGISLATIVE PROPOSAL NO. 1

1 AN ACT relating to insurance; relating to the Kansas automobile injury  
2 reparations act; concerning personal injury protection benefits and tort  
3 threshold; amending K.S.A. 40-3103, 40-3104, 40-3105, 40-3109, 40-3113a, 40-  
4 3116 and 40-3117 and repealing the existing sections.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF KANSAS:

5 Section 1. K.S.A. 40-3103 is hereby amended to read as follows: 40-  
6 3103. As used in this act, the following words and phrases shall have the  
7 meanings respectively ascribed to them herein:

8 (a) "Commissioner" means the state commissioner of insurance.

9 (b) "Disability benefits" means allowances for loss of monthly earnings  
10 due to an injured person's inability to engage in available and appropriate  
11 gainful activity, subject to the following conditions and limitations: (1)  
12 The injury sustained is the proximate cause of the injured person's  
13 inability to engage in available and appropriate gainful activity; (2)  
14 subject to the maximum benefits stated herein, allowances shall equal ~~one~~  
15 ~~hundred-percent--(100%)~~ 100% of any such loss per individual, unless such  
16 allowances are deemed not includable in gross income for federal income tax  
17 purposes, in which event such allowances shall be limited to ~~eighty-five~~  
18 ~~percent--(85%)~~ 85%; and (3) allowances shall be made up to a maximum of not  
19 less than ~~six-hundred-fifty-dollars--(\$650)~~ \$1,400 per month for not to  
20 exceed one ~~(1)~~ year after the date the injured person becomes unable to  
21 engage in available and appropriate gainful activity.

22 (c) "Director" means the director of vehicles.

23 (d) "Funeral benefits" means allowances for funeral, burial or  
24 cremation expenses in an amount not to exceed ~~one-thousand-dollars--(\$1,000)~~  
25 \$2,500 per individual.

26 (e) "Highway" means the entire width between the boundary lines of  
27 every way publicly maintained, when any part thereof is open to the use of  
28 the public for purposes of vehicular travel.

29 (f) "Implement of husbandry" means every vehicle designed or adapted  
30 and used exclusively for agricultural operations and only incidentally  
31 operated or moved upon the highways.

32 (g) "Insurer" means any insurance company, as defined by K.S.A. 40-201  
33 and amendments thereto, ~~duy~~ authorized to transact business in this state  
34 ~~and~~, which issues policies of motor vehicle liability insurance covering  
35 liability arising out of the ownership, operation, maintenance or use of a  
36 motor vehicle.

37 (h) "Injured person" means any person suffering injury.

38 (i) "Injury" means bodily harm, sickness, disease or death resulting  
39 from an accident arising out of the ownership, maintenance or use of a motor  
40 vehicle.

41 (j) "Lienholder" means a person holding a security interest in a  
42 vehicle.

43 (k) "Medical benefits" ~~shall-mean~~ means and ~~include~~ includes allowances  
44 for all reasonable expenses, up to a limit of not less than ~~two-thousand~~  
45 ~~dollars-(\$2,000)~~ \$6,500, for necessary health care rendered by practitioners  
46 licensed by the board of healing arts, surgical, x-ray and dental services,  
47 including prosthetic devices and necessary ambulance, hospital and nursing  
48 services; and such term also ~~shall-include~~ includes allowances for services  
49 recognized and permitted under the laws of this state for an injured person  
50 who relies upon spiritual means through prayer alone for healing in  
51 accordance with ~~his-or-her~~ such person's religious beliefs.

52 (1) "Monthly earnings" means: (1) In the case of a regularly employed  
53 person or a person regularly self-employed, ~~one-twelfth-(1/12)~~ 1/12 of the  
54 annual earnings at the time of injury; or (2) in the case of a person not  
55 regularly employed or self-employed, or of an unemployed person, ~~one-twelfth~~  
56 ~~(1/12)~~ 1/12 of the anticipated annual earnings from the time such person  
57 would reasonably have been expected to be regularly employed. In  
58 calculating the anticipated annual earnings of an unemployed person who has  
59 previously been employed, the insurer shall average the annual compensation  
60 of such person for not to exceed five ~~(5)~~ years preceding the year of injury  
61 or death, during which such person was employed.

62 (m) "Motor vehicle" means every self-propelled vehicle of a kind  
63 required to be registered in this state, including any trailer, semitrailer



64 or pole trailer designed for use with such vehicle, but such term ~~shall~~ does  
65 not include a motorized bicycle.

66 (n) "Operator" means any person who drives or is in actual physical  
67 control of a motor vehicle upon a highway or who is exercising control over  
68 or steering a vehicle being towed by a motor vehicle.

69 (o) "Owner" means a person, other than a lienholder, having property in  
70 or title to a motor vehicle, including a person who is entitled to the use  
71 and possession of a motor vehicle subject to a security interest held by  
72 another person; 2, but such term does not include a lessee under a lease not  
73 intended as security.

74 (p) "Person" means an individual, partnership, corporation or other  
75 association of persons.

76 (q) "Personal injury protection benefits" means the disability  
77 benefits, funeral benefits, medical benefits, rehabilitation benefits,  
78 substitution benefits, general benefits and survivors' benefits required to  
79 be provided in motor vehicle liability insurance policies pursuant to this  
80 act.

81 (r) "Rehabilitation benefits" means allowances for all reasonable  
82 expenses, up to a limit of not less than ~~two thousand dollars (\$2,000)~~  
83 \$6,500, for necessary psychiatric services, occupational therapy and such  
84 occupational training and retraining as may be reasonably necessary to  
85 enable the injured person to obtain suitable employment.

86 (s) "Relative residing in the same household" means a relative of any  
87 degree by blood, marriage or adoption, who usually makes ~~his-or-her~~ such  
88 person's home in the same family unit, whether or not temporarily living  
89 elsewhere.

90 (t) "Security interest" means an interest in a vehicle reserved or  
91 created by agreement and which secures payment or performance of an  
92 obligation. The term includes the interest of a lessor under a lease  
93 intended as security.

94 (u) "Self-insurer" means any person effecting self-insurance pursuant  
95 to subsection ~~(d)~~ (f) of K.S.A. 40-3104 and amendments thereto or any  
96 nonresident self-insurer that has filed the form prescribed in subsection  
97 (b) of K.S.A. 40-3106 and amendments thereto.

98 (v) "Special mobile equipment" means every vehicle not designed or used  
99 primarily for the transportation of persons or property and only

100 incidentally operated or moved over a highway, including but not limited  
101 to: Ditch-digging apparatus, well-boring apparatus and road construction  
102 and maintenance machinery such as asphalt spreaders, bituminous mixers,  
103 bucket loaders, tractors other than truck tractors, ditchers, leveling  
104 graders, finishing machines, motor graders, road rollers, scarifiers, earth  
105 moving carryalls and scrapers, power shovels and drag lines, and self-  
106 propelled cranes and earth moving equipment. The term does not include  
107 house trailers, dump trucks, truck mounted transit mixers, cranes or  
108 shovels, or other vehicles designed for the transportation of persons or  
109 property to which machinery has been attached.

110 (w) "Substitution benefits" means allowances for appropriate and  
111 reasonable expenses incurred in obtaining other ordinary and necessary  
112 services in lieu of those that, but for the injury, the injured person would  
113 have performed for the benefit of ~~himself-or-herself~~ such person or ~~his-or~~  
114 ~~her~~ such person's family, subject to a maximum of ~~twelve-dollars--(\$12)~~ \$25  
115 per day for not longer than ~~three-hundred-sixty-five--(365)~~ 365 days after  
116 the date such expenses are incurred.

117 (x) "Survivor" means a decedent's spouse, or child under the age of  
118 ~~eighteen--(18)~~ 18 years, where death of the decedent resulted from an injury.

119 (y) "Survivors' benefits" means total allowances to all survivors for:  
120 (1) Loss of an injured person's monthly earnings after ~~his-or-her~~ such  
121 person's death, up to a maximum of not less than ~~six-hundred-fifty-dollars~~  
122 ~~(\$650)~~ \$1,400 per month; and (2) substitution benefits following the injured  
123 person's death. Expenses of the survivors which have been avoided by reason  
124 of the injured person's death shall be subtracted from the allowances to  
125 which survivors would otherwise be entitled, and survivors' benefits shall  
126 not be paid for more than one ~~(1)~~ year after the injured person's death,  
127 less the number of months the injured person received disability benefits  
128 prior to ~~his-or-her~~ such person's death. For purposes of this subsection,  
129 monthly earnings shall include, in the case of a person who was a social  
130 security recipient or a retirement or pension benefit recipient, or both, at  
131 the time of such injured person's death, 1/12 of the annual amount of the  
132 difference between the annual amount of the social security benefits or the  
133 retirement benefits, or both, that such injured person was receiving at the  
134 time of such injured person's death and the annual amount of the social

135 security benefits or the retirement benefits, or both, that the survivor is  
136 receiving after the time of such injured person's death.

137 (z) "Uninsured motor vehicle" means any motor vehicle which is not  
138 included under an approved self-insurance plan of a self-insurer or for  
139 which there is not in effect a motor vehicle liability insurance policy  
140 meeting the requirements of this act.

141 (aa) "Any workmen's compensation law" means the workmen's compensation  
142 act of Kansas, the United States longshoremen's and harbor workers'  
143 compensation act the federal employer liability acts, and any similar state  
144 or federal law.

145 (bb) "General benefits" means an allowance of \$500 in the event medical  
146 benefits, as defined in this section, exceed \$1,500 and an allowance equal  
147 to the medical benefits, as defined in this section, exceeding \$1,500,  
148 except the total general benefits shall not exceed \$2,000.

149 Sec. 2. K.S.A. 40-3104 is hereby amended to read as follows: 40-3104.

150 (a) Every owner shall provide motor vehicle liability insurance coverage in  
151 accordance with the provisions of this act for every motor vehicle owned by  
152 such person, unless such motor vehicle is:

153 (1) included under an approved self-insurance plan as provided in  
154 subsection (f) of this section or

155 (2) included under a qualified plan of self-insurance approved by an  
156 agency of the state in which such motor vehicle is registered and the form  
157 prescribed in subsection (b) of K.S.A. 40-3106 has been filed or

158 (3) is expressly exempted from the provisions of this act.

159 (b) An owner of an uninsured motor vehicle shall not permit the  
160 operation thereof upon a highway or upon property open to use by the public,  
161 unless such motor vehicle is expressly exempted from the provisions of this  
162 act.

163 (c) No person shall knowingly drive an uninsured motor vehicle upon a  
164 highway or upon property open to use by the public, unless such motor  
165 vehicle is expressly exempted from the provisions of this act.

166 (d) Any person operating a motor vehicle upon a highway or upon  
167 property open to use by the public shall display, upon demand, evidence of  
168 financial security to a law enforcement officer.

169 (e) No person charged with violating subsections (b), (c) or (d) shall  
170 be convicted if such person produces in court or in the office of the

171 arresting officer, within 20 days of the date of arrest, evidence of  
172 financial security for the motor vehicle operated, which was valid at the  
173 time of arrest. For the purpose of this subsection, evidence of financial  
174 security shall be provided by a policy of motor vehicle liability insurance,  
175 an identification card or certificate of insurance issued to the  
176 policyholder by the insurer which provides the name of the insurer and the  
177 policy number, a certificate of self-insurance signed by the commissioner of  
178 insurance or the completion of a form prescribed by the secretary of revenue  
179 signed by the insurer or an agent of the insurer certifying that at the time  
180 of arrest the motor vehicle was covered by motor vehicle liability insurance.

181 When the evidence of financial security provided by the owner is an  
182 insurance policy, an identification card or certificate of insurance or a  
183 certificate of self-insurance, the information will be recorded by the  
184 office of the arresting officer or the court on the form prescribed by the  
185 secretary of revenue as authorized by this subsection and forwarded  
186 immediately to the department of revenue. When evidence of insurance is  
187 provided by the owner on the form prescribed by this subsection such form  
188 will also be forwarded immediately to the department.

189 Upon receipt of such form, the department will mail the form to the  
190 named insurance company for verification that such insurance was in force on  
191 the date stated. It shall be the duty of insurance companies to notify the  
192 department within 30 calendar days of the receipt of such forms of any  
193 insurance that was not in force on the date stated.

194 (f) Any person in whose name more than 25 motor vehicles are registered  
195 in Kansas may qualify as a self-insurer by obtaining a certificate of self-  
196 insurance from the commissioner of insurance. The certificate of self-  
197 insurance issued by the commissioner shall cover such owned vehicles and  
198 those vehicles, registered in Kansas, leased to such person if the lease  
199 agreement requires that motor vehicle liability insurance on the vehicles be  
200 provided by the lessee. Upon application of any such person, the  
201 commissioner of insurance may issue a certificate of self-insurance, if the  
202 commissioner is satisfied that such person is possessed and will continue to  
203 be possessed of ability to pay any judgment obtained against such person  
204 arising out of the ownership, operation, maintenance or use of any motor  
205 vehicle described in this subsection.

206       Upon not less than five days' notice and a hearing pursuant to such  
207 notice, the commissioner of insurance may cancel a certificate of self-  
208 insurance upon reasonable grounds. Failure to pay any judgment against a  
209 self-insurer, arising out of the ownership, operation, maintenance or use of  
210 a motor vehicle registered in such self-insurer's name, within 30 days after  
211 such judgment shall have become final, shall constitute reasonable grounds  
212 for the cancellation of a certificate of self-insurance.

213       (g) Any person violating any provision of this section shall be guilty  
214 of a class B misdemeanor, except that any person convicted of violating any  
215 provision of this section within three years of any such prior conviction  
216 shall be guilty of a class A misdemeanor.

217       (h) In addition to any other penalties provided by this act for failure  
218 to have or maintain financial security in effect, the director, upon receipt  
219 of the accident report required by K.S.A. 8-1607, and amendments thereto, or  
220 a denial of such insurance by the insurance company listed on the form  
221 prescribed by the secretary of revenue pursuant to subsection (e) of this  
222 section and K.S.A. 8-1604, and amendments thereto, shall, upon notice and  
223 hearing as provided by K.S.A. 40-3118, and amendments thereto, suspend:

224       (1) The license of each driver in any manner involved in the accident;

225       (2) the license of the owner of each motor vehicle involved in such  
226 accident, unless the vehicle was stolen at the time of the accident, proof  
227 of which must be established by the owner of the motor vehicle. Theft by a  
228 member of the vehicle owner's immediately family under the age of 18 years  
229 shall not constitute a stolen vehicle for the purposes of this section;

230       (3) the registrations of all vehicles owned by the owner of each motor  
231 vehicle involved in such accident;

232       (4) if the driver is a nonresident, the privilege of operating a motor  
233 vehicle within this state; or

234       (5) if such owner is a nonresident, the privilege of such owner to  
235 operate or permit the operation within this state of any motor vehicle owned  
236 by such owner.

237       (i) The suspension requirements in subsection (h) shall not apply:

238       (1) To the driver or owner if the owner had in effect at the time of  
239 the accident an automobile liability policy as required by K.S.A. 40-3107,  
240 and amendments thereto, with respect to the vehicle involved in the accident;

241 (2) to the driver, if not the owner of the vehicle involved in the  
242 accident, if there was in effect at the time of the accident an automobile  
243 liability policy with respect to such driver's driving of vehicles not owned  
244 by such driver;

245 (3) to any ~~person-qualified-as-a~~ self-insurer ~~under subsection (f) of~~  
246 ~~this section~~ as defined by K.S.A. 40-3103(u) and amendments thereto;

247 (4) to any person who has been released from liability, has entered  
248 into an agreement for the payment of damages, or has been finally  
249 adjudicated not to be liable in respect to such accident. Evidence of any  
250 such fact may be filed with the director; and

251 (5) to the driver or owner of any vehicle involved in the accident  
252 which was exempt from the provisions of this act pursuant to K.S.A. 40-3105,  
253 and amendments thereto.

254 (j) For the purposes of provisions (1) and (2) of subsection (i) of  
255 this section, the director may require verification by an owner's or  
256 driver's insurance company or agent thereof that there was in effect at the  
257 time of the accident an automobile liability policy as required in this act.

258 Any suspension effected hereunder shall remain in effect until  
259 satisfactory proof of financial security has been filed with the director as  
260 required by subsection (d) of K.S.A. 40-3118, and amendments thereto, and  
261 such person has met the requirements under subsection (i) and has paid the  
262 reinstatement fee herein prescribed. Such reinstatement fee shall be \$25  
263 except that if the registration of a motor vehicle of any owner is suspended  
264 within one year following a prior suspension of the registration of a motor  
265 vehicle of such owner under the provisions of this act such fee shall be \$75.

266 (k) The provisions of this section shall not apply to motor carriers of  
267 property or passengers regulated by the corporation commission of the state  
268 of Kansas.

269 (l) The provisions of subsection (d) shall not apply to new vehicle  
270 dealers, as defined in K.S.A. 8-2401, and amendments thereto.

271 Sec. 3. K.S.A. 40-3105 is hereby amended to read as follows: 40-3105.  
272 The following vehicles shall be exempt from the provisions of this act:

273 (a) Any motor vehicle owned by the government of the United States, any  
274 state or any political subdivision of any state;

275 (b) an implement of husbandry or special mobile equipment which is  
276 operated only incidentally on a highway or property open to use by the  
277 public;

278 (c) a vehicle operated on a highway only for the purpose of crossing  
279 such highway from one property to another; and

280 (d) a non-highway vehicle for which a non-highway certificate of title  
281 has been issued pursuant to K.S.A. ~~1976-Supp.~~ 8-198, and amendments thereto,  
282 except when such vehicle is being operated pursuant to subsection ~~(f)~~ (g) of  
283 K.S.A. ~~1976-Supp.~~ 8-198, and amendments thereto.

284 Sec. 4. K.S.A. 40-3109 is hereby amended to read as follows: 40-3109.

285 (a) A self-insurer or the insurer of the owner of a motor vehicle covered  
286 by a policy of motor vehicle liability insurance meeting the requirements of  
287 this act shall pay any personal injury protection benefits which are  
288 required to be provided by this act or in such owner's policy of motor  
289 vehicle liability insurance for any injury:

290 (1) Sustained within the United States of America, its territories or  
291 possessions or Canada by the owner while:

292 (A) Occupying a motor vehicle not excluded by subsection (a) of K.S.A.  
293 40-3108 and amendments thereto; or

294 (B) not an occupant of a motor vehicle if the injury is caused by  
295 physical contact with a motor vehicle;

296 (2) sustained by a relative of the owner residing in the same  
297 household, under the circumstances described in paragraph (1) of this  
298 subsection, if the relative at the time of the accident is not the owner of  
299 a motor vehicle with respect to which a motor vehicle liability insurance  
300 policy is required by this act;

301 (3) sustained in this state by any other person while occupying such  
302 motor vehicle or, if a resident of this state, while not an occupant of such  
303 motor vehicle, if the injury is caused by physical contact with such motor  
304 vehicle, and the injured person is not the owner of a motor vehicle with  
305 respect to which a motor vehicle liability insurance policy is required  
306 under this act.

307 (b) If two or more insurers or self-insurers are liable to pay personal  
308 injury protection benefits for the same injury to any one person, the  
309 maximum benefits payable from all applicable policies shall be the highest  
310 limit of any one policy providing such personal injury protection benefits.

311 The primary personal injury protection coverage shall be provided by the  
312 policy covering:

313 (1) The motor vehicle occupied by the injured person at the time of the  
314 accident; or

315 (2) the motor vehicle causing such physical contact.

316 Sec. 5. K.S.A. 40-3113a is hereby amended to read as follows: 40-

317 3113a. (a) When the injury for which personal injury protection benefits  
318 are payable under this act ~~are~~ is caused under circumstances creating a  
319 legal liability against a tortfeasor pursuant to K.S.A. 40-3117 or the law  
320 of the appropriate jurisdiction, the injured person, ~~his--or--her~~ such  
321 person's dependents or personal representatives shall have the right to  
322 pursue ~~his--or--her--or--their~~ such person's remedy by proper action in a court  
323 of competent jurisdiction against such tortfeasor.

324 (b) In the event of recovery from such tortfeasor by the injured  
325 person, ~~his--or--her~~ such person's dependents or personal representatives by  
326 judgment, settlement or otherwise, the insurer or self-insurer shall be  
327 subrogated to the extent of duplicative personal injury protection benefits  
328 provided to date of such recovery and shall have a lien therefor against  
329 such recovery and the insurer or self-insurer may intervene in any action to  
330 protect and enforce such lien. Whenever any judgment in any such action,  
331 settlement or recovery otherwise shall be recovered by the injured person,  
332 ~~his--or--her~~ such person's dependents or personal representatives prior to the  
333 completion of personal injury protection benefits, the amount of such  
334 judgment, settlement or recovery otherwise actually paid and recovered which  
335 is in excess of the amount of personal injury protection benefits paid to  
336 the date of recovery of such judgment, settlement or recovery otherwise  
337 shall be credited against future payments of said personal injury protection  
338 benefits.

339 (c) In the event an injured person, ~~his--or--her~~ such person's dependents  
340 or personal representative fails to commence an action against such  
341 tortfeasor within eighteen (18) months after the date of the accident  
342 resulting in the injury, such failure shall operate as an assignment to the  
343 insurer or self-insurer of any cause of action in tort which the injured  
344 person, the dependents of such person or personal representatives of such  
345 person may have against such tortfeasor for the purpose and to the extent of  
346 recovery of damages which are duplicative of personal injury protection



347 benefits. Such insurer or self-insurer may enforce same in ~~his-or-her~~ such  
348 person's own name or in the name of the injured person, representative or  
349 dependents of the injured person for their benefit as their interest may  
350 appear by proper action in any court of competent jurisdiction.

351 (d) In the event of a recovery pursuant to K.S.A. 60-258a, the insurer  
352 or self-insurer's right of subrogation shall be reduced by the percentage of  
353 negligence attributable to the injured person.

354 (e) Pursuant to this section, the court shall fix attorney fees which  
355 shall be paid proportionately by the insurer or self-insurer and the injured  
356 person, ~~his-or-her~~ such person's dependents or personal representatives in  
357 the amounts determined by the court.

358 Sec. 6. K.S.A. 40-3116 is hereby amended to read as follows: 40-  
359 3116. Insurers and self-insurers are hereby directed to organize and  
360 maintain an assigned claims plan to provide that any person, who suffers  
361 injury in this state may obtain personal injury protection benefits through  
362 said plan if:

363 (1) Personal injury protection benefits are not available to the  
364 injured person, except that personal injury protection benefits shall not be  
365 deemed unavailable to any person suffering injury while he was the operator  
366 of a motorcycle or motor-driven cycle, for which the owner thereof has  
367 rejected personal injury protection benefits pursuant to subsection (f) of  
368 K.S.A. 40-3107;

369 (2) Motor vehicle liability insurance ~~of-(or)~~ self-insurance applicable  
370 to the injury cannot be identified;

371 (3) Personal injury protection benefits applicable to the injury are  
372 inadequate to provide the contracted-for benefits because of financial  
373 inability of an insurer or self-insurer to fulfill its obligation; however,  
374 benefits available through the assigned claims plan shall be excess over any  
375 benefits paid or payable through the Kansas insurance guaranty association.  
376 If the personal injury protection benefits are not paid by the Kansas  
377 insurance guaranty association within the limitation of time specified in  
378 this act, such benefits shall be paid by the assigned claims plan. Payments  
379 made by the assigned claims plan pursuant to this section shall constitute  
380 covered claims under K.S.A. 40-2901 et seq.

381 (b) If a claim qualifies for assignment under this section, the  
382 assigned claims plan or any insurer or self-insurer to whom the claim is

383 assigned shall be subrogated to all of the rights of the claimant against  
384 any insurer or self-insurer, its successor in interest or substitute,  
385 legally obligated to provide personal injury protection benefits to the  
386 claimant, for any of such benefits provided by the assignment.

387 (c) A person shall not be entitled to personal injury protection  
388 benefits through the assigned claims plan with respect to injury which he  
389 has sustained if, at the time of such injury, he was the owner of a motor  
390 vehicle for which a policy of motor vehicle liability insurance is required  
391 under this act and he failed to have such policy in effect.

392 (d) The assigned claims plan shall be governed by such rules and  
393 regulations as are necessary for its operation and for the assessment of  
394 costs, which shall be approved by the commissioner. Any claim brought  
395 through said plan shall be assigned to an insurer or self-insurer, in  
396 accordance with the approved regulations of operation, and such insurer or  
397 self-insurer, after the assignment, shall have the same rights and  
398 obligations it would have if, prior to such assignment, it had issued a  
399 motor vehicle liability insurance policy providing personal injury  
400 protection benefits applicable to the loss or expenses incurred or was a  
401 self-insurer providing such benefits. Any party accepting benefits  
402 hereunder shall have such rights and obligations as he would have if a motor  
403 vehicle liability insurance policy providing personal injury protection  
404 benefits were issued to him.

405 (e) No insurer may write any motor vehicle liability insurance policy  
406 in this state unless the insurer participates in the assigned claims plan  
407 organized pursuant to this section, nor shall any person qualify as a self-  
408 insurer pursuant to subsection ~~(d)~~ (f) of K.S.A. 40-3104 and amendments  
409 thereto, unless he such person agrees to participate in such assigned claims  
410 plan. Any insurer or self-insurer required to participate in the assigned  
411 claims plan who violates this subsection shall be assessed a civil penalty  
412 of not more than ~~five-hundred-thousand-dollars--(\$5,000)~~ \$5,000 for each  
413 policy ~~he issues~~ issued or self-insurance certificate obtained in violation  
414 thereof.

415 Sec. 7. K.S.A. 40-3117 is hereby amended to read as follows: 40-3117.  
416 In any action for tort brought against the owner, operator or occupant of a  
417 motor vehicle or against any person legally responsible for the acts or  
418 omissions of such owner, operator or occupant, a plaintiff may recover

419 damages in tort for pain, suffering, mental anguish, inconvenience and other  
420 nonpecuniary loss because of injury only in the event the injury requires  
421 medical treatment of a kind described in this act as medical benefits,  
422 having a reasonable value of ~~five-hundred-dollars--(\$500)~~ \$3,000 or more, or  
423 the injury consists in whole or in part of permanent disfigurement, a  
424 ~~fracture--to--a--weightbearing--bone,--a--compound,--comminuted,--displaced--or~~  
425 ~~compressed--fracture,~~ loss of a body member, permanent injury within  
426 reasonable medical probability, permanent loss of a bodily function or  
427 death. Any person who is entitled to receive free medical and surgical  
428 benefits shall be deemed in compliance with the requirements of this section  
429 upon a showing that the medical treatment received has an equivalent value  
430 of at least ~~five-hundred-dollars--(\$500)~~ \$3,000. Any person receiving  
431 ordinary and necessary services, normally performed by a nurse, from a  
432 relative or a member of ~~his~~ such person's household shall be entitled to  
433 include the reasonable value of such services in meeting the requirements of  
434 this section. For the purpose of this section, the charges actually made  
435 for medical treatment expenses shall not be conclusive as to their  
436 reasonable value. Evidence that the reasonable value thereof was an amount  
437 different ~~than~~ from the amount actually charged shall be admissible in all  
438 actions to which this subsection applies.

439 Sec. 8. K.S.A. 40-3103, 40-3104, 40-3105, 40-3109, 40-3113a, 40-3116  
440 and 40-3117 are hereby repealed.

441 Sec. 9. This act shall take effect and be in force from and after  
442 January 1, 1988, and its publication in the statute book.

Explanatory Memorandum For  
Legislative Proposal No. 9

This proposal suggests a relaxation of requirements regarding the errors and omissions liability coverage required as a condition of obtaining a Kansas broker's license. Specifically, it would remove the requirement that coverage remain in effect for 2 years after termination of the broker's license; that evidence of such coverage be provided the commissioner; that coverage be continuous; and, that any self-retention be covered by a faithful performance bond. Removal of the requirement for continuous coverage will, in turn, permit abrogation of a requirement that the Commissioner be provided 30 days advance notice of any cancellation.

The constriction in liability insurance markets has produced an environment where it is very difficult for brokers and excess lines agents to obtain errors and omissions coverage because of the unique Kansas requirements. This occurs at the same time insurance purchasers are in need of as many insurance market facilities as possible. As a result, a moderation of Kansas requirements seems to be in order even though doing so will reduce the public safeguards currently in place.

LEGISLATIVE PROPOSAL NO. 9

1 AN ACT relating to insurance; relating to applicants for a brokers  
2 license, requirements; errors and omissions coverage, amount; self  
3 retention; dishonesty bond, amount, form, cancellation.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF KANSAS:

4 Section 1. K.S.A. 40-3711 is hereby amended to read as follows: 40-  
5 3711. Every applicant for a broker's license shall ~~file with the~~  
6 ~~commissioner, and upon approval such applicant's application,~~ maintain in  
7 force while licensed ~~and for at least two years following termination of~~  
8 ~~such license, evidence satisfactory to the commissioner~~ of an errors and  
9 omissions policy covering the individual applicant in an amount of not less  
10 than \$100,000 total liability limit per occurrence, subject to not less than  
11 \$100,000 annual aggregate for all claims made during the policy period; or,  
12 covering the applicant under blanket liability policy or policies, which  
13 policy or policies can include other coverage on an excess basis over  
14 \$100,000 primary, insuring other insurance agents or brokers in an amount of  
15 not less than \$500,000 total liability limit per occurrence subject to not  
16 less than \$500,000 annual aggregate for all claims made during the policy  
17 period. Such policy shall be issued by an authorized insurance company or  
18 as authorized by K.S.A. 40-246b or 40-246c, and amendments thereto, ~~shall~~  
19 ~~be continuous in form and shall provide coverage acceptable to the~~  
20 ~~commissioner~~ for errors and omissions of the broker. Self-retention shall  
21 be permitted ~~to a maximum of \$10,000 on policies covering an individual and~~  
22 \$50,000 on blanket liability policies covering the applicant. ~~Self-retention~~  
23 ~~in excess of these amounts shall be permitted only upon filing with the~~  
24 ~~commissioner a faithful performance bond in a form prescribed by the~~  
25 ~~commissioner. Such bond shall be continuous in nature issued by a surety~~  
26 ~~authorized to transact business in Kansas and be in a principal sum equal to~~  
27 ~~the amount of self-retention in excess of that otherwise permitted. In~~  
28 ~~addition to such errors and omissions policy and faithful performance bond~~  
29 ~~if applicable,~~ The applicant shall file with the commissioner a dishonesty  
30 bond in the amount of \$5,000 executed by an authorized surety company in

31 favor of the people of Kansas. Such bond shall be issued in a form  
32 prescribed by the commissioner and shall be continuous in nature. The  
33 surety may cancel the bond upon 30 days' written notice to the commissioner.

34 Sec. 2. K.S.A. 40-3711 is hereby repealed.

35 Sec. 3. This act shall take effect and be in force from and after its  
36 publication in the Kansas Register.

Explanatory Memorandum For  
Legislative Proposal No. 10

This proposal suggests a relaxation of requirements regarding the errors and omissions liability coverage required as a condition of obtaining a Kansas excess lines license. Specifically, it would remove the requirement that coverage remain in effect for 2 years after termination of the excess lines license; that evidence of such coverage be provided the commissioner; that coverage be continuous; and, that any self-retention be covered by a faithful performance bond. Removal of the requirement for continuous coverage will, in turn, permit abrogation of a requirement that the Commissioner be provided 30 days advance notice of any cancellation.

The constriction in liability insurance markets has produced an environment where it is very difficult for brokers and excess lines agents to obtain errors and omissions coverage because of the unique Kansas requirements. This occurs at the same time insurance purchasers are in need of as many insurance market facilities as possible. As a result, a moderation of Kansas requirements seems to be in order even though doing so will reduce the public safeguards currently in place.

LEGISLATIVE PROPOSAL NO. 10

1 AN ACT relating to insurance; relating to excess lines agents; errors  
2 and omissions coverage required.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF KANSAS:

3 Section 1. K.S.A. 40-246f is hereby amended to read as follows: 40-  
4 246f. Every applicant for an excess lines license shall ~~file with the~~  
5 ~~commissioner and upon approval of such applicant's application~~ maintain in  
6 force while licensed ~~and for at least two years following termination of~~  
7 ~~such license, evidence satisfactory to the commissioner of~~ an errors and  
8 omissions policy covering the individual applicant in an amount of not less  
9 than \$100,000 total liability limit per occurrence, subject to not less than  
10 \$100,000 annual aggregate for all claims made during the policy period or  
11 covering the applicant under blanket liability policy or policies, which  
12 policy or policies can include other coverage on an excess basis over  
13 \$100,000 primary, insuring other insurance agents or brokers in an amount of  
14 not less than \$500,000 total liability limit per occurrence subject to not  
15 less than \$500,000 annual aggregate for all claims made during the policy  
16 period. Such policy shall be issued by an authorized insurance company or  
17 as authorized by K.S.A. 40-246b or 40-246c, and any amendments thereto,  
18 ~~shall be continuous in form and shall provide coverage acceptable to the~~  
19 ~~commissioner~~ for errors and omissions of the excess lines agent. Self-  
20 retention shall be permitted ~~to a maximum of \$10,000 on policies covering an~~  
21 ~~individual and \$50,000~~ on blanket liability policies covering the  
22 applicant. ~~Self-retention in excess of the aforesaid amounts shall be~~  
23 ~~permitted only upon filing with the commissioner a faithful performance bond~~  
24 ~~in a form prescribed by the commissioner. Such bond shall be continuous in~~  
25 ~~nature, issued by a surety authorized to transact business in Kansas and be~~  
26 ~~in a principal sum equal to the amount of self-retention in excess of that~~  
27 ~~otherwise permitted.~~

28 Sec. 2. K.S.A. 40-246f is hereby repealed.

29 Sec. 3. This act shall take effect and be in force from and after its  
30 publication in the Kansas Register.