

Approved February 18, 1987
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 February 17, 1987 in room 529-S of the Capitol.

All members were present except:

Committee staff present:

Bill Wolff, Legislative Research
Bill Edds, Revisor of Statutes

Conferees appearing before the committee:

Ron Todd, Kansas Insurance Department

The minutes of February 16 were approved.

The chairman called on Ron Todd of the Kansas Insurance Department for testimony on SB 116 and SB 121. Senate Bill 116 deals with the broker licensing section and SB 121 deals with the same change in excess lines licenses. (See Attachment I.)

With regard to SB 116, the chairman asked what the result of removing the two year requirement would be. Mr. Todd said this was hard to enforce since they no longer have the license so there would not be much of an effect. The chairman asked if these claims have a tendency to arise during the policy or in that two year period. Mr. Todd said most arise when the agent is still in business.

The chairman had questions about "self-retention" as used in the bill. Sen. Warren had questions about bonds, errors and omissions insurance, and tail insurance.

Sen. Gannon asked why brokers are having difficulty in obtaining this insurance. Mr. Todd said it's because insurance companies don't want to sell this kind of insurance because of the risks. Sen. Gannon felt there was an inconsistency in that Mr. Todd stated that the companies don't want to sell because of the losses but at the same time he said the brokers are not having troubles. Mr. Todd replied that his point was that the restrictions take up time and in some cases restrict the accessibility. The chairman added that the companies do not feel comfortable in writing an agent's policy when the agent is no longer an agent. Mr. Todd reiterated that it is difficult to enforce.

Sen. Werts asked for an explanation of the term "self-retention" on line 40 of SB 116. Mr. Todd said that it is, in effect, a deductible. Sen. Werts questioned Mr. Todd further about self-retention, and it was determined that self-retention is a commonly used term in errors and omissions insurance and that it can be used interchangeably with deductible. After further short discussion of self-retention, Sen. Reilly asked how many companies write for agents in Kansas, and Mr. Todd answered, three. Mr. Todd added that most agencies probably have errors and omissions insurance, but there is no requirement that they have it.

Sen. Burke asked if other states have other requirements than Kansas does. Mr. Todd did not have specific information but said that they have dishonesty bonds and faith performance laws. Sen. Karr asked what safeguards other states have and how far Kansas is "out of sync" with them. Mr. Todd said Kansas is the only state that has continuous requirements and a problem with retention. He had no information on what is in existence in other states but said there is a lot of difference in what the various states define as "brokers."

Sen. Karr noted that the closing sentence in the memo presented by Mr. Todd for both SB 116 and SB 121 states that moderation of Kansas requirements "will reduce the public safeguards currently in place." He asked Mr. Todd if other states have something else currently in place to avoid reducing public safeguards. Mr. Todd had no

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON FINANCIAL INSTITUTIONS AND INSURANCE,
room 529-S, Statehouse, at 9:00 a.m./~~xxx~~ p.m. on February 17, 1987

information on this but said he would attempt to find some.

Sen. Warren asked for a definition of "excess lines." Mr. Todd said that it allows someone to do business with a nonadmitted company in Kansas if he cannot obtain it from a company admitted to do business in Kansas.

Sen. Reilly said that the major group of people in Kansas in the insurance business do not have this requirement although his agency does. The chairman said Sen. Reilly's comments raises the question as to why the statutes should not be repealed. If there is no requirement to have it, why should the legislature tell them what to have? Sen. Werts asked Mr. Todd if he would recommend that the committee repeal these two statutes. Mr. Todd would not recommend this because he feels that the requirement that they maintain something is protection for the public.

Sen. Karr and the chairman restated their request that Mr. Todd provide information for the committee as to if there is something in other states on brokers that would provide protection and what that protection is and what requirements other states have in their statutes.

Sen. Gannon drew the discussion back to the agents and asked who is responsible for an agent's fault, giving an example. Mr. Todd said the only possible recourse in the example cited by Sen. Gannon would be against the company the agent represented. Sen. Gannon noted that if the premiums for this are high, there must be high claims; and if SB 116 is enacted, it puts the public in jeopardy. Mr. Todd said that this proposal is an attempt at a judgement call only.

There being no further time, the meeting was adjourned.

SENATE COMMITTEE

ON

FINANCIAL INSTITUTIONS AND INSURANCE

OBSERVERS
(Please print)

DATE	NAME	ADDRESS	REPRESENTING
2/17	LINDA MCGILL	TOPEKA	KIBA
	RON TODD	"	Ins. Dept.
	WALTER DARLING	TOPEKA	DIVISION OF BUDGET
	Jan Graham	Wichita	K. A. L. U.
	JENN E. BALL	WICHITA	K. A. L. U.
	ROBERT MAITZ	"	"

Explanatory Memorandum For SB 116
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.

Explanatory Memorandum For SB 121
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.

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