

Approved 3-17-87
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 March 4, 1987 in room 531-N of the Capitol.

All members were present except:
Rep. Littlejohn, excused

Committee staff present:
Chris Courtwright, Research Department
Bill Edds, Revisor's Office
Deanna Willard, Committee Secretary

Conferees appearing before the committee:
Rep. Sawyer
Ralph J. Turner, Silver Haired Legislature
Suellen Weber, Department on Aging
Dick Brock, Kansas Insurance Department

The meeting was called to order by the Chairman. He listed for the Committee those bills which are awaiting final action.

Hearing on: HB 2312 - Insurance; cancellation and nonrenewal of accident and sickness policies

Rep. Sawyer said that this bill came from the Silver Haired Legislature. It establishes certain criteria that would have to be met before accident and sickness insurance policies could be cancelled or nonrenewed. (Att. 1.) He said that changes shown on pages 2 through 12 are technical and that there is new wording on page 15 and on page 26; however, he would suggest dropping the new wording on page 26.

Rep. Cribbs stated that he has experienced the problem addressed by this bill, and he feels it's a good bill.

Mr. Ralph Turner, Silver Haired Legislature, said this bill was drafted because of concern by Kansans age 60 or over that their health policies could be cancelled when they most needed them. (Att. 2.)

Ms. Suellen Weber, Department on Aging, spoke in support of the bill as a safeguard for older Kansans who have individual accident and sickness policies. (Att. 3.) There would likely be only a slight increase in premiums to provide this protection.

Mr. Dick Brock, Kansas Insurance Department, said there were four complaints to the consumer division the past year relating to nonrenewal and thirty-nine cancellation complaints. He will get a breakdown as to how many of the nonrenewals/cancellations were due to age. He said there is nothing in New Section 1 to indicate whether this applies to all policies or just those issued after the law is in effect; some policies are now renewable only at the option of the company. The only way an insurer could get off a policy is to cease writing business in the state--a possible invitation for companies to leave. He suggested that a provision similar to that in automobile insurance statutes could be used which would allow an insurer to nonrenew after being on a risk for

CONTINUATION SHEET

MINUTES OF THE House COMMITTEE ON Insurance,
room 531-N, Statehouse, at 3:30 XX a.m./p.m. on March 4, 1987

five years.

Mr. Brock's responded to questions with the following information: The Commissioner doesn't have authority to regulate group rates for commercial insurers. If the rates are unreasonable, the form is not approved; the rate must be approved if the experience on that book of business justifies it. Commercial carriers use multiple-employer trusts and offer reduced premiums by underwriting individuals. The Insurance Department made a recommendation last year based on a 1985 interim study that underwriting out individuals not be allowed on group policies. The bill doesn't address the difference in benefits between group policies. It would reduce the number of persons who would need to use the COBRA continuation provisions. As written, it applies to everyone; maybe those with the problem are those on medicare supplement policies. (Most people on "65" plans have individual coverage.) There would likely be an adverse effect on the state group rate.

A member suggested that it might make sense to have a specified number of days notice to insure adequate notice of nonrenewal, though Mr. Brock said they would still have trouble getting coverage if the nonrenewal were due to health reasons. He said that the Insurance Department is gathering information to determine if there is a need for a residual market for accident and sickness policies, per legislation passed last session. A report will be made in 1988.

Concern was expressed that not allowing companies to cancel policies would cause them to raise premiums so high that people couldn't afford the coverage.

Mr. Jack Roberts, Blue Cross and Blue Shield, stated that the bill should be applicable to all groups, rather than just those of 25 or more, and that there should be a restriction on when a person could enter the group. (Att. 4.)

Action on: HB 2109 - School districts; pooling arrangements

Rep. Beauchamp made a motion to reconsider the tabled bill; Rep. Neufeld seconded the motion. The motion carried.

The Chairman asked the subcommittee to meet to go over the proposals and to report back at the next meeting. There was concern expressed that the meeting be publicized for any interested persons and that it could cause trouble to rush the bill through rather than asking the Speaker to save it so it could be worked more carefully. It was then stated that there are some technical problems but that they can be worked as the bill goes through the process and that there is some urgency to see that those now setting up pools don't use a worse set of rules. The subcommittee will make recommendations at the meeting on March 5, 1987.

The meeting was adjourned at 4:50 p.m.

MICHAEL TOM SAWYER
 REPRESENTATIVE, NINETY-FIFTH DISTRICT
 SEDGWICK COUNTY
 1116 DAYTON STREET
 WICHITA, KANSAS 67213
 (316) 265-7096



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HOUSE OF
 REPRESENTATIVES

COMMITTEE ASSIGNMENTS

MEMBER: ELECTIONS
 INSURANCE
 LOCAL GOVERNMENT

TESTIMONY ON HB 2312:

The volatile insurance market has brought frequent instances of sudden insurance coverage cancellations, leaving formerly insured persons at economic risk in the event of health problems.

This concern brought the Silver Haired Legislature to pass SHL 308. This bill we are hearing today - HB 2312, is that bill. It amends KSA 40-2203 and KSA 40-2209, establishing certain criteria that would have to be met before accident and sickness insurance policies could be cancelled or non-renewed.

Acceptable reasons for cancellation are:

1. nonpayment of premium
2. material misrepresentation at the time the policy was issued
3. if the insured violates material terms and conditions of the policy
4. if the Insurance Commissioner determines either that continuation on the risk could place the insurer in hazardous financial condition, or that the insurer no longer has adequate reinsurance to meet its needs.

Any insurance company denying renewal for one of the prescribed reasons would have to give the insured at least 60 days written notice of the company's intent not to renew or to cancel an existing policy. Further, any company cancelling a policy or refusing to renew an existing policy must provide the insured with a written explanation specifically detailing the reasons for the company action.

Finally, no company or person providing information to a company would be liable for any statement made in a written notice of cancellation or denial of renewal, if the information was provided in good faith and without malice.

HOUSE COMMITTEE ON INSURANCE
H.B. 2312
TESTIMONY BY: RALPH J. TURNER

Thank you, Mr. Chairman, members of the Committee. I am Ralph J. Turner, President of the Board of Directors of the Silver Haired Legislature, Inc. I also serve as the Silver Haired delegate from Douglas County.

The Fourth Annual Session of the Kansas Silver Haired Legislature was held November 12 through 14, 1986, in the House of Representatives' Chambers. The 125 delegates, age 60 and over, who comprise the Silver Haired Legislature passed ten bills during our session. SHL No. 308 was one of those ten bills; the vote was 100 to 14. SHL No. 308 is H.B. 2312.

The concept for SHL No. 308 originated from the Southwest Kansas Silver Haired delegation. Persons in this 28-county Area Agency on Aging told their Silver Haired Legislature representatives that they were concerned their health insurance policies could be cancelled when they grew older or if they became ill - times when they needed their insurance the most. SHL No. 308 was designed to prevent the cancellation of insurance policies due to age or health.

The 125 Silver Haired delegates represent more than 400,000 Kansans age 60 or over. The Silver Haired Legislature wishes to protect the rights of all Older Kansans. It was with their and our best interests in mind that SHL No. 308 was passed by a clear majority. We would appreciate your favorable consideration of H.B. 2312.

TESTIMONY ON H.B. 2312
TO
HOUSE INSURANCE COMMITTEE
BY
KANSAS DEPARTMENT ON AGING
MARCH 4, 1987

Bill Summary:

Act concerns the cancellation and nonrenewal of accident and sickness insurance policies.

Bill Brief:

New Section 1:

- 1) Acceptable reasons for cancellation or nonrenewal of individual accident or sickness insurance policies are listed.
- 2) Insurance company denying renewal for one of the acceptable reasons would be required to give the insured at least 60 days written notice of the company's intent.
- 3) Company canceling or refusing to renew a policy must provide the insured with a written explanation specifically detailing the reasons for the action.
- 4) No company or persons providing information to a company would be liable for any statement made in a written notice of cancellation or denial of renewal, if the information was provided in good faith.

Section 2:

Amendments to K.S.A. 40-2203.

Section 3:

Amendments to K.S.A. 40-2209.

Bill Testimony:

The Kansas Department on Aging is supportive of H.B. 2312 in that it provides some protection for persons who have individual accident and sickness policies. Because the listing of acceptable reasons for cancellation or nonrenewal of individual policies does not include age or health, the Department believes that this clause would safeguard the insurance policies of Older Kansans who are concerned that their policies could be cancelled if they become a risk to the company.

H.B. 2312 does not, however, provide protection for persons who have group insurance policies. Section 3 (B) (2) specifically states that age can be used as a limitation or restriction of coverage. Many Older Kansans have group insurance coverage. They would not be protected under H.B. 2312.

The Department on Aging is aware that the issue of cancellation or nonrenewal of insurance policies is a concern of the Kansas Silver Haired Legislature and undoubtedly many Older Kansans. Evidence of this concern is the passage of SHL No. 308, which, without a minor amendment in the number of days of the grace period for payment of the premium, is H.B. 2312.

Recommended Action:

If H.B. 2312 was amended in Section 1 (a) to say: "No individual or group policy of accident and sickness insurance may be canceled or nonrenewed except for the following reasons....," the Department on Aging would strongly support the passage of the bill. A similar bill under consideration of this Committee, H.B. 2314, is also supported by the Department.

SW:mj
3/4/87

HOUSE BILL No. 2312

By Representatives Sawyer, Barkis, Blumenthal, Bowden, Branson, K. Campbell, Charlton, Cribbs, Dillon, Francisco, Fry, Gross, Grotewiel, Harder, Helgerson, Hensley, Justice, Kennard, Lacey, Laird, Leach, Love, Mainey, Reardon, Rezac, Roper, Rosenau, Roy, Russell, Sader, Sebelius, Solbach, Sughrue, Sutter, Teagarden, Turnquist, Webb, Wells, White-man and Wisdom

2-11

0023 AN ACT relating to insurance; concerning cancellation and
0024 nonrenewal of accident and sickness insurance policies;
0025 amending K.S.A. 40-2203 and 40-2209 and repealing the ex-
0026 isting sections.

0027 *Be it enacted by the Legislature of the State of Kansas:*

0028 New Section 1. (a) No individual policy of accident and
0029 sickness insurance may be canceled or nonrenewed except for
0030 the following reasons:

0031 (1) Nonpayment of premium;

0032 (2) the policy was issued because of a material misrepresen-
0033 tation;

0034 (3) any insured violated any of the material terms and condi-
0035 tions of the policy;

0036 (4) a determination by the commissioner that continuation of
0037 coverage could place the insurer in a hazardous financial condi-
0038 tion or in violation of the laws of this state; or

0039 (5) a determination by the commissioner that the insurer no
0040 longer has adequate reinsurance to meet the insurer's needs.

0041 (b) Any insurer which ceases to transact business in this state
0042 shall not be required to continue coverage under such policy.

0043 (c) No insurer shall issue such policy in this state unless the
0044 cancellation or nonrenewal conditions of the policy or policy
0045 endorsement includes the limitations in this section pertaining
0046 to cancellation or nonrenewal by the insurer.

New Section 1.(a)

No individual or group policy of accident and
sickness insurance may be canceled or nonrenewed
except for the following reasons:

0047 groups of persons, with or without one or more members of their
0048 families or one or more dependents, or one or more members of
0049 their families or one or more dependents, ~~and issued~~ except at
0050 ~~the option of an employee or member, no individual employee or~~
0051 ~~member of an insured group consisting of 25 or more persons~~
0052 ~~and no individual dependent or family member may be excluded~~
0053 ~~from eligibility or coverage under a policy issued to such group.~~

Except

0054 upon the following basis:

0055 (1) Under a policy issued to an employer or trustees of a fund
0056 established by an employer, who is the policyholder, insuring at
0057 least five employees of such employer, for the benefit of persons
0058 other than the employer. The term "employees" shall include
0059 the officers, managers, employees and retired employees of the
0060 employer, the partners, if the employer is a partnership, the
0061 proprietor, if the employer is an individual proprietorship, the
0062 officers, managers and employees and retired employees of
0063 subsidiary or affiliated corporations of a corporation employer,
0064 and the individual proprietors, partners, employees and retired
0065 employees of individuals and firms, the business of which and of
0066 the insured employer is under common control through stock
0067 ownership contract, or otherwise. The policy may provide that
0068 the term "employees" may include the trustees or their employ-
0069 ees, or both, if their duties are principally connected with such
0070 trusteeship. A policy issued to insure the employees of a public
0071 body may provide that the term "employees" shall include
0072 elected or appointed officials.

0073 (2) Under a policy issued to a labor union which shall have a
0074 constitution and bylaws insuring at least 25 members of such
0075 union.

0076 (3) Under a policy issued to the trustees of a fund established
0077 by two or more employers or business associations or by one or
0078 more labor unions or by one or more employers and one or more
0079 labor unions, which trustees shall be the policyholder, to insure
0080 employees of the employers or members of the union or mem-
0081 bers of the association for the benefit of persons other than the
0082 employers or the unions or the associations. The term "employ-
0083 ees" shall include the officers, managers, employees and retired

An insurer may limit the commencement of coverage
for such employee, member, dependent, or family member to the
initial effective date of the policy. A group sickness and accident
policy may be issued