

Approved March 14, 1989  
Date

MINUTES OF THE House COMMITTEE ON Insurance

The meeting was called to order by Dale Sprague at  
Chairperson

3:30 xx a.m./p.m. on March 2, 89 in room 531-n of the Capitol.

All members were present except: Representative Delbert Gross, absent

Committee staff present: Chris Courtwright, Research Department  
Emalene Correll, Research Department  
Bill Edds, Revisor of Statutes  
Patti Kruggel, Committee Secretary

Conferees appearing before the committee:

Others present: see attached list

The Chairman called the meeting to order 3:45 p.m. and began hearings on HB 2309.

HB 2309 -- An Act relating to certain insurance coverage of individuals participating in the foster grandparent and senior companion programs.

Chris Courtwright, Legislative Research Department, gave a brief overview of HB 2309. The bill states that individuals participating in the foster grandparent and senior companion programs sponsored by the state department of social and rehabilitation services shall not be considered to be employees of the state for the limited purpose of procurement.

Representative Dorothy Flottman provided testimony (Attachment 1) supporting HB 2309, and explained that she was asked by members of the Foster Grandparent Program at Winfield State Hospital and Training Center to introduce a bill which would resolve problems they have had with insurance coverage.

Representative Flottman introduced Mr. James Byrnes, State Program Director, ACTION. Mr. Byrnes explained that ACTION is a Federal Volunteer Agency which has awarded Foster Grandparent and Senior Companion program grants to the State of Kansas since 1966. Mr. Byrnes provided testimony supporting HB 2309 and explained that the purpose of this legislation is to bring the administration of these valuable programs into compliance with grant regulations. (Attachment 2.)

Dick Brock, Insurance Department, testified briefly suggesting that the bill include an exemption qualifying that no state funds be involved.

There were no other conferees wishing to testify on HB 2309 and hearings were closed.

The Chairman asked the Committee's pleasure on HB 2309.

There was a motion by Representative Hoy to included the two conceptual amendments into HB 2309 . Representative Allen seconded. The motion carried.

CONTINUATION SHEET

MINUTES OF THE House COMMITTEE ON Insurance  
room 531-N, Statehouse, at 3:30 ~~xx~~ a.m./p.m. on March 2, 89

Representative Sawyer made a motion that HB 2309 be referred favorably for passage. Representative Turnbaugh seconded. The motion carried.

The Chairman asked if the Committee wished to take action on any other bill at this time.

Representative Littlejohn moved HB 2181 be referred favorably for passage. Representative Campbell seconded. The motion carried.

The Chairman announced that the Committee would begin hearings on HB 2502 and HB 2497 relating to title insurance.

HB 2502 -- Prohibiting transactions thereof under certain circumstances; amending K.S.A. 1988 Supp. 40-2404 and repealing the existing section.

HB 2497 -- Concerning rate filings therefor and other services in connection with certain real estate transactions; providing for violations; amending K.S.A. 40-1111 as amended by section 19 of chapter 156 of the laws of 1988 and repealing the existing sections.

Chris Courtwright, Legislative Research Department, briefly explained that HB 2502 and HB 2497 are both an outgrowth of the 1988 bill on title insurance. HB 2502 would enact basic controlled business prohibitions and disclosure requirements in the Kansas Unfair Trade Practices Act, and HB 2497 would amend the 1988 legislation to remove the prior approval rate regulation requirements that would be applicable to title insurance July 1, 1989 and require only that rates for services provided by title companies, agents and agencies be filed.

Dick Brock, Insurance Department, testified in support to HB 2502 and HB 2497. Mr. Brock explained that the Insurance Department created a title insurance study group for the purpose of the development of recommendations that might be a more acceptable and effective alternative than prior approval regulation of title insurance rates. Mr. Brock provided testimony to the Committee which outlines the recommendations developed by the study group calling for administrative actions by the Insurance Department, as well as, the consideration of these two legislative proposals.  
(Attachments 3 and 4.)

Bill Mitchell, Kansas Land Title Association, testified in support of HB 2502 and HB 2497 endorsing the position that controlled business practices are harmful and highly detrimental to consumers due to increased costs; they are anti-competitive; they encourage poor title insurance underwriting practices; and encourage further unfair trade practices by those who attempt to compete in the marketplace.

George Burkett, President, Kansas Land Title Association, provided testimony (Attachment 5) supporting HB 2502 and 2497 together with the proposed Administrative Regulations, in order to resolve current unfair trade practices and consumer abuse.

Next appearing before the Committee on HB 2497 and HB 2502 was Karen McClain France, Kansas Association of Realtors. Ms. France provided testimony (Attachment 6) explaining that the Association supports HB 2497 and paragraph (e) of HB 2502 however, they ask that the Committee strike paragraph (f) on the same page because it is an unnecessary restraint of trade.

CONTINUATION SHEET

MINUTES OF THE House COMMITTEE ON Insurance  
room 531-N Statehouse, at 3:30 ~~XX~~ a.m./p.m. on March 2, ~~19~~ 89

Dave Hanson, Wichita Title Associates, testified in support of HB 2502 with the exception of paragraph (f). Mr. Hanson provided copies of Kansas Title Insurers 1987 Insurance Premiums and Losses (Attachment 7.)

Sam Liberto, Stewart Title Guaranty Company, presented testimony (Attachment 8) in opposition to paragraph (f) of HB 2602. Mr. Liberto asked that the Committee grandfather any existing licensed title insurance agencies and that the requirements apply on only to title insurance agents licensed and doing business after the enactment date of this legislation.

Next appearing was James Miner, Chairman of the Board, Wichita Title Associates. Mr. Miner provided testimony in opposition to HB 2502. He stated that in his opinion, restricting competition is not a way of insuring better prices or service to the general public. (Attachment 9.)

Other conferees providing testimony in opposition to HB 2502 for reasons discussed here today were: Pat O'Rourke, O'Rourke Title Company, Wichita (Attachment 10); Barry West, J.P. Weigand and Sons, Inc. Realtors, Wichita (Attachment 11); M.W. Perry, Myerdick Title Company, Kansas City (Attachment 12); John McKenzie, Plaza Del Sol Real Estate, Wichita (Attachment 13); Gregory Ek, Columbia Savings, Wichita (Attachment 14); and Doris Beard, Coldwell Banker Realtors, Wichita (Attachment 15).

There were no others wishing to testify on HB 2497 or HB 2502 and hearings were concluded.

The Chairman asked the Committees pleasure on these two bills.

Representative Cribbs made a motion to strike subsection (f) of HB 2502 and recommend it be passed as amended. Representative Sawyer seconded. The motion carried.

A motion was made by Representative Sawyer to recommend HB 2497 favorable for passage. Representative Brown seconded. The motion carried.

The meeting was adjourned at 5:30 p.m.



DOROTHY H. FLOTTMAN  
 REPRESENTATIVE, SEVENTY-EIGHTH DISTRICT  
 815 EAST 9TH STREET  
 WINFIELD, KANSAS 67156-2941



TOPEKA

HOUSE OF  
 REPRESENTATIVES

March 2, 1989

Testimony on H.B. No. 2309  
 before the  
 House Insurance Committee

COMMITTEE ASSIGNMENTS  
 VICE-CHAIRMAN: LABOR AND INDUSTRY  
 MEMBER: EDUCATION  
 PENSIONS, INVESTMENTS AND BENEFITS  
 PUBLIC HEALTH AND WELFARE  
 ADVISORY COMMISSION ON  
 JUVENILE OFFENDER PROGRAMS

Thank you Mr. Chairman and members of the House Insurance Committee for the opportunity to appear before you this afternoon on behalf of House Bill No. 2309.

I was asked by members of the Foster Grandparent Program at Winfield State Hospital & Training Center to introduce a bill which would resolve a problem they have with insurance coverage. House Bill No. 2309 is the result of that request.

Two programs are mentioned in this bill--the Foster Grandparent Program and the Senior Companion Program, both sponsored by the Kansas Department of Social and Rehabilitation Services. Persons participating in these programs are providing a most valuable service. They work on a one-to-one basis five days a week, and do a considerable amount of traveling. The state institutions involved in this bill are Fort Hays State University, the Kansas Neurological Institute and the Winfield State Hospital and Training Center.

At K.N.I. and the W.S.H. & T.C. the foster grandparents work with the mentally and physically handicapped. Their duties include assisting their "children" in walking, showing them how to tie a shoe, and helping them with other skills within their capacity to perform. I call it "mothering" services. Oftentimes their most valuable service is providing LOVE--perhaps by simply holding and rocking their "child."

In addition, the Senior Companions working through Fort Hays State University are providing similar services. Their contacts are with people throughout a six county area.

Thank you Mr. Chairman and committee members for your attention. I would now like to introduce Mr. James Byrnes, State Program Director, ACTION, who will provide you with the facts regarding the insurance problem which the foster grandparents and the senior companions are experiencing.

Mr. Byrnes.

## Testimony in Support of HB-2309

ACTION, the Federal Volunteer Agency has awarded Foster Grandparent and Senior Companion program grants to the State of Kansas, by means of its institutional settings, since 1966. At present there are 108 FGPs and 90 SCP volunteers participating under the sponsorship of three State Institutions, the Kansas Neurological Institute, Winfield State Hospital and Training Center and Fort Hays State University. As the sponsor, the State of Kansas has agreed to manage these programs within the federal guidelines provided by P.L. 93-113, Domestic Volunteer Service Act of 1973, as amended (Public Law 93-113, 87 Stat. 394.42 U.S.C. 4951), ACTION Handbook 2650.2 and in Title 45, Chapter XII, Part 1208 of the Code of Federal Regulations.

The dual purpose of these programs is to provide opportunities for low-income persons aged 60 or over to give supportive person-to-person service to children and adults having exceptional or special needs.

A variety of personal and tangible benefits accrue to the volunteer participants of these programs. The major share of benefits, however, are tangible and direct: stipend, transportation, meals, insurance, an annual physical examination, recognition and uniforms.

The direct benefit of insurance for accident, personal liability, and when appropriate, excess automobile liability is grant funded available and required by federal guidelines. However, the appropriate insurance coverage is not provided at the present time, due to State statutory prohibitions, which technically places the State out of

compliance with federal guidelines. Paraphrasing the State Statute; because the state is a self insured entity no outside insurance can be purchased for its employees, therefore, the accident, personal liability and excess automobile liability insurance available through the ACTION Grants is not utilized. Two problems have resulted; first, coverage of these part-time employees through the State's workmans compensation laws is inadequate and technically illegal, and secondly what coverage is provided does not meet the specifics set down in the ACTION guidelines for volunteer insurance coverage.

By enacting HB-2309 the States' sponsorship of the FGP/SCPs would be brought into compliance with ACTION regulations, by allowing available federal dollars in the grant to be used to purchase the appropriate insurance coverage through CIMA. Such action would bring the programs in compliance with the guidelines without jeopardizing the volunteers direct benefits or requiring additional costs by the State. The present health and workmans compensation coverage provided by the State for the volunteers would not be adversely affected. This additional insurance would simply add to what is presently being provided and most importantly, bring the administration of these valuable programs into compliance with grant regulations.

(2) Reimbursement

When project funds are used to reimburse volunteers for meal costs, reimbursement will be based on actual costs and limits prescribed by the project. Volunteers cannot be given an advance cash meals allowance. RSVP volunteers and volunteer station staff are required to sign a voucher providing details of reimbursements. Vouchers are subject to audit by ACTION.

- (3) Meals are not allowable as a local contribution to the project budget if contributed by RSVP volunteers.

**Start** c. Insurance

RSVP volunteers shall be provided with the ACTION-specified minimum levels of accident, personal liability, and, when appropriate, excess automobile liability insurance. The insurance coverages shall be in excess of and non-contributing with any other valid and collectible insurance the volunteers have. In other words, the accident and excess automobile liability coverages are intended to provide higher levels of insurance for volunteers, starting where other insurance coverage for them stops. They are excess, not primary, insurance. This is true, too for personal liability, but volunteers are often not covered by personal liability insurance, in which case the ACTION-specified personal liability insurance becomes primary insurance with no deductible. Refer to paragraph 45c on page 62 for counting volunteers for insurance purposes.

(1) Accident Insurance

- (a) Accident insurance shall cover RSVP volunteers for personal injury during travel between their homes and places of assignment, during their volunteer service, during meal periods while serving as a volunteer, and while attending project-sponsored activities, such as recognition activities, orientation and Advisory Council meetings. Protection shall be provided against claims in excess of any benefits or services for medical care or treatment available to the volunteer from other sources, including:

- 1 Health insurance coverage;
- 2 Other hospital or medical service plans;



3 Any coverage under labor-management trustee plans, union welfare plans, employer organization plans, or employee benefit organization plans; and

4 Coverage under any governmental programs, or provided by any statute.

(b) When benefits are approved in the form of services rather than by cash payments, the reasonable cash value of each service rendered shall be considered in determining the applicability of this provision. The benefits payable shall include the benefits that would have been payable had a claim been duly made therefor. The benefits payable shall be reduced to the extent necessary so that the sum of such reduced benefits and all the benefits provided for by any other plan shall not exceed the total expenses incurred by the volunteer.

(c) The sponsor shall provide RSVP volunteers with the following accident insurance coverage:

1 Minimum coverage of \$20,000 for accidental medical expenses.

2 For eyeglasses, a benefit of \$25.00 for repair or replacement of damaged frames and \$25.00 for replacement of broken eyeglass lenses or contact lenses.

3 A benefit of \$500.00 for injury to teeth and repair of dentures.

4 \$1,000 for accidental death or dismemberment.

## (2) Personal Liability Insurance

Protection shall be provided against claims in excess of protection provided by other insurance. The sponsor shall provide third-party protection for volunteers against injury or property damage claims arising out of their volunteer service activities. The amount of protection shall be \$1,000,000 for each occurrence of personal injury or property damage and shall be in excess of any other valid and collectible insurance.

NOTE: Personal liability insurance does not include, nor is it a substitute for, malpractice insurance which some volunteer stations need for their professional staff and for some volunteers who assist or substitute for professionals.

(3) Excess Automobile Liability Insurance

(a) To avoid a gap in coverage between that provided by the RSVP volunteer's personal vehicle insurance and liability claims in excess of that coverage, the sponsor must provide Excess Automobile Liability Insurance coverage of not less than \$500,000 each accident for bodily injury and/or property damage.

(b) Protection will be provided by the sponsor against claims in excess of the greater of either:

1 Liability insurance volunteers carry on their own automobiles, or

2 The limits of the applicable state financial responsibility law, or

3 In the absence of a state financial responsibility law, \$10,000 each person and \$20,000 each accident for bodily injury and \$5,000 each accident for property damage.

NOTE: Excess automobile liability insurance is required only for RSVP volunteers who drive their own cars to and from their place of assignment.

(4) Liability Insurance on Personal Vehicles of Volunteers

(a) This insurance is a personal expense of the volunteer. RSVP volunteers who use their personal vehicles to drive from home to their place of assignment or in connection with project-related activities must keep their automobile liability insurance in effect for their own protection.

(b) The volunteer's personal vehicle liability insurance must equal or exceed:

1 The limits of the state financial responsibility law, or,

- 2 In the absence of a state financial responsibility law, \$10,000 each person and \$20,000 each accident for bodily injury and \$5,000 each accident for property damage.

(c) Volunteers who do not maintain such insurance are not covered by excess automobile liability by the project and cannot be reimbursed for travel in their personal vehicles.

**Stop**

d. Uniforms or Smocks

When volunteer stations require RSVP volunteers to wear special uniforms or smocks, the uniforms and laundering will be provided at no cost to the volunteer by the volunteer station. This is not a project cost.

e. Recognition

Appropriate recognition for service will be provided for RSVP volunteers, supporters and benefactors of the project.

- (1) At least annually the RSVP project will plan and arrange for formal public recognition of RSVP volunteers for their service to the community. Projects are also authorized to provide recognition to local individuals and agencies or organizations for significant activities in support of project goals.
- (2) ACTION does not supply volunteer recognition materials. State ACTION Offices may be consulted for names and addresses of suppliers of recognition materials.
- (3) Informal recognition ought to be continuous, such as listening to and acting on recommendations by RSVP volunteers, offering honest praise, and providing assignments that are increasingly satisfying.
- (4) Recognition events may consist of special ceremonies, teas, luncheons and recreational outings at which pins and certificates for stipulated terms of service are awarded.
- (5) The RSVP Advisory Council and volunteer stations are expected to participate. Community contributions in support of recognition activities can enhance the quality of the events. Contributions need not be monetary. Donated space, food, decorations and transportation should be encouraged.

In the event of a liability claim, you should immediately contact your project director and CIMA, Phone (202) 244-5678, 4200 Wisconsin Avenue, N.W., Washington, D.C. 20016. If possible, send written notice containing the time, place, and circumstances thereof, with the names and addresses of witnesses and the injured.

# Accident and Liability Insurance for

## ACTION OLDER AMERICANS VOLUNTEER PROGRAMS

FOR VOLUNTEERS IN:

- RSVP** RETIRED SENIOR VOLUNTEER PROGRAM
- FGP** FOSTER GRANDPARENT PROGRAM
- SCP** SENIOR COMPANION PROGRAM

### To Volunteers:

Each Volunteer enrolled in a Retired Senior Volunteer Program, Foster Grandparent Program or Senior Companion Program is eligible for three kinds of insurance. These policies provide coverage for you while participating in community service as a volunteer.

The Administrator of the insurance is (CIMA) Corporate Insurance Management. All questions and claims should be directed to the Administrator. The insurance policies are held by the sponsors of the Older Americans Volunteer Programs. This is not a substitute for any insurance you may now carry and only applies while you are performing your assignment as a volunteer in the program.

It is highly appropriate that the satisfaction and appreciation you experience as a volunteer be supported by the comfort of knowing you have some help in the event of an accident.

This leaflet describes the insurance coverage provided you as a volunteer. The coverage becomes effective at the time of your formal enrollment in the volunteer program.

Complete information regarding the insurance coverages is available from your project director at the local program office where the policies are on file.

All three plans described herein are offered to sponsors of the Older Americans Volunteer Programs. However not all sponsors elect to cover their volunteers under all plans. Please check with your project director to see which coverages your sponsor is providing for you.

## SUMMARY OF COVERAGES

### I. Accident Insurance

(Provided by Life Insurance Company of North America)

This covers you, the volunteer, for a personal injury arising from your volunteer activities. The insurance applies while you are traveling directly to and from, and participating in an activity sponsored by RSVP, FGP, or SCP. (You will be covered during any meal period while you are serving as a volunteer.)

### Medical Indemnity—Pays you up to \$20,000

If within 60 days after a covered accident your injuries require medical or surgical treatment, such expenses incurred within one year after the accident are covered up to \$20,000. The \$20,000 maximum includes a benefit of \$500 for treatment of injury to natural teeth, including replacement but excluding X-rays. Also included is a benefit up to \$250.00 for repair of dentures damaged in the accident.

This coverage also includes a benefit up to \$25.00 for repair or replacement of eyeglass frames and up to \$25.00 for repair or replacement of eyeglass prescription lenses, damaged as a result of an accident.

**This insurance does not duplicate expenses paid by any Medicare or other valid and collectible insurance coverage.**

### Accidental Death and Dismemberment Coverage

In addition to the accident medical coverage, the insurance company will pay the following benefits for death or loss of limb or sight, occurring within one year after the accident.

- loss of life (paid to beneficiary) . . . . . \$1,000
- loss of both hands, feet or eyes, or any combination thereof (paid to volunteer) \$1,000

Designed & Administered by:

**CORPORATE INSURANCE MANAGEMENT**

4200 Wisconsin Ave., N.W.  
Washington, D.C. 20016  
Phone (202) 244-5678

Accident Insurance Plan

Underwritten by:

**LIFE INSURANCE COMPANY OF NORTH AMERICA**



World Headquarters  
Philadelphia, Pennsylvania

Personal Liability and Excess Automobile Insurance Underwritten by:



**INSURANCE COMPANY OF NORTH AMERICA**

World Headquarters  
Philadelphia, Pennsylvania

|   |        |
|---|--------|
| loss of either hand, foot or either eye (paid to volunteer) .....       | \$ 500 |
| loss of thumb and index finger of either hand (paid to volunteer) ..... | \$ 250 |

**Principal Exclusions to Accident Insurance**

- This insurance does not apply to:
- the cost of medical or surgical treatment or nursing service rendered by any person employed or retained by the local organization sponsoring the Older Americans Volunteer Program;
  - any loss caused by:
    - abdominal hernia however caused;
    - act of war;
    - bacterial infections (except an infection caused by a wound);
    - any disease;
    - custodial care (care will be considered custodial when it is primarily for the purpose of meeting personal needs and could be provided by persons without professional skills or training).

**II. Personal Liability Insurance**

(Provided by Insurance Company of North America)

All registered volunteers of an organization collectively are provided a \$1,000,000 per occurrence protection for a personal injury or a property damage liability claim arising out of the performance of the volunteer's duties. This coverage is *in excess of and non-contributing with any other valid and collectible insurance the volunteer may have.*

**Principal Exclusions to Personal Liability Insurance**

- This insurance does not apply to:
- injury or damage arising out of the use of an automobile, aircraft or watercraft;

- injury or damage arising while traveling to or from the place of volunteer service;
- errors or omissions in connection with professional services;
- medical malpractice;
- personal injury resulting from assault and battery committed by or at the direction of the volunteer;
- liability assumed by the volunteer under any contract or agreement;
- property damage to property in the care, custody or control of the volunteer.

**III. Excess Automobile Liability Insurance**

(Provided by Insurance Company of North America)

This coverage protects the volunteers for a bodily injury or property damage automobile liability claim arising out of related volunteer activities, including driving directly between the volunteer's residence and work station. The amount of protection is \$500,000 combined single limit Bodily Injury and Property Damage for each accident. This insurance is *in excess of the greater of:*

- A. \$10,000 per person and \$20,000 per accident for bodily injury and \$5,000 per accident for property damage; or
- B. an amount equal to the applicable limits of liability of any other insurance collectible by the insured; or
- C. an amount equal to the minimum limit of liability required under the Motor Vehicle Financial Responsibility Laws of the state in which the accident occurs.

For example, if the volunteer carries personal automobile liability insurance limits of \$25,000 each person/\$50,000 each accident bodily injury and \$10,000 each accident property damage, the total amount of automobile liability insurance available to the volunteer in the event of a claim would be \$560,000 combined bodily injury and property damage.

**Principal Exclusions to Excess Automobile Liability Insurance**

- This insurance does not apply to:
- liability assumed by the volunteer under any contract or agreement;
  - any obligation for which the volunteer may be held liable under any workers' compensation or disability benefits law or under any similar law;
  - bodily injury to any employee of the volunteer organization arising out of and in the course of his or her employment;
  - property damage to property owned or transported by the volunteer, or in their care, custody or control;
  - bodily injury or property damage resulting from the loading of property before it has been put in or on the volunteer's automobile;
  - any automobile while such automobile is being used as a public livery conveyance;
  - any obligation under any uninsured or underinsured motorist law, "no fault" law, basic reparation benefits law, any law requiring personal injury protection coverage, or any similar law;
  - damage to your (the volunteer's) automobile.

**Legal Defense**

The insurance company under the Personal Liability Insurance coverage, will defend *any covered suit* against the volunteer seeking damages on account of personal injury, bodily injury or property damage which exceeds any other valid or collectible insurance available to the volunteer.

The insurance company, under the Excess Automobile Liability Insurance coverage, has no obligation to defend unless and until it is determined that the volunteer must pay damages in excess of the retained limit.

Should any automobile claim appear likely to exceed the retained limit (see III, A., B., C. inside) no loss expenses or legal expenses shall be incurred on the insurance company's behalf without the company's prior consent.

**THIS PAMPHLET INTENDS SOLELY TO PROVIDE A GENERAL DESCRIPTION AND NEITHER INTENDS TO OR CHANGES THE ACTUAL TERMS OF THE POLICIES. THE INSURANCE COVERAGES APPLY ONLY TO CERTAIN OCCURRENCES AND THERE ARE ADDITIONAL EXCLUSIONS.**

**READ THE POLICIES THEMSELVES TO DETERMINE THE FULL EXTENT AND LIMITATIONS OF THE COVERAGES PROVIDED.**

**HOW TO FILE A CLAIM**

If you have an accident which results in personal injury to yourself you can obtain a claim form from your project director. Follow the instructions carefully. When the form has been completed return it to your project director with your itemized bills. The director will then sign the form and submit it to CIMA, 4200 Wisconsin Avenue, N.W., Washington, D.C. 20016.

**ACTION**  
**ACTION**  
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**ACTION**

## **ACTION IS ...**

- Food for the hungry
- Shelter for the homeless
- Help for the infirm
- Care for the needy
- Companionship for the handicapped
- A helping hand in time of need
- Limited financial assistance for new projects
- Volunteer resources to communities
- Vast technical assistance
- A challenge to youth
- An outlet for seniors
- A chance to serve for all!

## **ACTION VOLUNTEERS ...**

- Help alleviate poverty
- Teach the illiterate
- Combat drug use
- Work to prevent crime
- Deter child abuse
- Assist refugees
- Supplement community social services
- Donate professional expertise
- Offer counsel to the troubled
- Inspire confidence
- Give strength and hope
- Share their time and their skills
- Provide hundreds of different types of volunteer service.

## **Action, the federal domestic volunteer agency**

ACTION's mission is to promote the spirit and practice of voluntarism. This mission is carried out by more than 400,000 local volunteers in communities around the country. The agency also helps countless other neighborhood volunteer activities and community projects by providing grants, technical assistance and a vast knowledge of volunteer resources, activities and programs.

As the primary federal volunteer organization, ACTION provides a wide variety of volunteer opportunities for people of every background and economic circumstance. It also acts as a link between the public and private sectors in forming partnerships for seeking fresh solutions to local problems.

ACTION fosters the traditional belief and willingness of Americans to help their fellow citizens in need. Whether the goal is to help adults learn to read, to help young people stay drug-free, or to provide companionship and services to the home-bound elderly, ACTION programs and volunteers show that our citizens can join together to address the needs of a community and its people.

Under President Reagan's leadership we are seeing a renaissance of voluntarism. He has encouraged the greatest build-up of community self-help and private sector initiatives ever seen in this country. ACTION is part of this effort, as we build upon the rich human spirit of neighbor helping neighbor, which is the cornerstone of our national strength.

Donna M. Alvarado  
Director, ACTION

# ACTION at a Glance

Created in 1971 as the center for federal volunteer programs, resources and initiatives, ACTION has evolved into an agency of diverse programs and departments.

Getting to know ACTION means learning about the dynamism of many thousands of volunteers and a tremendous range of volunteer programs.

|                         | Program Purpose                                     | Volunteer Resources              |
|-------------------------|---|----------------------------------|
| <b>FGP</b>              | link older persons and children with special needs  | 60 years and older               |
| <b>RSVP</b>             | provide volunteer opportunities for retired persons | retired persons 60 and older     |
| <b>SCP</b>              | link older persons and adults with special needs    | 60 years and older               |
| <b>VISTA</b>            | anti-poverty  | persons over 18                  |
| <b>Student Programs</b> | promote student voluntarism                         | high school and college students |
| <b>PDD</b>              | provide community volunteer support                 | community volunteers             |

| Type & Length of Volunteer Services                                   | Resources from ACTION   |
|---|---|
| part-time, several hours per week, stipended/non-stipended volunteers | grant for project development and operation, technical assistance |
| part-time, several hours per week                                     | grant for project development and operation, technical assistance |
| part-time, several hours per week, stipended/non-stipended volunteers | grant for project development and operation, technical assistance |
| full-time, 1-2 years  | food and lodging, travel, medical insurance, stipend              |
| part-time, several hours per week                                     | technical assistance, information and grants                      |
| varies  | grants and technical assistance                                   |



## **Older American Volunteer Programs**

Through ACTION, older Americans show the tremendous contribution they can make to society. Across the country, men and women 60 and over are putting their experience and know-how to work as volunteers. ACTION provides them with special training to help them assist others.

In every case, these older volunteers apply their knowledge, maturity and caring where they are most needed. By providing outlets for the volunteers' energy, creativity and love, the Older American Volunteer Programs offer opportunities for personal development and self-satisfaction that are unparalleled in the working world.

## **Foster Grandparent Program (FGP)**

Since 1965, Foster Grandparents and children with special or exceptional needs have formed a winning combination. Most Foster Grandparents are low-income seniors who receive a modest hourly stipend for their service. However, beginning in 1987, persons who do not meet low-income eligibility requirements may participate in the program as non-stipended volunteers. All Foster Grandparents attend to the physical, mental and emotional needs of disadvantaged children. They are "grandparents" in every sense; each volunteer is a caring, stable presence in a child's world.

Foster Grandparent volunteers work in schools for mentally retarded, disturbed and learning-disabled children; in Head Start programs; in juvenile detention centers; in boarding schools and foster care homes; and in some cases in a child's home. FGP volunteers are also a crucial part of the nationwide fight against illegal drugs. The focus of this effort is to match Foster Grandparents with youth who are at risk from drug abuse.

Foster Grandparents are key members of child care teams at their assigned institutions, providing

children with special attention that a busy staff often hasn't time to give. From tutoring deaf children by using sign language learned through the program, to pushing wheelchair-bound children through intricate square-dance patterns, Foster Grandparents change young lives just by caring.

## **Retired Senior Volunteer Program (RSVP)**

RSVP is ACTION's largest program. RSVP proves that retirement can be an opportunity to put the skills and experience of a lifetime to work for others.

Through non-profit organizations and local public agencies in more than one-fourth of the nation's counties, RSVP matches the interests and abilities of seniors with rewarding part-time opportunities for community service. Funding and technical assistance are provided by ACTION and the local community.

Launched in 1971, the program is a vital force shaping new roles, expectations and images for senior citizens.

RSVP volunteers respond to critical community needs by serving youth, fighting inflation, helping provide long-term care and preventing crime. The volunteers operate runaway-shelters, provide debt-counseling, organize widows' support groups, and offer occupational counseling for first-time offenders.

RSVP offers thousands of opportunities to retired citizens, tailored to their skills and schedules. Executives, housewives, teachers and engineers—all can serve. There are never too many volunteers. The professional experience and special skills of retired Americans are being put to work helping communities to meet the tough challenges of the future.

## **Senior Companion Program (SCP)**

Since 1974, Senior Companions have been helping thousands of their more frail peers gain the confidence and positive mental attitude

support voluntary action in the public and private sectors. The office administers programs that improve the delivery of services affecting the physical and economic well-being of needy people through non-stipend volunteer programs.

PDD also provides links at national, state and local levels among public and private organizations to encourage increased volunteer activity in solving social problems. PDD programs include:

### **Grants Programs**

The Volunteer Demonstration Program provides one-year grants to private, non-profit community organizations to test new and innovative program models that, when successful, can be replicated. These programs could form the basis of ACTION initiatives or may be adopted by the private sector, including voluntary associations, churches, corporations, or by state or local governments. Recent grants were targeted to projects in drug abuse prevention, literacy, runaway youth and neighborhood initiatives.

The State Office of Voluntarism Program stimulates new statewide citizen initiatives, and promotes and coordinates voluntarism through the creation of gubernatorial-level S/OVP offices. ACTION provides developmental funding and resource information exchange among the offices.

The Technical Assistance Program (TAP) grants are awarded to non-profit organizations for improving management or training volunteers. TAP grants are used across the country to produce self-help manuals, workshop curricula, training tapes and how-to-booklets.

ACTION Mini-Grants are non-renewable money grants awarded to strengthen or initiate volunteer projects and to enhance volunteer activities that show potential for providing long-term solutions to community problems.

### **Special Initiatives**

ACTION is a partner with The White House in carrying out the Drug Alliance effort through its

drug prevention program. This program sponsors drug use education and prevention efforts and brings together organizations and individuals to support volunteers fighting drug use among American youth.

On the local, state and national levels, ACTION encourages and helps fund the growth of youth, parents and senior citizens groups and networks committed to helping young people remain drug free. ACTION disseminates accurate, up-to-date information on the health effects of drugs and various prevention methods.

By involving corporate and business leaders and notable public figures in education and awareness efforts, the program helps expose drug misinformation that glamorizes the use of illegal drugs. Such activities spark involvement of youth volunteer programs across the country, which may lead to a major anti-drug movement among youth.

### **National Volunteer Week**

Each spring, the President sets aside a week for the special recognition of volunteers and their achievements. PDD promotes National Volunteer Week among federal agencies, state and local governments and private organizations that use volunteers nationwide. Additionally, through PDD, ACTION participates, in conjunction with VOLUNTEER, a private, non-profit organization, in recommending recipients of the President's Volunteer Action Awards. President Reagan created the awards program in 1981 to call attention to what can be accomplished through voluntary action. Funding for the awards comes from private foundations and corporations.

### **Public-Private Partnerships**

PDD is also the office that develops alternatives to government-sponsored programs by involving the private sector in more partnership arrangements with community services. Programs come from private foundations and corporations.

In encouraging a greater private sector role in voluntarism, ACTION sponsored regional

conferences on voluntarism, attended by representatives from such corporations as Levi Strauss, Coca-Cola and McKesson—organizations that demonstrate a strong interest in volunteer programs in their communities. PDD also provides support to the Federal Interagency Group on Voluntarism in its efforts to encourage voluntary activities among federal employees in the Washington, D.C. metropolitan area. ACTION will continue to seek out public/private partnerships as a viable and realistic response to human need.

## **ACTION Regional Offices**

### **Region I**

10 Causeway Street, Room 473  
Boston, MA 02222-1039

**Phone: (617) 565-7000**

Region I includes:

Connecticut, Maine, Massachusetts, New  
Hampshire, Vermont and Rhode Island

### **Region II**

6 World Trade Center Bldg.  
Room 758  
New York, NY 10048

**Phone: (212) 466-3481**

Region II includes:

New Jersey, New York, Puerto Rico and the Virgin  
Islands

### **Region III**

U.S. Customs House  
Room 108  
2nd & Chestnut Streets  
Philadelphia, PA 19106-2912

**Phone: (215) 597-9972**

Region III includes:

Kentucky, Maryland, Delaware, Ohio,  
Pennsylvania, Virginia, West Virginia and  
Washington, D.C.

### **Region IV**

101 Marietta Street, N.W.  
Suite 1003  
Atlanta, GA 30323-2301

**Phone: (404) 331-2859**

Region IV includes:

Alabama, Florida, Georgia, Mississippi, North  
Carolina, South Carolina and Tennessee

## **Region V**

10 West Jackson Blvd.  
6th Floor  
Chicago, IL 60604-3964

**Phone: (312) 353-5107**

Region V includes:

Illinois, Indiana, Iowa, Michigan, Minnesota and  
Wisconsin

## **Region VI**

1100 Commerce Street  
Room 6B11  
Dallas, TX 75242-0696

**Phone: (214) 767-9494**

Region VI includes:

Arkansas, Kansas, Louisiana, Missouri, New  
Mexico, Oklahoma and Texas

## **Region VIII**

Executive Tower Building  
Suite 2930  
1405 Curtis Street  
Denver, CO 80202-2349

**Phone: (303) 844-2671**

Region VIII includes:

Colorado, Wyoming, Montana, Nebraska, North  
Dakota, South Dakota and Utah

## **Region IX**

211 Main Street  
Room 530  
San Francisco, CA 94105-1914

**Phone: (415) 974-0673**

Region IX includes:

Arizona, California, Hawaii, Nevada, Guam and  
American Samoa

## **Region X**

Federal Office Bldg., Suite 3039  
909 First Avenue  
Seattle, WA 98174-1103

**Phone: (206) 442-1558**

Region X includes:

Alaska, Idaho, Oregon and Washington

TESTIMONY BY

DICK BROCK  
ADMINISTRATIVE ASSISTANT  
KANSAS INSURANCE DEPARTMENT

BEFORE THE

HOUSE INSURANCE COMMITTEE  
HOUSE BILL NO. 2497 AND HOUSE BILL NO. 2502

MARCH 2, 1989

House Bill No. 2497 and House Bill No. 2502 are separate bills that can easily stand alone. The Insurance Department supports both of them and would do so independently if, for some unknown reason, one of them does not receive favorable legislative consideration. Having said that and for reasons which I hope will become clear after I give you the background of these proposals I am going to treat them as companion bills.

The history of these bills really begins in late 1986 and early 1987 when the Department received a number of complaints alleging violations of the Kansas Unfair Trade Practices Act by persons offering or receiving special inducements, rebates, or other advantages in the sale or placement of title insurance that is not generally available to others similarly situated. These allegations were the subject of an extensive investigation by the Insurance Department which ultimately resulted in the issuance of various consent orders and in some cases the assessment of monetary penalties. All of the complaints at that time originated from the same area of the state and drew the attention of the news media which, in turn, generated some significant consumer interest. To make what could be a long story short, this interest evolved because the special inducements, advantages, rebates or whatever one wants to call them gave consumers the clear impression that if title insurance transactions were lucrative enough to attract this kind of competition it seemed logical to assume that the charges for title insurance were excessive.

It is also important to understand that at this point in time, the rates for title insurance -- unlike the rates for most kinds of property and casualty insurance -- were not subject to rate regulation. As a result, House Bill No. 2955 was introduced during the 1988 legislative session and after a rather circuitous journey through the legislative process its provisions were ultimately enacted as a part of Senate Bill No. 489. However, the story doesn't stop there. While persons engaged in the real estate and/or title insurance business generally agreed that a problem existed, they also were very dubious that subjecting title insurance

rates to prior approval rate regulation would effectively address the perceived problems. Because of these questions and the apparent willingness of the title insurance industry to work toward a constructive and effective solution, the effective date of the 1988 legislation was delayed to July 1, 1989. Needless to say, the purpose of this delay was to allow the industry time to develop an alternative to the 1988 legislation prior to the time it became effective. House Bill No. 2497 is the legislative proposal that deals directly with changing the 1988 legislation but this is really only one part of a several faceted program.

To develop this program, the Insurance Department served as a facilitator by creating a title insurance study group for the purpose of considering the development of recommendations that might be a more acceptable and effective alternative than prior approval regulation of title insurance rates. The study group was comprised of the many interests involved in real estate transactions. Realtors, lenders, abstractors, title agents, title companies and others participated. A list of the members is attached to my testimony although in one or two cases the person named did not personally serve but was represented by an associate. The study group met on several occasions -- at least four times -- and some of the subgroups formed to look at particular areas held separate meetings in addition to the general sessions. Because of the disparate interests represented on the study group unanimity on a precise set of recommendations was neither expected or received. On the other hand, the following components when viewed as a whole might be as close as we can come to addressing the problem in a way that should be reasonably equitable to all concerned.

The recommendations developed by the study group call for both administrative actions by the Insurance Department and -- as evidenced by the two bills being considered today -- two legislative proposals. In total there are five components that can briefly be described as follows:

1. Develop a consumer brochure that will give consumers an opportunity to be better informed title insurance buyers and serve as a shopper's guide by displaying the charges made for services by title insurance companies, agents and agencies.
2. (House Bill No. 2497) Amend the 1988 legislation to remove the prior approval rate regulation requirements that would be applicable to title insurance July 1, 1989 and require only that rates for services provided by title companies, agents and agencies be filed. These filings would be used as the basis of the charge comparisons included in the shopper's guide.
3. Adopt a regulation that would add specificity to the current statute (K.S.A. 40-2404(14)) dealing with unfair or special inducements. Such specificity would consist of enumerating various acts and arrangements that would be specifically prohibited.
4. (House Bill No. 2502) Enact basic controlled business prohibitions and disclosure requirements in the Kansas Unfair Trade Practices Act. This basic enabling legislation would then be complemented by necessary definitions and details by means of an administrative regulation. Other conferees will or can provide a more in-depth discussion of what we mean by the term "controlled business" but generally it is used to describe a situation where a person can direct or cause a prospective purchaser to be directed to a title insurance agent or company in which the person making the referral has a financial interest.
5. If House Bill No. 2502 is enacted, adopt an administrative regulation that would contain the definitions and details necessary to make the requirements and prohibitions relating to controlled business more effective.

As I said at the outset, each of the two bills you are considering can stand alone but both of them are important components of the total



package being developed. Consequently, we hope you will give both bills your favorable consideration.

William G. Malone  
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Wichita, Kansas 67202

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Columbian National Title Insurance Company  
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Topeka, Kansas 66605

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Topeka, Kansas 66612

William L. Mitchell  
Mitchell & Henry  
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Hutchinson, Kansas 67501

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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

Bulletin 1987-20

TO: All Insurance Companies Authorized to Write Title Insurance

IMPORTANT: FOR DISTRIBUTION TO SUPERVISORS OF KANSAS OPERATIONS

FROM: Fletcher Bell *FR*  
Commissioner of Insurance

SUBJECT: Rebates and Other Inducements in the Sale of Title  
Insurance  
K.S.A. 40-2404(14)

DATE: September 21, 1987

As advised in Bulletin 1987-11, dated April 23, 1987, this Department has received several complaints concerning the captioned subject and has investigated several alleged violations of the Kansas Unfair Trade Practices Act, K.S.A. 40-2401 through K.S.A. 40-2414. These investigations have resulted in the issuance of five Consent Orders whereby the alleged violators have agreed to cease and desist certain practices and arrangements. We have summarized our findings below for your information and review.

1. Realtor Owned Title Agencies

We investigated several situations which involved realtor owned corporations which performed little or no functions and subcontracted all or a substantial portion of the work to another title insurance agency. The title insurance agency would perform services under the subcontract. The charges for these services were less than the charges associated with the same services for the title agency's direct business. These arrangements generated profits for the realtor owned corporation which were available for distribution to the realtor owner(s). These arrangements were found to have provided financial inducements for realtors to refer title insurance to the title insurance agency.

2. Advisory Fees

Another type of alleged violation is title insurance agencies paying "advisory fees" to realtors who refer business to the title agency. The advisory fees were found to have provided a financial inducement for realtors to refer title insurance to the title insurance agency.

3. Providing "Closers" to Realtors

The third type of alleged violation is an arrangement pursuant to which a title insurance agency directly or indirectly paid the salary of a real estate closing secretary located in the office of a real estate company which referred orders to the title agency. A special favor or advantage not generally available to other real estate agencies may constitute a violation. This particular arrangement was found to have provided a financial inducement for these realtors to refer title insurance business to the title insurance agency.

4. Coupons or Discount Certificates

The utilization of coupons or discount certificates is an illegal offer to rebate if the same are honored only upon presentation. If the discount is honored for all members of a specific class of insureds regardless of whether or not the coupons or certificates are presented, we believe this type of arrangement is deceptive or misleading. The coupons or certificates purport to have value when, in fact, they do not. In such cases, the Department will pursue violations of K.S.A. 40-2403 as defined by K.S.A. 40-2404(2).

5. Other Arrangements

Other arrangements such as leases between realtors and title agencies may constitute violations if the lease is taken in exchange for title insurance referrals and either the rent is in excess of fair market value or the title agency does not have an intended use for the space.

The purpose of this Bulletin is to advise all title insurance companies to immediately notify their agents and personnel of the kinds of situations that were the subject of our recent investigation and to specifically inform all concerned that this office will pursue appropriate administrative action for any of these similar activities discovered or brought to our attention.

We also request that you acknowledge your receipt and understanding of and intent to comply with this Bulletin within 30 days. Please direct your reply to Mr. Tim Elliott.

~~These Certain Practices~~  
of arrangements I estimate  
Cost Consumer about \$100 each policy

PRESENTATION TO THE HOUSE INSURANCE COMMITTEE:

March 2, 1989

GEORGE E. BURKET III

President, Kingman Abstract & Title Co., Inc.,  
221 North Main,  
Kingman, KS 67068

President, Kansas Land Title Association,  
Trade Association for Abstracters, Title Insurance Agents  
and Title Insurance Underwriters operating in State of Kansas

The Kansas Land Title Association SUPPORTS House Bill 2502 and 2497 together with the proposed and anticipated Administrative Regulations in order to resolve current unfair trade practices and the consumer abuse that is taking place in our industry and which has been so well publicized.

The Kansas Land Title Association DOES NOT SUPPORT either of the foregoing House Bills if the same are not treated as COMPANION BILLS and are not enacted in their entirety, along with the proposed administrative regulations. Should the bills be enacted into law separately, it is our opinion that the same will have no force and effect in stopping the current or futures abuses.

It is our opinion that most, but not all, of the unfair trade practices and consumer abuse which has occurred, have been related to controlled business activities.

The KANSAS LAND TITLE ASSOCIATION strongly endorses and supports the AMERICAN LAND TITLE ASSOCIATION position that CONTROLLED BUSINESS PRACTICES are harmful and highly detrimental to consumers due to increased costs; they are anti-competitive; they encourage poor title insurance underwriting practices; and encourage further unfair trade practices by those who attempt to compete in the marketplace.

I would like to offer as support for my testimony, the AMERICAN LAND TITLE ASSOCIATION White Papers Report, dated November, 1979 entitled "The Controlled Business Problem in the Title Insurance Industry."

On page 51 of the foregoing ALTA Report, it is stated,--- The conclusions that have been reached regarding the impact of controlled business arrangements were best summarized by the Michigan Commissioner of Insurance following a review of such arrangements by the Insurance Bureau of the Michigan Department of Commerce;

The findings and conclusions by various executive, legislative and judicial branches of federal and state governments and the results of the Insurance Bureau's investigation have caused me to recognize that permitting real estate brokers to own or control a licensed title insurance agency for the purpose of channeling title insurance business is detrimental both to the consumer of title insurance and to actual and potential competition in the title insurance market. . . . The anti-competitive nature of such an arrangement is obvious and widely acknowledged. Its effect on the title insurance industry and consumers can only be harmful.\*\*/

The abuses and the forms of unfair trade practices which take place in CONTROLLED BUSINESS PRACTICES are many. Nearly every practice which has occurred in Kansas is well-identified in the foregoing ALTA White Papers Report which I have submitted to you for review.

IN CONCLUSION, I would like to provide for you the concluding paragraph of the foregoing ALTA Report wherein it states on page 95 as follows:

"The title industry is at an important crossroads. If the problems posed by the growth of controlled business arrangements are not effectively confronted in the near future, competition in the industry will take a turn---perhaps irreversible---away from the consumer and in a direction that will primarily serve the interests of controllers of business. The inevitable consequence of the failure to channel competition into consumer-oriented directions will be a less competitive, highly concentrated, vertically integrated industry----a consequence that clearly is not in the national interest.

OUR RECOMMENDATIONS:

If the House bills 2497 and 2502 are not to be enacted and treated as companion bills, along with the proposed and anticipated administrative regulations, we believe that the bills should not be enacted separately but studied by the Committee on Insurance during the Summer when further testimony can be taken by the House Committee from the many Insurance Commissioners, Justice Department Officials, and others cited in the ALTA Report, on the abuses which occur with controlled business arrangements.



Executive Offices:  
3644 S. W. Burlingame Road  
Topeka, Kansas 66611  
Telephone 913/267-3610

TO: THE HOUSE INSURANCE COMMITTEE  
FROM: KAREN MCCLAIN FRANCE, DIRECTOR, GOVERNMENTAL AFFAIRS  
DATE: MARCH 2, 1989  
SUBJECT: HB 2497 and HB 2502

On behalf of the Kansas Association of REALTORS®, I appear today to support HB 2497 and to support part of HB 2502 and oppose part of it.

I represented our association as a member of the Title Insurance Study Group which examined this issue last summer and fall. The Kansas Association of REALTORS® feels that disclosure of information is the best solution to the problems which the Department of Insurance seeks to remedy here. We have begun to recognize that, if there was more disclosure of known, factual information in a lot of business transactions, then perhaps we could all save ourselves from a lot of headaches. The problems being addressed here seem to be no different.

We support the provisions of HB 2497 which require rate filing of title insurance rates with the Kansas Department of Insurance. Making the rates public information will assist in insuring that the buying public can shop around for title insurance if they choose to. They will also be able to shop comparable rates among companies with confidence that they are being treated the same way as the customer before or after them if they are buying title insurance in the same category.

We also support the provision in HB 2502 on page 7 paragraph (e) which requires producers of business to disclose to prospective title insurance purchasers, at the time they refer them to a title agency, if they have a



financial interest in the title agency which they are referring. This puts purchasers on notice of any financial connection between the two entities and if it bothers the purchaser that there is a financial connection, then they can choose to go somewhere else.

In conjunction with the rate filing requirement of HB 2497, we feel this disclosure process will prevent the problems which precipitated the legislation last year from occurring.

However, we feel the provision in paragraph (f) on page 7 does nothing to solve the problems and, in fact, is an unnecessary restraint of trade. In the meetings I attended this summer, there was no evidence presented from which a reasonable person could draw the conclusion that consumers were somehow being ripped off or paying higher prices simply because a producer of business has an interest in a title insurance agency. The practice of producers of business having a financial interest in the title business is perfectly legal, yet it seems some are trying to make it out to be dangerous to the public. This kind of relationship is only a matter of two businesses having a business relationship which is mutually beneficial.

We feel that the filing and disclosure requirements will go far in making it easier for title insurance shoppers to shop. If title companies where controlled businesses are involved charge more than whatever the going rate is in town, it will be blatantly obvious and the purchasers can go somewhere else for a better rate if they choose to. The 20% limitation in paragraph (f) does nothing but put illogical limits on reasonable men who are trying to make an honest living.

We ask that you support HB 2497 and paragraph (e) of HB 2502. However, we ask that you strike paragraph (f) on this same page, when you work this bill.

Thank you for your consideration.

Kansas Title Insurers  
1987 Insurance Premiums and Losses

|  | DIRECT<br>PREMIUMS<br>WRITTEN | DIRECT<br>PREMIUMS<br>EARNED | DIRECT<br>LOSSES<br>PAID | DIRECT<br>LOSSES<br>INCURRED | PRM WRIT<br>TO<br>LS PAID | PRM ERN<br>TO<br>LS INCR | ERN PRM<br>TO<br>STATEWID:<br>(Market<br>Share) |
|--|-------------------------------|------------------------------|--------------------------|------------------------------|---------------------------|--------------------------|---|
| 1. Columbian National Title Insurance Co.    | 2,117,020                     | 1,870,248                    | 31,633                   | 3,500                        | 1.5                       | .2                       | 20.0  |
| 2. Lawyers Title Insurance Corporation       | 1,698,381                     | 1,628,184                    | 38,580                   | 115,127                      | 2.3                       | 7.1                      | 17.4  |
| 3. Chicago Title Insurance Company           | 1,557,076                     | 1,343,481                    | 266,842                  | 517,660                      | 17.1                      | 38.5                     | 14.3  |
| 4. TICOR Title Insurance Company             | 1,339,659                     | 1,203,909                    | 9,460-                   | 3,128-                       | .7-                       | .3-                      | 12.8  |
| 5. Commonwealth Land Title Insurance Co.     | 1,165,072                     | 1,124,086                    | 13,402                   | 15,167-                      | 1.2                       | 1.3-                     | 12.0  |
| 6. First American Title Ins. Co. of Mid-West | 687,397                       | 634,847                      | 27,255                   | 8,985-                       | 4.0                       | 1.4-                     | 6.8   |
| 7. Title Insurance Company of Minnesota      | 456,289                       | 427,890                      | 12,662                   | 2,080-                       | 2.8                       | .5-                      | 4.6   |
| 8. Insured Titles, Inc.                      | 441,379                       | 441,379                      | 17,425                   | -0                           | 3.9                       | .0                       | 4.7   |
| 9. Chicago Title Ins. Co. of Oregon          | 275,828                       | 271,666                      | 18,633                   | 25,880                       | 6.8                       | 9.5                      | 2.9   |
| 10. Stewart Title Guaranty Company           | 229,520                       | 210,438                      | 16,363                   | 37,515                       | 7.1                       | 17.8                     | 2.2   |
| 11. Universal Title Insurance Company        | 85,969                        | 75,060                       | 0                        | 0                            | .0                        | .0                       | .8  |
| 12. National Attorney's Title Ins. Co.       | 49,625                        | 109,967                      | 0                        | 2,000                        | .0                        | 1.8                      | 1.2   |
| 13. American Title Insurance Company         | 31,020                        | 29,658                       | 0                        | 0                            | .0                        | .0                       | .3  |
| Total  | 10,134,235                    | 9,370,813                    | 433,335                  | 672,322                      | 4.3                       | 7.2                      | 100.0   |

# EDITORIAL

## It's high time for the high sheriff

REX B. HOY  
REPRESENTATIVE, TWENTY-FOURTH DISTRICT  
JOHNSON COUNTY  
3801 JOHNSON DRIVE  
SHAWNEE MISSION, KANSAS 66205

*"When it appears there is no sheriff in Dodge, you do as you damn well please."* — an analysis of the title insurance industry in Johnson County, made by the owner of a title insurance agency.

It's high noon, then. And high time that the title insurance industry not be allowed to operate any old way it jolly well pleases. Especially if unregulated operations are costing Johnson County homebuyers hundreds of thousands of dollars and violating the Kansas Unfair Trade Practices Act.

The Kansas Insurance Department is investigating such allegations: that several title insurance companies are paying real estate firms to funnel business their way, and that the money for those payments comes straight from the pockets of homebuyers in the form of closing costs.

Allegations and investigations are just that. But several industry observers say some title insurance companies and some real estate companies have for the past four or five years operated with a free, unregulated style.

We commend the Kansas Insurance Department for investigating the allegations. We hope the allegations are untrue. But we encourage the insurance department to make an exhaustive study into both the allegations specifically, and the title insurance industry in general. It appears that the insurance department is doing just that. State insurance officials say that regardless of the investigation's outcome, it's likely the department will issue additional guidelines on what is and is not allowed under the Kansas Trade Practices Act.

The Insurance Department has handled the situation as it should. The situation now calls for a similar inquiry by the Kansas Real Estate Commission, which oversees the licensing of real estate agents. Again, allegations are just that. But the real estate commission might also discover the need to clarify guidelines of what's fair to the homebuyer and what is not. After all, when there's no sheriff in Dodge . . .

TO: Kansas House of Representatives

FROM Sam P. Liberto  
District Manager  
Stewart Title Guaranty Company

RE: House Bill 2502  
Section 1  
Item 14  
Paragraph (f)

Honorable Representatives:

The above referenced section of H.B. 2502 relates to controlled business in the title insurance industry. The major problem encountered in addressing this issue is that controlled business takes on so many varied forms that the real issue, as I see it, can be and is often covered up in clouds of smoke. I believe the true issue, and that which is uppermost in the conscience of this body, is that the citizens in the State of Kansas receive quality service at a fair price. And on that premise I base this presentation.

The sponsors of this legislation would have you believe that if a producer of title insurance, such as a real estate agent, builder, lender, or attorney, were to have a financial interest in a title insurance company, agency or agent, that producer of title business would direct his business there regardless of the cost of the product or the quality of the service. This line of reasoning has at least one major flaw. In situations where producers of title business own stock or some other financial interest

in a title provider, that interest is nominal. The livelihood of these real estate agents or brokers, builders, lenders and attorneys rests upon their primary occupations. The provider of title insurance is an ancillary part of their industry, but to suggest or think for even a moment that one of these title business sources would risk their livelihood by referring or directing business to a title insurance provider whose pricing and service does not meet or surpass that which would be considered customary, defies reason.

Furthermore, oftentimes these producers of title business, by taking an interest in a title provider, have a stronger voice in seeing that the level of service their clientel receives is the highest.

Clearly, the State, as well as the producer of title business, has an interest in seeing that the customer has a choice in the matter of the selection of the title insurance product. To this end, the Real Estate Settlement and Procedures Act, as well as various State laws, require disclosure of any financial interest by a producer of title business in any entity to which he is referring that business. In addition, it would be prohibited for the producer of title business to require that his client use any particular provider of title business and, for that matter, no unrelated lender should mandate the use of a

title insurance company as a requirement for obtaining a loan simply because the totally independent title agent maintains deposits with that lender. These measures enable the purchaser of title business to make his own informed selection of a title insurance provider.

It is my experience in the Memphis market where a number of producers of title business own financial interest in various title companies, that rarely does even 50% of the title business generated by that producer of title business wind up at the title company in which he has a financial interest. Clearly, many consumers do make informed choices based upon the disclosures provided to them or as a result of various marketing techniques by competitive companies. At the same time, the agency that I operate is extremely responsive to the clients of our stockholders, but at the same time, having a wide variety of ownership with no control of the company by any one producer of title business enables me to operate using sound underwriting principles and not to capitulate to the demand of any one producer of title business. In fact, because of the influence of the other owners, I have more strength in providing quality underwriting to protect the investment of all of my shareholders. If a controlled business company does not provide quality service, one will not obtain the business of its owners. This was proven by previous management who actually

lost business after producers of title business invested in the company because the quality of service was not superior. I have emphasized superior service and a quality product and as a result, have increased my volume of business.

I am here merely to give you input from my own personal experience; yet, I am but one of many voices you will hear from today. It will be finally up to this august body to determine what the policy of this State will be. However, it would seem that any person who has invested in a title insurance agency operating within the existing guidelines of the laws of this State and licensed by this State should not have his investment taken from him by one act of the legislature. To do so would be to deprive a person of his private property without due process of law. This is a constitutional question, the intricacies of which would best be discussed by the legal community. Regardless of what decision that you come to, it would be imperative that you grandfather any existing licensed title insurance agencies and that any law that is passed should be only prospective. If a community changes the building code applicable to construction of new housing, such laws do not require one to tear down his old house and build it again to new specifications. I urge you not to tear down any existing title agencies, but if new requirements are to

Page 5

be made, that they apply only to title insurance agents licensed and doing business after the beginning of your deliberations. At least any new licensees would be aware of your deliberations once they had begun and would be on notice of a potential modification in the law.

Thank you for the opportunity to speak to you today.



March 2, 1989

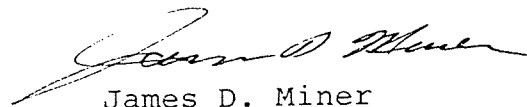
Chairman and Members of the House Insurance Committee:

By your election you have taken a position to represent your constituents' best interests. I have always been under the impression when honest business competition exists, the consumers' interest will gain the rewards. I can tell you since the introduction of the newest title company in Wichita, that being the "Wichita Title Associates", the service to the real estate clients at all Title Companies has improved.

My real Estate Company made a conscious decision after reviewing all documents relative to the legal ability to invest in a Title Company to pursue that investment as a profit center. This profit center hopefully will help us survive slow markets and as overhead, hopefully cost increase in the future be able to maintain our existing commission amount charged to the public.

As you may or may not be aware my agents are Independent Contractors and I don't have the legal right to direct them to control business. We are only agents and after full disclosure to buyers and sellers follow their instructions.

Very simply, I believe vertical growth should not be legislated out of existence unless the public is in harm's way. If legislative action is made on the basis of elimination competition in the marketplace, then let your concern be your guide.



James D. Miner  
Chairman of the Board

## O'ROURKE TITLE COMPANY

March 1, 1989

House of Representatives  
Insurance Committee  
State of Kansas

Please accept this letter as our company's strong objection to paragraph 14, subparagraph "F" of House Bill #2502. O'Rourke Title Company is an independently owned title insurance agency operating in Sedgwick and Butler County, Kansas. While I have been in the title business since 1975 in both Kansas and Texas, O'Rourke Title Company was formed in April of 1987. House Bill #2502 clearly purports to restrict (to a very small cross section) those who can be in the title insurance business. It is an obvious and blatant restraint of trade.

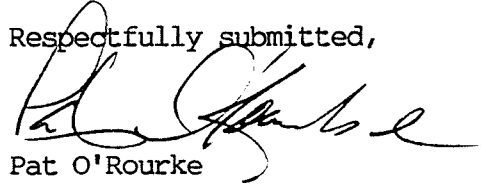
O'Rourke Title Company has an ownership interest in Wichita Title Associates, Inc. which is a title agency operating in Sedgwick County, Kansas with eight shareholders. O'Rourke Title Company has made a substantial investment in title plants, computerization, furniture and fixtures, long-term leases, and other assets necessary to operate a title agency based on it's relationship with Wichita Title Associates, Inc. If Wichita Title Associates, Inc. were driven out of business through this legislation, it would have a devastating affect on O'Rourke Company. While the two previously mentioned companies are in essence competitors for business, they are affiliated through a title production agreement and ownership. Prior to the formation of Wichita Title Associates, Inc. numerous attorney opinions were procured with regard to the legality on both the state and federal level of a company of this kind. We also submitted lengthy documentation to the Kansas Insurance Department and received an informal written opinion letter which approved the structure of this company (copy attached). Without this approval letter, Wichita Title Associates, Inc. would never have been formed nor would the investment have been made. There has been close to \$500,000.00 invested by the shareholders of Wichita Title Associates, Inc. and O'Rourke Title Company which would no doubt be lost if House Bill #2502 were passed in it's present form. As you can see, passage of this law would result in an unconstitutional taking of one's property without due process of law.

Wichita Title does not charge any more for it's services than any other independently owned title agency. Attached is a composite of the local charges. It is my opinion that the involvement of the real estate and lending community in Wichita Title Associates enhances the service level to the consumer because of their repoire with the buyers and sellers in this area. O'Rourke Title Company has no objection with filed rates, full disclosure of all charges, disclosure of ownership, and the ability of the buying and selling public to choose the company of their preference.

Attachment10

For the above reasons, we strongly urge you to repeal House Bill #2502.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Pat O'Rourke". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Pat O'Rourke  
President

P.S. At the very least we suggest the following wording be added to subparagraph "F" of paragraph 14 (page 7): "The provision of this subparagraph "F" shall not apply to any title insurance agent licensed in this state before January 1, 1989".

Enc.

PEO/dl



STATE OF KANSAS

# KANSAS INSURANCE DEPARTMENT

420 S.W. 9th  
Topeka 66612-1678 913-286-3071

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

FLETCHER BELL  
Commissioner

June 21, 1988

Mr. Mark Meyerdirk  
O'Rourke Title Company  
Centre City Plaza  
151 N. Maine, Suite 150  
Wichita, KS 67202

Wichita Title Associates

Dear Mr. Meyerdirk:

This will acknowledge receipt of your proposed Title Production Service Agreement submitted with your letter of explanation dated June 13, 1988, relative to the above captioned matter.

As advised in our letter of January 25, 1988, this Department has offered to review your proposed business plan, the structure of the proposed ownership group, and the proposed Title Production Service Agreement and provide an informal opinion relative to whether or not your proposal violates K.S.A. 40-2403 as defined by K.S.A. 40-2404(14). We wish to advise that such arrangements, at this time, are not subject to our review and approval in the same manner as forms and rates for many lines of insurance. (See e.g. K.S.A. 40-216 and K.S.A. 40-1113.) We are currently performing this service in an effort to provide additional clarification with respect to the relevant portion of the Kansas Unfair Trade Practices Act. This letter is not intended to be interpreted as an administrative regulation or rule. Rather, it is an informal expression of our opinion of your proposed arrangement based upon the information submitted. As an administrative agency, we do not have authority to make a legally binding determination with respect to a proposed arrangement as opposed to a determination based upon investigated facts. Should the activities outlined in your letter correspond to actual subsequent facts, this letter would be a reflection of our probable position regarding investigation and enforcement of the Act.

According to our understanding of your proposal, Wichita Title Associates would be owned by a combination of real estate companies, lending institutions and O'Rourke Title Company ("O'Rourke"). Thus, the owners of Wichita Title Associates are in a position to refer or otherwise influence the purchase of title insurance. You have indicated that Wichita Title Associates would do business either as a corporation or limited partnership. As discussed in our telephone conversation of June 21, 1988, we are declining to provide an opinion with respect to a limited partnership without the identity of the proposed general partner. Therefore, this opinion is based upon the assumption that Wichita Title Associates will be formed either as a corporation or a general partnership. Stock or partnership interests would be issued

**INSURANCE DEPARTMENT**  
Topeka

Mr. Mark Meyerdirk  
Page 2  
June 21, 1988

based upon the percentages indicated in Exhibit No. 1 to your letter, and the entity would be capitalized on the basis of cash contributions from the respective owners according to these same percentages.

We also understand that O'Rourke would enter into a Title Production Service Agreement with Wichita Title Associates, upon its qualifying to do business through licensed title insurance agents (as a licensed agency subsequent to May 1, 1989), to perform those services outlined in Section 1 of the Agreement. Specifically, O'Rourke would contract to perform delivery service, title chaining, preliminary title examination, and recording services in exchange for compensation based upon the fixed fee in the amount of \$225 per title search package. In addition, O'Rourke would also lease certain computer services to Wichita Title Associates in connection with performing the services described above. Since specific financial information has not been provided with respect to the internal cost of maintaining the computer equipment and software, this letter does not address that particular aspect of your proposed plan.

According to your letter of June 13, 1988, the following services represent the indicated percentages of O'Rourke's expenses:

| <u>Function</u>        | <u>Percentage</u> |
|------------------------|-------------------|
| Chain of Title         | 25%               |
| Preliminary Title Exam | 15%               |
| Recordation            | 10%               |
| Delivery Service       | 5%                |
| Total                  | <u>55%</u>        |

You have indicated that O'Rourke's average cost per title order associated with policies issued directly to the public equals approximately \$242 for the period from April 1, 1987, through March 31, 1988, and your projected average profit per policy equals approximately \$115.98 (exclusive of premiums, as defined by K.A.R. 40-1-9(a)(1)(D), and nonproduction expenses such as taxes, depreciation, interest, travel and entertainment, dues and subscriptions, and advertising and promotion).

It is our position that the charges for performing services under this type of arrangement must be consistent with the expenses and profit associated with performing those same services in connection with policies issued directly to the public. Thus, using the figures you have supplied us, it appears the minimum average charge for O'Rourke under the Title Production Service agreement would equal 55% of \$242 plus 55% of \$115.98, or \$196.89 per title search package.

**INSURANCE DEPARTMENT**

Topeka

Mr. Mark Meyerdirk

Page 3

June 21, 1988

Based upon the financial information, services listed in the proposed Title Production Service Agreement, and the percentages assigned to each individual function, it appears your proposed plan does not violate K.S.A. 40-2403 as defined by K.S.A. 40-2404(14), provided the charges for the services set forth in the agreement are not less than \$196.89 per title search package. The contractual arrangement you have proposed would appear to fall within the "safe harbor" exception to the Kansas Unfair Trade Practices Act, as provided in K.S.A. 40-2404(14)(c)(i). Obviously, any material changes in O'Rourke's expense or profit factors or any material change in the relative percentages assigned to these functions will necessarily affect the appropriate minimum charges under the Title Production Service Agreement.


It appears that lending institutions and real estate companies fall within the respective definitions of "mortgage lender" and "real estate broker" described in K.S.A. 40-2404(14)(b). It further appears that the proposed ownership structure of Wichita Title Associates, and the distribution of dividends or general partnership profits, would not per se violate K.S.A. 40-2404(14)(a) and (b) provided, and to the extent, the Title Production Service Agreement does not change and dividends or general partnership profits are paid as a return on ownership and not in any way related to or otherwise based upon referrals of title insurance business. Distribution of dividends or general partnership profits related to or otherwise based upon the referral of title insurance business would probably result in a violation of the Act.

As we have discussed, the confidentiality of the information contained in this file is controlled by the Kansas Open Records Act, K.S.A. 45-215 through K.S.A. 45-223.

We trust the above comments are responsive to your inquiry.

Very truly yours,

Fletcher Bell  
Commissioner of Insurance



Timothy G. Elliott  
Supervisor and Attorney  
Consumer Assistance Division

TGE:dbc  
3821



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

July 21, 1988

Mr. Mark A. Meyerdirk  
O'Rourke Title Company  
Centre City Plaza  
151 North Main, Suite 150  
Wichita, KS 67202

Wichita Title Associates, Inc.

Dear Mark:

This will acknowledge receipt of your letters dated July 18, 1988, and attachments in regard to the captioned matter.

As requested, we have reviewed the executed Title Production Service Agreement dated July 15, 1988, and have formed the opinion that it does not differ materially from the proposed Title Production Service Agreement which accompanied your letter dated June 13, 1988. Therefore, the comments contained in our letter dated June 21, 1988, are also applicable to the executed Agreement.

We appreciate this opportunity to be of service.

Very truly yours,

Fletcher Bell  
Commissioner of Insurance

A handwritten signature in black ink, appearing to read "Timothy G. Elliott".

Timothy G. Elliott  
Supervisor & Attorney  
Consumer Assistance Division

TGE:dbc  
3671

COMPOSITE TITLE INSURANCE RATES

WICHITA TITLE COMPANIES

|                 | <u>\$30,000</u> | <u>\$60,000</u> | <u>\$100,000</u> | <u>\$175,000</u> |
|-----------------|-----------------|-----------------|------------------|------------------|
| COLUMBIAN TITLE | \$280.00        | \$420.00        | \$575.00         | \$740.00         |
| FIDELITY TITLE  | \$282.00        | \$422.00        | \$577.00         | \$744.00         |
| LAWYERS TITLE   | \$278.00        | \$424.00        | \$578.00         | \$751.00         |
| O'ROURKE TITLE  | \$282.00        | \$422.00        | \$577.00         | \$744.00         |
| REALTY TITLE    | \$282.00        | \$422.00        | \$577.00         | \$744.00         |
| SECURITY TITLE  | \$282.00        | \$422.00        | \$577.00         | \$744.00         |
| WICHITA TITLE   | \$282.00        | \$422.00        | \$577.00         | \$744.00         |



# J.P. Weigand & Sons, Inc. Realtors

East Office: 650 N. Carriage Parkway Suite 170 Wichita, Kansas 67208  
(316) 686-7281

February 28, 1989

House of Representatives  
Insurance Committee  
State of Kansas

I speak in strong opposition to House Bill 2502. It is in my opinion a bill which would severely limit companies in related businesses an opportunity offer entrance into the title insurance business, and by that, offer a potential for restriction or restraint of competition. Restricting competition is not a way of insuring better prices or service to the general public.

Under provision of RESPA any Real Estate Company owning any part of a title company is required to disclose that ownership in writing and further note that the purchaser is free to choose any title insurer.

I am not aware of any other state where Real Estate companies are prevented from having ownership in a title company. Title insurance is a regulated industry and full disclosure of any ownership is required and as I stated above freedom of choice to the purchaser is explained.

In our state if House Bill 2497 is passed all title companies will file with the Department of Insurance their rates. With all rates filed, and presumably published, with freedom of choice for the purchaser, is it not logical to assume that the public will be made aware of the cost of coverage and make the choice best suited for them.

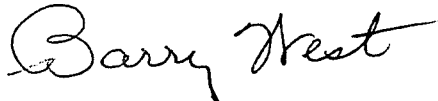
All House Bill 2502 is designed to do is to protect existing companies from fair, honest, and fully disclosed business competition.

In our community the right of Real Estate firms to own stock in a title company has been approved by the Insurance Commissioners Office. In the market place it has not led to higher prices, or poor service-rather to more competition, continued competitive prices, and a better selection of choice for the purchaser.



For the committees information my firm does not have an interest in a title company-however as a businessman I do not want to see the option of ownership in a related business denied to my firm-when there is no basis for the denial. I support regulation, and full disclosure, but regulation where abuses exist and there are not currently any safeguards for the public. I do not support regulation which will restrict competition or restrain a businesses right to diversify and grow.

Thank you,

A handwritten signature in cursive script that reads "Barry West". The signature is written in dark ink and is positioned above the typed name and title.

Barry West  
Vice President and General Manager  
J.P. Weigand and Sons, Inc.

GBW/dq

STATEMENT OF M. W. PERRY, III TO HOUSE  
COMMITTEE ON INSURANCE CONCERNING  
HOUSE BILL NO. 2502

Ladies and Gentlemen:

I am currently Senior Vice President and General Counsel of Meyerdirk Title Company, an agent for Stewart Title Guaranty Company in Kansas City. Over the last ten years I have served as Vice President and General Counsel of Coldwell Banker Residential Real Estate in Kansas City and President of Coldwell Banker Title Services, Inc., a wholly owned subsidiary of Coldwell Banker Residential Real Estate. I also served as a member of the Kansas Real Estate Commission from 1982 to 1986. I am currently a licensed attorney and real estate broker in the State of Kansas.

In these various capacities I have had the opportunity to observe the phenomenon known as "controlled business" from the points of view of an attorney, a real estate broker, a real estate commissioner and a title insurance agent.

House Bill No. 2502 would amend K.S.A 1988 supp. 40-2404 by adding subparagraphs 14(e), (f) and (g). Paragraph 14(e) provides for disclosure of certain financial interests and paragraph 14(f) contains restrictions on title business derived from "controlled business" arrangements.

Before proceeding further I would like to point out that the proposed amendments contain several terms which are not defined. Those are:

1. "Producer of Title Business"
2. "Associate"
3. "Financial Interest"
4. "Controlled Business"

If this legislation is to be passed I would suggest that the above terms need to be clearly defined.

HOUSE BILL 2502

We favor the disclosure requirements contained in paragraph 14(e). These are very similar to the disclosures required by the Federal Real Estate Settlement Procedures Act (RESPA) which as a practical matter applies to a great majority of today's real estate transactions because they involve federally insured or administered loans. The addition of this provision would extend RESPA type disclosure requirements to all transactions in which title insurance is involved.

We oppose the restrictions on so called controlled business arrangements contained in paragraph 14(f) of House Bill 2502. Before passing legislation which restricts or prohibits certain classes of persons or entities from engaging in certain types of businesses, one would hope that the sponsors of the legislation and the legislature would have determined that there is something occurring which is either clearly illegal, or detrimental to such a degree, that it must be made illegal. This determination should be based upon facts, not mere speculation.

Numerous theoretical arguments have been offered as support for prohibitions on controlled business arrangements. The most frequent are:

1. Prices to consumers will be increased.
2. The quality of the product will be lowered.
3. The quality of the service will be lowered.
4. There will be market foreclosure to existing competitors and barriers to entry.

I would submit to you that there is absolutely no evidence to support any of these propositions.

HOUSE BILL 2502

There has been no evidence either on a national level or in Kansas to support the conclusion that prices to consumers will be increased or that the quality of the product or service will be lowered. Indeed, a Pete, Marwick and Mitchell study completed in connection with a HUD Report to Congress in 1981 rejected as unpersuasive, the American Land Title Association's contention that controlled business arrangements lead to higher prices and a lower quality of title insurance product. This conclusion came after an intensive three year study on the subject. This report also found that consumers would not necessarily benefit from the elimination of controlled business arrangements. Here in Kansas there is certainly no evidence of higher prices or lower quality of product or service as a result of controlled business arrangements. To the contrary the prices of the controlled business agencies would appear to be very competitive.

The arguments that there will be market foreclosure to existing competitors by controlled business arrangements is somewhat ironic. Market foreclosure to lenders, brokers and all other real estate professionals is what passage of this bill would accomplish. There are many professional opinions stating that controlled businesses are not anti-competitive, but rather have a positive effect on competition. You need only look at the yellow pages in the Kansas City phone book to see that there are over 20 title insurance agencies engaged in business in Johnson County, Kansas today. This number has grown steadily over the last ten years despite the existence of controlled business entities.

The suggestion has been made that the anticipated domination of the marketplace by controlled business arrangements has forced other agencies to violate the current laws prohibiting rebates and other inducements in title insurance. Those other agencies would have you believe that if you outlaw some of their competition they will start abiding by the current laws. This suggestion is ludicrous. The way to deal with those violating current laws is to enforce those laws, not appease the violators by removing a restricting healthy competition.

HOUSE BILL 2502

It is up to you, the lawmakers, to determine how business is to be conducted in this State. In doing so you must consider the impact of your actions on existing legitimate business operations. There are numerous controlled business arrangements currently operating in Kansas which are perfectly legal under the present law. The owners and operators of these businesses have invested their time and money in reliance upon the law as it has existed for many years. Were you to put them out of business completely by the passage of this bill it would be tantamount to taking their property without due process of law. If you decide that a prohibition or restriction of controlled business arrangements is appropriate, I would suggest that you consider a grandfathering provision which would permit continuation of those legitimate existing controlled business arrangements.

Thank you for the opportunity to speak to this issue.

The Honorable Dale Sprague  
Chairman of House Insurance Committee

Reference: HB: 2497  
HB: 2502

Dear Ladies and Gentlemen:

My name is John McKenzie and I am President of the Wichita Area Association of Realtors and Co-Owner of Plaza Del Sol Real Estate, Inc. in Wichita. I come before this committee as a concerned constituent wearing "two hats". First, let me say, I speak for the Wichita Association in full support of the Kansas Association of Realtors' position on "controlled business". For arguments sake, I prefer to use the term "supplier of business". "Controlled business" has a negative connotation meaning "forced or co-erced". In both instances, such is not the case. If a supplier of business has a financial interest in a title insurance company, he or she should disclose that interest. Additionally, the consumer should be given an opportunity to make a choice of where that insurance should go, and all charges associated with the cost should be disclosed. We wholeheartedly agree on this premise.

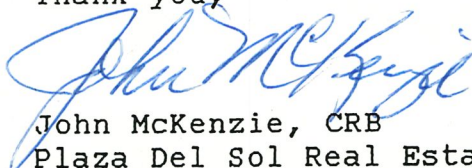
Currently, we at Wichita Title Associates in Wichita abide by all of the above, and in no way mandate to the consumer on what they should do. HB: 2497 mandates the filing of rates with the state insurance commission and that no person shall be allowed to charge rates that have not otherwise been approved by the state. We applaud this bill and again wholeheartedly support it.

HB: 2502 has some components of agreement, namely that any financial interest should be disclosed. On that subject, we agree. We totally disagree on the mystical figure of no more than 20% of the gross operating revenue generated by a supplier of business can come from the supplier of that business. Are we to understand that it is "OK" to produce 20% or less of that business but no more! Are we to understand that "suppliers of business" who have a financial interest in a title company must be restricted on how much they can contribute to that business because it protects the consumer. Ladies and gentlemen, who are we kidding? Because of those who have taken a position of trying to keep us from entering this business, they and only they are threatened by our existence, NOT the consumer.

In September of 1988, Wichita Title Associates, Inc., were approved to operate in the State of Kansas by the Kansas Insurance Department. The composite make up of this corporation consists of suppliers of business. If HB: 2502 is approved, it would eliminate the very existence of Wichita Title Associates, Inc. Any approval of this bill placing an arbitrary restriction of 20%, 30%, 40% or 98% would be a restraint of trade.

We ask that you vote NO to HB: 2502 and yes to HB: 2497.

Thank you,



John McKenzie, CRB  
Plaza Del Sol Real Estate, Inc.  
President, Wichita Area Association of Realtors



# Columbia Savings

A F E D E R A L A S S O C I A T I O N

March 2, 1989

Distinguished Members of the Insurance Committee  
State of Kansas House of Representatives  
Topeka, Kansas

RE: House Bill #2502

Dear Committee members:

I am writing to you today urging you to oppose House Bill #2502 with specific objection to language in paragraph 14, sub paragraph "F". We believe this section of the bill is designed to limit competition in the title insurance business and could also be classified as restraint of trade legislation.


Columbia Savings, through our insurance subsidiary Financial Insurance Services, Limited is a stockholder in Wichita Title Associates, Inc. This title insurance company was formed for a variety of reasons including a desire to provide our customers with better service, competitive prices, and an opportunity for us to realize an additional profit center.

The Real Estate Settlement Procedures Act (RESPA) already protects the consumer from being forced into a controlled business arrangement. In addition, unfair trade practice laws give the State Insurance Commissioner complete power prohibiting title insurance companies from taking advantage of the consumer. We strongly support legislation to disclose properly to the consumer the financial interest of the producer of title business or associate referring the title insurance business. Attached is a copy of our disclosure form we use whenever our customer desires using Wichita Title Associates for their title insurance needs.

House Bill #2502 is an attempt to eliminate Wichita Title Associates or any other similar company from competing for title insurance business. Wichita Title was properly organized within the laws of the State of Kansas and is providing excellent service to the public. In addition, a substantial capital investment of money and time has been invested in Wichita Title by it's stockholders.

We believe House Bill #2502 is not good legislation. We thank you for your consideration of opposing this bill.

Sincerely,

  
Gregory E. Ek, Senior Vice President  
Wichita Region Manager

Attachment 14

NOTICE OF FINANCIAL INTEREST  
(Pursuant to 24CFR Sec. 3500.15(b))

Please be advised that Columbia Savings Association, F.A. is the sole owner of Financial Insurance Services Limited which has an ownership and financial interest in Wichita Title Associates, Inc. The charges generally made by Wichita Title Associates, Inc. for owner's and loan policies of title insurance as described on lines 1108 and 110 of the HUD-1 Settlement Statement are approximately the same as shown on the written estimate of charges provided with this disclosure, which is being made prior to the time of the referral of the title insurance order. You are not required to use any particular provider of title insurance, and may designate the provider of your choice. Unless otherwise specified in writing Columbia Savings Association, F.A. is authorized to secure title insurance from Wichita Title Associates, Inc. on the basis of the estimated charges.

\_\_\_\_\_  
Borrower's Initials

\_\_\_\_\_  
Borrower's Initials

WITNESSED:

\_\_\_\_\_  
Loan Officer's Initials

A MEMBER OF THE SEARS FINANCIAL NETWORK



3900 E HARRY, SUITE 140  
WICHITA, KS 67218  
BUS. (316) 684-8222

DINNING•BEARD,  
REALTORS®

March 2, 1989

House of Representatives  
Insurance Committee  
State of Kansas

As a member of an existing Title Company now in operation in Wichita, Kansas, I would like to register my disagreement with House Bill #2502 in its present form.

I believe that Paragraph 14, Subparagraph (f) is restrictive and in restraint of trade. Why should any Title Company have a percentage applied to their gross operating revenues? I fail to see how this 20% rule would in any way protect the public.

Much time and money was spent in advance of the formation of our Title Company so that we would be in compliance with all State and Federal laws. Fees and standards of practice are virtually uniform throughout Sedgwick County.

Should this bill be passed I feel that, in it's present form, it would be unconstitutional to apply it to Title Companies formed before January 1, 1989.

Respectfully submitted

A handwritten signature in cursive script that reads "Doris Beard".

Doris Beard  
President  
COLDWELL BANKER - DINNING-BEARD, REALTORS

DB:jad