

Approved _____ ~~FEBRUARY 17, 1988~~
Date

MINUTES OF THE _____ HOUSE COMMITTEE ON _____ INSURANCE

The meeting was called to order by _____ REPRESENTATIVE DALE SPRAGUE _____ at
Chairperson

_____ 3:30 ~~XX~~ a.m./p.m. on _____ FEBRUARY 10 _____, 19⁸⁸ in room _____ 531-N _____ of the Capitol.

All members were present except:
Representative Littlejohn, excused
Representative Cribbs, excused

Committee staff present:
Chris Courtwright, Research Department
Bill Edds, Revisor of Statutes Office
Nancy Wolff, Secretary

Conferees appearing before the committee:
Dick Brock, Department of Insurance
Larry Magill, Independent Insurance Agents of Ks.
Lee Wright, Farmers Insurance Group
Jim Oliver, Professional Insurance Agents
Bud Cornish, Assn. of Property & Casualty Ins. Cos.
Dick Scott, State Farm Insurance Company

The meeting was called to order by the Chairman.

Representative Bill Bryant made a motion that the minutes of 2/3/88 be approved as corrected. Representative Brown seconded the motion. The motion carried.

Hearings were held on Senate Bill 22, which would require notice before premiums for property and casualty insurance could be increased.

Dick Brock, Kansas Insurance Department, appeared as a proponent of the bill. (Exhibit I) He also presented a balloon amendment to Senate Bill No. 22 which the Department feels will make the legislation more workable. (Exhibit II)

Larry Magill, Jr., Executive Vice President of the Independent Insurance Agents of Kansas, testified in opposition to Senate Bill 22. (Exhibit III)

Lee Wright, Farmers Insurance Group of Companies, appeared to present testimony to oppose Senate Bill 22. (Exhibit IV)

Jim Oliver, Professional Insurance Agents of Kansas, also presented testimony in opposition to the bill. (Exhibit V)

Also opposing Senate Bill 22 was Bud Cornish, representing Assn. of Property & Casualty Ins. Cos. He stated that he feels there is no necessity for the bill.

Dick Scott, State Farm Insurance Company, stated that he felt the other conferees had covered the situation and that it was his opinion that the bill creates far more problems than it would solve.

No other conferees expressed a desire to appear on Senate Bill No. 22 and the hearings were closed.

Representative Mary Jane Johnson, appeared to explain House Bills No. 2862 and 2864. These two bills are in response to a need to control vehicles operating without insurance on Kansas highways. House Bill No. 2864 would allow officers, when no proof of insurance is available on a stopped vehicle, to remove the license tag and take it to the clerk of the court for five days. If proof of insurance is made available to the clerk within five days, the tag would be returned. If such proof is not available, the tag will be sent to the Department of Revenue and further action would be taken.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON INSURANCE,
room 531N, Statehouse, at 3:30 ~~xxx~~/p.m. on February 10, 1988

House Bill No. 2862 would require actual proof of insurance when re-registering vehicles or registering new cars. The law currently states that a person may simply write down who the insurer of a vehicle and the policy number.

Both bills, No. 2862 and 2864, deal with the same subject matter as House Bill No. 2633. Following discussion, Representative Turnquist moved that a subcommittee be formed to research legislation on uninsured motorists and report back to the full committee as to their findings. Representative Gross seconded the motion. The motion carried by consensus of the committee.

The chairman appointed Representative Bryant to chair the subcommittee and Representatives Sawyer and Neufeld will serve on the subcommittee.

Representative Hoy requested the committee to introduce a bill with regard to title insurance as a committee bill. (Exhibit VI) Representative Neufeld made the motion to introduce the bill and Representative Turnquist seconded the motion. The motion carried.

The meeting was adjourned at 5:05 p.m.

VISITORS TO HOUSE INSURANCE COMMITTEE

DATE: 2-10-88

NAME

REPRESENTING

Sara Sanders

KTCA

William L. Mitchell

Alliance Ins. Co's '11

Jim Oliver

Prof Ins Agts of IA

Lee Wright

Farmers Ins Group

LM CORNHISHT

Assoc of P/C Companies

LARRY MAGILL

IAA

Lai Callahan

am. ins. assoc.

Dick Scott

State Farm Ins. Co.

Insurance Department Testimony on
Senate Bill No. 22

Senate Bill No. 22 is one I always refer to as the "common decency" bill.

I refer to it in this manner because the problem it attempts to solve is very simple.

Specifically -- on renewal policies -- that is a policy an insured has previously purchased and paid a premium for which needs to be continued or renewed for an additional policy period by the payment of a premium for the next contract period.

What is happening -- has happened for years and will continue to happen until the legislature acts is that insurance companies for whatever reason too often do not calculate the premium they want to charge for the new contract period prior to or even concurrent with the time the old policy expires and the renewal coverage must take effect. As a result, the agent or company will renew the policy either at the old rate or at some estimate of the new rate. So the insured is provided insurance protection but he or she has no idea what that protection is going to cost and often times do not even realize that the actual renewal premium has not been calculated. As a result, we have had complaints -- from agents as well as insureds -- where the renewal policy has been in effect for several months (as I recall one complaint involved a policy that had been in effect for 8 months) and suddenly -- out of the blue -- the insured is billed for additional premium -- sometimes for thousands of dollars.

While Senate Bill No. 22 in its present form goes a little farther -- the first solution we need is something to prevent insurance companies from running up a bill on an insured that the insured knows nothing about. Most -- even companies I think -- will agree this is a terrible way to treat people and its probably not even legal because they have already entered into a contract and accepted consideration but that same contract also probably provides that it can be cancelled so the insured is over a barrel because the kinds of policies involved usually can't be replaced quickly -- they might not even find a better rate -- and in all probability even if they did change companies the original company is probably going to hound them for the additional premium for the time the coverage was in force under the renewal policy anyway.

Now -- you have to understand -- the only ones who probably care about this problem are legislators whose constituents are being mistreated and the Commissioner because he also is responsible to the public.

As a result, we, of course, support Senate Bill No. 22 but to simplify matters, I want to suggest some amendments. These amendments will change the bill so that, with the exception of the effective date, it will be exactly the same as Senate Bill No. 528 which passed both houses of the legislature in 1986 but because of an unrelated amendment on the floor of the House, Senate Bill No. 528 died in Conference Committee.

SENATE BILL No. 22

By Special Committee on Tort Reform and Liability Insurance

Re Proposal No. 29

12-15

0018 AN ACT concerning insurance; relating to notice prior to in-
0019 creasing premiums for certain policies.

0020 *Be it enacted by the Legislature of the State of Kansas:*

0021 Section 1. The premium rates for any contract of property

0022 ~~and~~ casualty insurance continued or renewed following the

0023 effective date of this act shall be no greater than those charged

0024 for the immediately preceding policy period unless and until 30

0025 ~~days have elapsed from the date the insured agent was~~ notified

0026 of any applicable increase. ~~It shall be the duty of the agent to~~

0027 ~~notify the insured within five days of the date such agent~~

0028 ~~received the notice from the insurance company.~~

0029 Sec. 2. This act shall take effect and be in force from and

0030 after its publication in the statute book.

or

insured is

Notice to the agent shall be considered notice to the insured.

January 1, 1989, and

Testimony on SB 22
Before the House Insurance Committee
February 10, 1988
By: Larry W. Magill, Jr., Executive Vice President
Independent Insurance Agents of Kansas

Thank you, Mr. Chairman, and members of the committee for the opportunity to provide testimony on SB 22. Even though this is only a two paragraph proposal, our Government Affairs Committee has debated this issue on two separate occasions in 1986 and at every meeting since then. At last year's Day at the Capitol when the association was taking a neutral stand on the bill, we were confronted with a membership revolt and changed our position to opposition. Before I explain our problem with our own amendment, I would like to give the committee some brief background on the problems SB 22 attempts to address and how the solution in SB 22 may be deceptively simple and actually counterproductive.

The late delivery of renewals is a continual problem regardless of the cycle, but nobody complained when rates were going down during the "soft" market.

The renewal process is complex, involving a number of steps and at least three distinct parties. Any of the three parties or all of them can delay the renewal process; the insured, the agent, or the company.

Before a company begins a renewal, a renewal application must be completed by the insured. If the insured is out of town or unavailable or does not have the needed information, that can cause a delay.

Frankly, with the insurance industry cycles, agents are finding it necessary to spend much more time renewing all of their accounts. This causes backlogs in agents' offices that can delay renewals.

Insurance companies, in many cases, are reducing staff to improve their bottom line results and are at the same time being swamped with

submissions of new business because of the current market.

All of these factors play a part in late renewal quotes. In addition, an agent often spends time negotiating with several carriers on a renewal after the first quote to try to improve pricing and coverage before delivering the renewal. Most agents who have a difficult renewal coming up, for example a tough products liability risk, a public entity, directors and officers coverage or an account with loss problems, begin early with an indication from the present carrier. Based on that indication, the agent may approach, and generally does, other markets.

Anywhere along the line, the renewal process can be delayed by any of the parties for a number of reasons.

And, unlike the case with SB 512 on nonrenewal and mid-term cancellation, we are not aware that this type of legislation in SB 22 is being considered in a majority of states or by the NAIC. Perhaps because of the complexity of the commercial insurance market and the potential disruption such a law could cause.

We would also point out that this applies to all types of property and liability insurance including personal homeowners and auto policies. Since most personal insurance is computer rated and issued and has not seen the dramatic increases in cost, we question why these policies are included at all.

Secondly, almost every commercial renewal policy will have some rate increase. Workers' compensation rates go up virtually every year as the cost of medical care and wages increase. In auto insurance, the base rates increase virtually every year. In commercial package policies covering a number of types of insurance, it is almost certain

that some base rate will have increased over the prior year. Plus it would require a special computer just to keep track of whether and when, in relation to the policy anniversary date, rates had changed. In other words, this act applies to virtually every single renewal or it will be assumed to.

We should point out that just because base rates increase doesn't mean the insured's premium increases. Base rates can increase yet the premium go down if enough credits are applied at renewal.

In addition, we question whether the law can control excess and surplus lines carriers which are only minimally regulated now if they are non-admitted. Should the law apply to reinsurance renewals or residual market risks?

Independent agents are caught in a "cross fire" by this legislation. The most important principle an independent agent operates under is that the insured is the client of the agent. We strenuously resist insurance company attempts to undermine this relationship. Yet this would legislate that companies had to send renewal premium information directly to the insured. In some ways companies would like to go direct to the insured and try to build a relationship to try to prevent agents from changing insurance companies to one with more favorable terms, rates or coverage, or both.

Yet when we try to "fix" this problem such as we did last year with the amendment on lines 26-28, we create an administrative nightmare for the agent and possible liability to the company if the agent fails to forward the renewal premium notice within the five days. In a small agency with one agent and one or two back-up clerical people, if the agent is on vacation, ill or gone on business, the notice may not be

forwarded.

No matter how we look at it, we haven't found any way to preserve the agent's relationship with their clients without also imposing sizeable potential liabilities and additional administrative burdens on the agents.

As I said, on many commercial renewals, if the agent foresees a renewal problem, the agent will submit the risk to several other insurance companies. Of course, this increases the workload for the agents and particularly for the companies when the same account is sent to 2-4 companies or more. But this is one of the services of an independent agent and sometimes the only way to be sure you have the best possible renewal quote.

Under these circumstances, the agent doesn't want the renewing company going direct to the insured with a renewal quote until all the quotes are received. Then, in most cases, the agent would go back to the current insurance company and give them a chance to meet the best offer. There are a number of good reasons to try to stay with the same insurance company over a long period of time such as good claims or loss control services or the willingness by the insurer to weather an occasional bad loss year.

Thus the first renewal offer may not be the final one and agents do not want to unnecessarily upset their insureds until they have done all they can for them and can present all the results.

The commercial renewal process is complex. It may involve a number of contacts between the agent and the insured, agent and the company or companies and sometimes company with the insured or outside sources of information.

For example, the agent may not obtain a list of drivers with birthdates and drivers license numbers the first time around. The company underwriter requests it. The agent contacts the insured and the insured has to gather it. The agent conveys the information from the insured to the company. The company orders MVR's on everyone. Some of the birthdates or drivers license numbers are wrong so the company goes back to the agent. Perhaps the company finds driving records it doesn't find acceptable and doesn't want to quote. The agent appeals and negotiates with the underwriter or his boss. You can get the picture and this is just on auto insurance.

If the company has to have the engineering department inspect the risk before it quotes the renewal, it can dramatically increase the amount of time required.

We don't want to belabor the point, but these are just a few examples. After two years of discussions among our members we must oppose SB 22 in its present form or with any amendments.

We simply feel that you cannot legislate a time frame on this complex a problem no matter how much we all would like.

Testimony of Farmers Insurance Group
RE: Senate Bill 22
House Insurance Committee
by Lee Wright

Mr. Chairman, members of the Committee, my name is Lee Wright and I am representing Farmers Insurance Group of Companies. We appreciate this opportunity to speak to you in opposition of SB 22.

My Company has two main concerns with the bill. The first is found in the Senate amendment on lines 26 & 27, which places the responsibility for notifying the insured of any premium change with the agent, not the Company.

In Farmers Group's present system, the Company sends the premium notices directly to the insured. And, since our agents are direct writers, writing exclusively for us, they would receive no benefit from this proposed change, only additional work. As such, we would like to maintain the right to bill our insureds directly from the Company.

Our second concern relates to the amount of time necessary for the advance notice. Although our current system places our commercial lines business in compliance with the bill's 30 day advance notice requirement, we would need that time reduced in our personal lines. We are presently sending out personal lines notices between 28 & 32 days in advance.

We would ask the Committee to consider either reducing the advance notice time required, or limiting the bill's application to commercial lines only, especially since that is where the problem was originally perceived to be.

Thank you.



February 10, 1988

**PROFESSIONAL
INSURANCE
AGENTS**

DOROTHY M. TAYLOR
EXECUTIVE DIRECTOR

627 TOPEKA AVE.
TOPEKA, KS 66603-3296
913/233-4286

My name is Jim Oliver, Legislative Representative of the Professional Insurance Agents of Kansas.

Senate Bill No. 22 provides that premium rates for property and Casualty policy renewals shall be no greater than those charged for the preceding policy unless the insurance company notifies their agent 30 days prior to the expiration of the policy and then gives the agent five days to notify the insured.

Our membership feels that the agent's responsibility for notifying the insured would create an adversary position between the agent and his insured which is not truly of the agents making.

It also creates a potential errors and omissions liability situation for the agent should he be unable to contact the insured because the insured is unavailable during the five days the agent is allowed to contact the insured because of vacations, sickness, or other reasons. At the present time, we see no great need for this legislation but oppose the legislation for the reasons enumerated above.

EXHIBIT V

HOUSE BILL NO. 2955By Committee on Insurance
(By Request)

AN ACT relating to insurance; concerning regulation of title insurance rates; amending K.S.A. 40-1111 and repealing the existing section.

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

Section 1. K.S.A. 40-1111 is hereby amended to read as follows: 40-1111. (a) The purpose of this act is to promote the public welfare by regulating insurance rates to the end that they shall not be excessive, inadequate and unfairly discriminatory and to authorize and regulate ~~cooperate-action~~ cooperation among insurers in rate making and other matters under the scope of this act. Nothing in this act is intended: (1) To prohibit or discourage reasonable competition, or (2) to encourage or prohibit, except to the extent necessary to accomplish the aforementioned purpose, uniformity in insurance rates, rating systems, rating plans or practices. This act shall be liberally interpreted to carry into effect the provisions of this section.

(b) This act applies to casualty insurance, including fidelity, surety and guarantee bonds, on risks or operation in the state except reinsurance, other than joint reinsurance to the extent stated in K.S.A. 40-935 and amendments thereto, accident and health insurance, insurance against loss of or damage to, or against liability, other than workmen's compensation and employers' liability, arising out of the ownership, maintenance or use of, any aircraft.

(c) As used herein, the term "casualty insurance" shall be construed to apply to and include the classes of insurance authorized to be transacted in this state pursuant to paragraphs (b), (c), (d), (e), (i), (j), (k), (l) and (m), of K.S.A. 40-1102 of---article---11,---chapter---40,---Kansas---Statutes---Annotated and

amendments thereto; paragraphs (b), (d), (e), (f), (g) and (h) of K.S.A. 40-1203 of article 12, chapter 40 of the Kansas Statutes Annotated and amendments thereto; and K.S.A. 40-1301 of article 13, chapter 40, of the Kansas Statutes Annotated and amendments thereto, and this act shall also apply to credit insurance written by a mutual insurance company or by a reciprocal or interinsurance exchange. This act shall also apply to reciprocal or interinsurance exchanges organized or operating under article 16 of chapter 40, of the Kansas Statutes Annotated, with respect to the classes of insurance enumerated in the preceding sentence of this section. If any kind of insurance, subdivision or combination thereof, or type of coverage, subject to this act, is also subject to regulation by another regulatory act of this state, an insurer to which both acts are otherwise applicable shall file with the commissioner a designation as to which rate regulatory act shall be applicable to it with respect to such kind of insurance, subdivision or combination thereof, or type of coverage.

(d) For the purpose of regulating the rates for title insurance as specified in subsection (e) of K.S.A. 40-1102 and amendments thereto, all charges made in connection with the issuance, sale and servicing of title insurance policies shall be construed as premium and subject to regulation pursuant to this act.

Sec. 2. K.S.A. 40-1111 is hereby repealed.

Sec. 3. This act shall take effect and be in force from and after its publication in the statute book.