Approved 3/21/89
Date

MINUTES OF THE SENATE COMMITTEE ON FINANCIAL INSTITUTIONS & INSURANCE.

The meeting was called to order by SENATOR RICHARD L. BOND at
Chairperson

9:00 a.m./~~p.m.~~ on FRIDAY, MARCH 17, 1989 in room 529-S of the Capitol.

~~All~~ members ~~were~~ present ~~except~~: Senators Bond, Salisbury, Strick, Parrish, Karr, Kerr, Moran.

Committee staff present:
Bill Wolff, Legislative Research
Bill Edds, Revisors Office
Myrta Anderson, Legislative Research
Louise Bobo, Committee Secretary

Conferees appearing before the committee:

Dick Brock, Administrative Assistant, Kansas Insurance Department
Lowell Schmidt, Farmers Alliance Mutual Insurance Company
Alan Walter, National Crop Insurance Services, Inc.
Edward Andra, Consolidated Farmers Mutual Insurance Company
Chris Brown, Midwest Rating & Service Bureau
Larry Magill, Independent Insurance Agents
Dan Molden, Kansas Association of Life Underwriters
Jim Hall, Security Benefit Life Insurance Company
Jim Oliver, Professional Insurance Agents
Charles D. Baxter, Farm Bureau Insurance

Chairman Bond called the meeting to order at 9:15 a.m. Opponents to SB 282 were recognized in the following order:

Dick Brock, Kansas Insurance Department, informed the committee that his Department was unequivocally opposed to this bill. Mr. Brock said that this bill would reduce competition by reducing the number of competitors and that it would cause the state to have to enter the information collection and retrieval business at a cost of millions of dollars. Mr. Brock stated that, if rating organizations were causing or creating a specific problem, then it should be identified and corrected but that it cannot be done by passing SB 282. (attachment 1)

Lowell Schmidt, Farmers Alliance Mutual Insurance Company, appeared in opposition to this bill. Mr. Schmidt stated that this bill would clearly eliminate several services now performed by rating organizations. The elimination of three of these services, (1) calculation of advisory rates, (2) development of policy forms and endorsements, and (3) development of manuals of rules, would be devastating to the Alliance Insurance Companies. Mr. Schmidt concluded by saying that , because of the greater efficiencies offered by advisory rating organizations, many more companies are able to compete in the insurance marketplace. (attachment 2)

Alan Walter, National Crop Insurance Services, Inc., appeared before the committee in opposition to SB 282. He advised the committee that his chief concern with the bill was the impacts on the development and filing of forms and rates for crop-hail insurance. Mr. Walter stated that the Kansas companies which utilize their rating and filing services write about 3/4 of the hail insurance in the State. Mr. Walter said this bill, if passed, would jeopardize the farmers' traditional sources of insurance, make it more difficult for small companies to compete because of the increase in cost operation, reduce competition, and generally cause confusion in the marketplace. (attachment 3)

Edward Andra, Consolidated Farmers Mutual Insurance Company, appeared in opposition to SB 282. His chief concern was that the bill would

Unless specifically noted, the individual remarks recorded herein have not been transcribed verbatim. Individual remarks as reported herein have not been submitted to the individuals appearing before the committee for editing or corrections.

make it almost impossible for a small company to exist. The present rating companies provide a guideline for companies to use in determining adequate rates and provide forms and rules for their members. If this were taken away, the agencies would have a difficult time explaining the differences in coverage because of the different language in each company's policy. (attachment 4)

Chris Brown, Midwest Rating & Service Bureau, told the committee that SB 282 would allow large, out of state companies to take the market share of domestic companies. Their four member companies depend on MRSB for their data and do not have the personnel or equipment necessary to gather this information forcing them to obtain those services from outside actuaries. (attachment 5)

Larry Magill, Independent Insurance Agents, stated that his organization was opposed to SB 282 in its entirety. Mr. Magill said that passage of this bill would reduce the availability and affordability of insurance by driving small insurance companies and small agents out of the market, particularly in rural areas. Although concerned about the negative effects on consumers and agents in the personal lines area, Mr. Magill considered the most serious impact to be in the commercial lines area. His organization also considered that the deletion of the anti-rebating clause would be unfair to small consumers and would force small agencies out of business. (attachment 6)

Dan Molden, Kansas Association of Life Underwriters, stated that this organization was concerned about that portion of the bill that would repeal the statutes against offering to make a rebate of premiums payable on a life or health insurance contract. He further stated that rebating was a major cause of the chaotic conditions in the life insurance industry during the late 1800's. (attachment 7)

Jim Hall, Security Benefit Life Insurance Company, informed the committee that his company was against SB 282 for two reasons: (1) the repeal of the prohibition against rebating which would have a negative effect on company solvency, new agents and consumers and (2) a law making the insurance industry subject to the state anti-trust statutes. This would create confusion over who is responsible for regulating insurance at the state level and would generate litigation that would clog the courts and raise prices to consumers. (attachment 8)

Jim Oliver, Professional Insurance Agents, advised the committee that his association was concerned about the effect this bill would have on small regional companies serving Kansas and for the agents representing these companies. Many of these agents would be forced out of business because the production requirements of the major companies start at about $1 million and an agent in a small town could not produce that much business in competition with other agents in his community. (attachment 9)

Charles D. Baxter, Farm Bureau Insurance, spoke in opposition to SB 282. He advised that this company needed a rating bureau with statistical credibility to provide the rate the company should charge on classes of business with small premium bases. He said that the trending of rates was essential and the elimination of this trending function would be a significant loss to their insurance operations. Mr. Baxter also expressed concern about his company's need for flexibility in marketing and said that the services of a rating bureau was essential to enable them to meet the future needs of their customers. (attachment 10)

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON FINANCIAL INSTITUTIONS & INSURANCE,

room 529-S, Statehouse, at 9:00 a.m. ~~p.m.~~ on FRIDAY, MARCH 17, 1989.

Chairman Bond inquired if there were additional opponents to SB 282. here being none, he announced that the hearings on SB 282 were closed.

The minutes of March 15 and March 16 were approved on a motion by Senator Strick. Senator Moran seconded the motion and the motion carried.

The meeting adjourned at 10:00 a.m.

GUEST LIST

COMMITTEE: FINANCIAL INSTITUTIONS & INSURANCE COMMITTEE DATE: ____________

NAME (PLEASE PRINT)	ADDRESS	COMPANY/ORGANIZATION
Dick Brock	Topeka	Ins Dept
Allen Walter	Overland Park	Nationwide Crop Ins Service
Lowell Schmidt	McPherson	Alliance Ins. Cos
Chris P. Brown	Abilene	MRSB
Larry Magill	Topeka	IIAK
Tom Palace	Topeka	SLSL
Edward Andra	Colwich, Kans	Consolidated
Wade Smith	Dallas, Tx	I.S.O.
Terri Malenfant	Chicago IL	Alliance of Amer. Insurers
Dick Scott	O.P. K	State Farm Ins.
Debra Wozniak	Bloomington Illinois	State Farm Ins
Pete Friedmann	Chicago, IL.	Alliance of American Insurers
Ron Callahan	Topeka	American Insurance Association
[illegible] E. Wilbur	McPher	Alliance Ins Co.
W. Mitchell	Hutchinson	Alliance "
David Hanson	Topeka	Ks Assoc Prop t Cas Ins
Dennis D. Roth	Olathe	Patrons
Dan Madden	Topeka	Ks Assn of Life Underwriters
Jim Hall	Topeka	Security Benefit Life
Jim Oliver	Topeka	Prof Ins Agts of Ks
Charles D. Baylor	Manhattan	Farm Bureau Mutual Ins
L M Cornish	Topeka	Kansas P/C Ins Cos / Ks Life Assn - MAII
Daryl C. Richardson	Topeka	Kansas Fire & Cas Co.
Duane Kruse	Bremen	Bremen Farmers Mut.
Doug Britt	Chapman Ks	Upland Mutual Ins Inc

GUEST LIST

COMMITTEE: FINANCIAL INSTITUTIONS & INSURANCE COMMITTEE DATE: ______________

NAME (PLEASE PRINT)	ADDRESS	COMPANY/ORGANIZATION
Jim WHITEHEAD	COLWICH, KS.	CONSOLIDATED FARMERS
HOWARD E. ROGERS	ELLINWOOD, KS	FARMERS MUTUAL INSURANCE CO.
Lawrence E Reif	Claflin KS	Farmers Mutual Ins Ellinwood
[illegible]	Topeka	ICPA
G. McCallister	Topeka	KCA
RG FREY	TOPEKA	KTLA

TESTIMONY BY

DICK BROCK
ADMINISTRATIVE ASSISTANT
KANSAS INSURANCE DEPARTMENT

BEFORE THE

SENATE FINANCIAL INSTITUTIONS AND INSURANCE COMMITTEE

SENATE BILL NO. 282

MARCH 17, 1989

Attachment I
Sen. F.I & I
3/17/89

It is not often the Insurance Department unequivocally opposes a bill but Senate Bill No. 282 is simply a bad bill. It's bad for the insurance industry -- it's bad for the State of Kansas -- and, most of all, it's bad for consumers. We have visited with a proponent of Senate Bill No. 282 and as a result we believe some of its objectionable features are unintentional and could be improved by amendments. However, even if you did this -- even if the necessary time and effort was expended to remove or alleviate some of its current administrative and economic difficulties, it would still be a bad bill.

One could engage in a lengthy historical discussion regarding the history of state insurance regulation. Time does not permit this so I have simply attached to my testimony a copy of some information that will give you some insight into the relationship between state and federal laws relating to insurance regulation and the limited exemption from federal antitrust laws that applies to the business of insurance. (Attachment 1) The purpose of this attachment is simply to acquaint you with the fact that the relationship of antitrust laws to insurance is not a new subject. Neither is it a subject that has been ignored. It has been revisited by various elements of the Congress on countless occasions and is in fact the subject of a current proposal. Presumably, the proponents of Senate Bill No. 282 are of the opinion that its enactment would result in greater or more effective regulation of insurance rates under the state's antitrust laws than the current regulatory process. If so, however, the business of insurance would still be regulated by state law but would continue to be exempt from federal antitrust laws to the same extent as now exists. How this apparent incongruity in and of itself would affect the manner in which insurance is transacted across state lines is an issue I will raise but not attempt to resolve.

The reason I won't deal with the notion of the application of state antitrust laws to interstate commerce that is to a significant extent exempt from federal antitrust laws is because the practical difficulties

with Senate Bill No. 282 are so numerous and potentially harmful that our time is better spent on those.

I'll start with the observation that this type of legislation is precisely what you should enact <u>if</u> you want to:

(1) reduce competition by reducing the number of competitors and, virtually destroy the domestic property and casualty insurance industry which is comprised primarily of small companies;

-- page 7, lines 253 and 254 -- creating a prohibition against development or trending of historical loss data will impose a significant expense on small insureds which most can't afford and some can't absorb

(2) not only permit but literally invite insurance premiums to discriminate unfairly between risks presenting the same or similar potential for loss;

-- page 20-21, lines 282 through 298 and page 24, line 437 (repeal of K.S.A. 40-1122) -- permitting agents and companies to reduce prices or provide special inducements to individual risks that will not be available to others similarly situated

(3) require the state to enter the information collection and retrieval business (Attachment 2) at a cost of millions of dollars (Attachment 3);

-- page 10, lines 358 through 373 -- removing the authority of the commissioner to obtain statistical assistance from rating organizations or even consult with other states but retaining the requirement that the Commissioner promulgate statistical plans and compile the information

(4) make persons required to purchase coverage from assigned risk plans like tickets in a lottery where a lucky draw wins;

-- page 11, lines 393 and 394; page 13, lines 11 and 12 and page 15, lines 83 and 94 -- removing the requirement that rating organizations must cooperate in the development and operation of residual market mechanisms which will prohibit residual market mechanisms from having one rating system applicable to risks

applying for or covered by the plan; and

(5) apply completely different regulatory standards to casualty insurance than is applied to property insurance.

-- This occurs because essentially the same provisions appearing in Chapter 40, Article 11 that are amended by Senate Bill No. 282 also appear in Chapter 40, Article 9.

We, of course, realize that some of these effects are probably unintended and that amendments, substitutes or companion bills may be utilized to correct most of these superficial but very significant elements. However, even if this was done the basic premise of the bill is faulty and no amount of legislative surgery will, can or should be necessary to correct it.

The basic tenet of Senate Bill No. 282 is simply wrong. It seems quite apparent that proponents of this kind of legislation believe the use of rating organizations and the rebating prohibitions -- the statutory inability of insurance companies and agents to charge a different price or provide a different benefit to some risks and not to others of like kind and character by removing the prohibitions against rebating have an adverse impact on competition. Frankly, this is somewhat ironic because it was only 3 years ago that we were standing before this legislature discussing the so-called crisis in the cost and availability of liability insurance. At that time much of the blame for the crisis was being directed toward the overly aggressive competition for insurance risks that accompanied the era of extremely high interest rates -- cash flow underwriting was the term applied. Today, the cost and availability of liability insurance is presumably again the culprit only this time efforts to generate more competition seem to be the goal. As a result, its difficult to believe that rating organizations and their activities have a significant impact on competition. At last count, we had 525 insurance companies authorized to write general liability insurance in Kansas -- and this doesn't include homeowners and farmowners authorizations. So the number of players in the marketplace isn't

indicative of what one expects when competition is lacking. Admittedly, 289 of these companies are a member or subscriber of Insurance Services Office -- the dominant rating organization -- but it is also interesting to note that 215 of these companies deviate from ISO filings. Maybe someday, as these numbers show, we will accept the fact that it is the opportunity for profit that either encourages or discourages competition -- not the existence or nonexistence of rating bureaus. Consequently, as we noted earlier, enactment of Senate Bill No. 282 will do a number of things but lower insurance premiums, greater availability of coverage and elimination of the problems associated with liability insurance are not among them.

This is not to say that improvements can't be made. In 1986 the legislature enacted Senate Bill No. 512, which requires notice of nonrenewal of commercial property and casualty policies and placed limitations on insurers' ability to cancel such policies. In 1987, the Commissioner was given greater authority to require the compilation and submission of statistical information. Also in 1987, the statutes governing the operation of individual risk rating plans were modified to limit the ability of insurers to compete as aggressively as they had in the past by indiscriminate premium reductions for individual risks. In 1988, legislation was enacted to require consideration of investment income in insurance ratemaking. In 1989, several bills are in the legislative process that will result in insurance products and operations being more responsive to consumer needs. In addition, long before Senate Bill No. 282 was introduced and consequently before we were even aware of it, consideration and discussions were initiated with Insurance Services Office to explore the practical and legal implications of requiring or permitting ISO and other organizations to file only loss cost information. Under this arrangement, insurers doing business in Kansas would receive one of the four elements that makes up an insurance rate from the rating organization. That is, they would receive the actuarially developed portion of the rate needed to cover future losses and loss expenses. This information would not, however, include any

loading for other expenses -- acquisition costs, administrative expenses, taxes, licenses and fees and so forth. Neither would it include a factor for profit and contingencies. And, finally, it would not include any provision for the company's investment income. As a result, individual companies would receive the trended and developed loss costs associated with a particular kind of business and class of risk. To this they would add their individual expenses and profit and make the adjustments necessary to reflect consideration of investment income in the final rate. This procedure is now in use in a number of states for homeowners and private passenger automobile insurance. In the context of Senate Bill No. 282, it is only fair to point out that even though at least 4 states are using this system in all property and casualty lines, it does not work nearly as well in making rates for commercial risks. Having said that, however, my only purpose in advising you of this on-going exploration is to inform you of the most recent innovation in the constantly evolving services performed by rating organizations either of their own volition or as a result of regulatory action. Few knowledgeable observers will dispute the fact that 40 years ago rating organizations were the epitome of cartel pricing. Today, even fewer will dispute the fact that rating organizations have a relatively small impact on the competitive environment. Nevertheless, they do play an important role because of their statistical capabilities and expertise. In addition, the promulgation of insurance contracts and endorsements, the development of manual rules to match the risk with appropriate rating procedures, and the establishment of standardized rating plans to accommodate individual risk variations in loss exposure or expense requirements adds a stability to the marketplace that has little to do with competition. Because of this important role, the National Association of Insurance Commissioners is currently engaged in a study of rating organizations and how they relate or the part they should play in the totality of the insurance mechanism in the years to come. This study has barely commenced so there is nothing definitive to report. However, it seems to me the Insurance Department's explorations plus the N.A.I.C. project are clear indications that rating organizations are not some

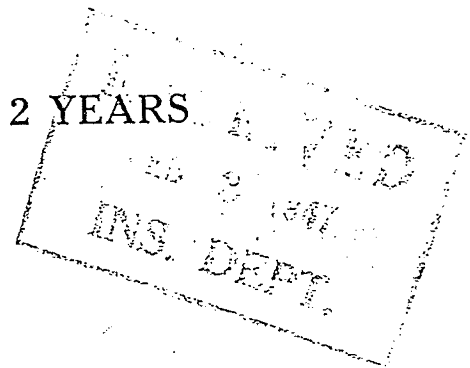
monolithic mystery that are unchallenged, unsupervised, uncontrolled or uncontrollable.

If, as Senate Bill No. 282 seems to suggest, rating organizations and/or the services performed by rating organizations are causing or creating a specific, known, substantiated problem it should be identified and corrected. That, however, can be accomplished without the disastrous impact of Senate Bill No. 282.

Attachment 1

INSURANCE AS INTERSTATE COMMERCE

THE FIRST 2 YEARS



SEUA Case

McCarran Act—P. L. 15

1946 Decisions

The S.E.U.A. Case

On June 5, 1944, the Supreme Court of the United States in *United States* v. *South-Eastern Underwriters Association, et al.*, 322 U. S. 533, 88 L. ed. 1440, held that the business of insurance was commerce, that when conducted across state lines it was interstate commerce, and therefore subject to the Sherman Anti-Trust Act.

This was a criminal prosecution brought in the District Court of the United States for the Northern District of Georgia against an organization of fire insurance companies operating in Georgia and surrounding states, and against 27 of its officers and 198 of its member companies. The indictment alleged a conspiracy to fix and maintain arbitrary and non-competitive premium rates and to monopolize trade and commerce in violation of the Sherman Anti-Trust Act. Demurrer to the indictment was sustained in August 1943. On appeal, the Supreme Court of the United States reversed the District Court by a 4 to 3 decision (Justices Roberts and Reed having disqualified themselves) and thus sustained the indictment. It did so on the ground that the defendants were engaged in interstate commerce and therefore subject to the Sherman Act. The opinion of the Court (written by Justice Black; Justices Murphy, Douglas and Rutledge concurring) distinguished the line of cases starting with *Paul* v. *Virginia* (1869), 8 Wall. 168, on the basis that the earlier cases involved the validity of state statutes and that this was the first case squarely presenting the question of whether the Commerce Clause grants to Congress the power to regulate insurance when conducted across state lines. There was a dissenting opinion by Chief Justice Stone, Justice Frankfurter concurring, and a separate dissenting opinion by Justice Jackson.

The Polish Alliance Case

On the same day, the Court held in a unanimous decision in the case of *Polish National Alliance* v. *National Labor Relations Board,* 322 U. S. 643, 88 L. ed. 1509, that a fraternal benefit society was subject to the National Labor Relations Act, because the defendant was an insurance company and that its operations "affect" commerce within the meaning of that act. The opinion was written by Justice Frankfurter.

SEUA Case

McCarran Act—P. L. 15

1946 Decisions

tax) were ... *na Insurance Company*, the *Prudential*, the *Ar... an Indemnity* and the *Pacific ... ual*, and other companies. The last two named ... mpanies challenged the Kansas retaliatory tax as well as the Kansas premium tax.

The Kansas Supreme Court upheld the tax in *In Re Insurance Tax Cases*, 160 Kan. 300, 161 P. (2d) 726. Rehearings were denied as to the four above-named companies who appealed to the United States Supreme Court. The Kansas Court took no action on the rehearing applications of the remaining companies pending the four appeals to the United States Supreme Court.

On June 10, 1946, by Per Curiam decision, 90 L. ed. Adv. Op. 1258, affirmed the above four appeals, Dockets 789, 790, 791 and 792, citing *Prudential* v. *Benjamin*. Petitions for rehearing filed by Aetna, Docket 790, and American Indemnity, Docket 791; both denied October 14, 1946.

Other jurisdictions in which actions to contest premium taxes on foreign companies, with no corresponding taxes on domestic companies, were brought in the following states: Alabama, California, Florida, Idaho, Illinois, Indiana, Kentucky, [illegible]

TEXT

[PUBLIC LAW 15—79TH CONGRESS]
[CHAPTER 20—1ST SESSION]
[S. 340]

AN ACT

TO EXPRESS THE INTENT OF THE CONGRESS WITH REFERENCE TO THE REGULATION OF THE BUSINESS OF INSURANCE.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress hereby declares that the continued regulation and taxation by the several States of the business of insurance is in the public interest, and that silence on the part of the Congress shall not be construed to impose any barrier to the regulation or taxation of such business by the several States.

SEC. 2. (a) The business of insurance, and every person engaged therein, shall be subject to the laws of the several States which relate to the regulation or taxation of such business.

(b) No Act of Congress shall be construed to invalidate, impair, or supersede any law enacted by any State for the purpose of regulating the business of insurance, or which imposes a fee or tax upon such business, unless such Act specifically relates to the business of insurance: Provided, That after January 1, 1948, the Act of July 2, 1890, as amended, known as the Sherman Act, and the Act of October 15, 1914, as amended, known as the Clayton Act, and the Act of September 26, 1914, known as the Federal Trade Commission Act, as amended, shall be applicable to the business of insurance to the extent that such business is not regulated by State law.

SEC. 3. (a) Until January 1, 1948, the Act of July 2, 1890, as amended, known as the Sherman Act, and the Act of October 15, 1914, as amended, known as the Clayton Act, and the Act of September 26, 1914, known as the Federal Trade Commission Act, as amended, and the Act of June 19, 1936, known as the Robinson-Patman Anti-discrimination Act, shall not apply to the business of insurance or to acts in the conduct thereof.

(b) Nothing contained in this Act shall render the said Sherman Act inapplicable to any agreement to boycott, coerce, or intimidate, or act of boycott, coercion, or intimidation.

SEC. 4. Nothing contained in this Act shall be construed to affect in any manner the application to the business of insurance of the Act of July 5, 1935, as amended, known as the National Labor Relations Act, or the Act of June 25, 1938, as amended, known as the Fair Labor Standards Act of 1938, or the Act of June 5, 1920, known as the Merchant Marine Act, 1920.

SEC. 5. As used in this Act, the term "State" includes the several States, Alaska, Hawaii, Puerto Rico, and the District of Columbia.

SEC. 6. If any provision of this Act, or the application of such provision to any person or circumstances, shall be held invalid, the remainder of the Act, and the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected.

Approved March 9, 1945.

Analysis of the Act

Anti-Trust Moratorium

After the *SEUA* decision, it was obvious that the insurance business would need some time in which to become readjusted to its newly acquired status under the Federal Anti-Trust Act and related federal laws. This was especially true of various types of property insurance for which industry rate-making had been found to be necessary. Congress accordingly enacted the McCarran Act (text on facing page) which created the so-called moratorium period. It specifically made the Sherman Anti-Trust and related acts inapplicable to the business of insurance until January 1, 1948. (See § 3a, above.) It provides that even during the moratorium period, as well as thereafter, the Sherman Act is to remain applicable to boycott, coercion and intimidation. (See § 3b, above.)

It further provides that after the end of the moratorium period, the Sherman Act, Clayton Act and the Federal Trade Commission Act are to be applicable to the business of insurance "to the extent that such business is not regulated by State law." (See § 2b.)

Congressional Consent

Another important and distinct part of the McCarran Act is a declaration by Congress that the continued regulation and taxation by the states of the business is in the public interest and that silence on the part of Congress shall not be construed to impose any barrier to the regulation or taxation of such business by the states (§ 1). Section 2(a) provides that the business of insurance shall be subject to state laws which regulate and tax it. (See 1946 Decisions.)

McCarran Act—P. L. 15

1946 Decisions

tax) were *Aetna Insurance Company*, the *Prudential*, the *American Indemnity* and the *Pacific Mutual*, and other companies. The last two named companies challenged the Kansas retaliatory tax as well as the Kansas premium tax.

The Kansas Supreme Court upheld the tax in *In Re Insurance Tax Cases*, 160 Kan. 300, 161 P. (2d) 726. Rehearings were denied as to the four above-named companies who appealed to the United States Supreme Court. The Kansas Court took no action on the rehearing applications of the remaining companies pending the four appeals to the United States Supreme Court.

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Citations & Digests

State Regulatory Laws Upheld

F. O. Robertson v. *The People of California* (90 L. ed. Adv. Op. 1040). Rehearing denied October 14, 1946.

Robertson, prior to passage of Public Law 15, was convicted of violating two California statutes in that he (1) acted in California as agent for a non-admitted (Arizona) insurer, and (2) acted as an agent without an agent's license. His defense was that he was engaged in interstate commerce and his acts, therefore, were beyond reach of the state's regulatory powers.

The Court affirmed the conviction under both counts. It upheld the California statutes on the assumption that their effect was to exclude Robertson's company from its borders unless the state's reserve requirements were complied with. It ruled such exclusion valid inasmuch as the reserve requirements constituted a necessary and reasonable means of securing, in the interest of the public welfare, a minimum assurance to the state's policyholders as to the performance of their policies. (Douglas dissented from this part of the decision.)

Public Law 15 was *not* relied upon because to do so would have involved a "semblance" of an *ex post facto* effect.

Premium Taxes Upheld

The Prudential Insurance Company of America v. *L. George Benjamin as Insurance Commissioner of the State of South Carolina* (90 L. ed. Adv. Op. 1023). South Carolina exacted of Prudential, a New Jersey corporation, a 3% tax on aggregate premiums received from business done in that state. No similar tax was required of South Carolina corporations. Prudential contended that this statute was a discrimination against interstate commerce to which Congress, through Public Law 15, by declaring in favor of continued state regulation and taxation, either did not or could not give its consent.

The court upheld the tax. It declared that the Commerce Clause is not a limitation of the power of Congress over interstate commerce, but rather a grant to Congress of plenary and supreme authority over that commerce. The only limitation on congressional power thereunder is as to what constitutes commerce. In enacting Public Law 15, the Court stated, Congress must have known of existing tax and regulatory systems and intended to throw the whole weight of its power behind the state's system.

Retaliatory Taxes Upheld

American Indemnity Co. v. *Hobbs; Pacific Mutual Life* v. *Hobbs* (160 Kan. 300, 161 Pac. (2d) 726, 90 L. ed. Adv. Op. 1258). Petition for rehearing filed by *American Indemnity;* denied October 14, 1946.

Per curiam decisions (which along with *Aetna* v. *Hobbs* and *Prudential* v. *Hobbs* of the same day—same citations) affirmed the Kansas Supreme Court's decision in *In re Insurance Tax Cases*, 160 Kan. 300, 161 Pac. (2d) 726 (see Bibliography hereof for further discussion). The first two upheld the validity of the Kansas premium tax imposed under its retaliatory law. The other two per curiam decisions on the same day (*i. e., Prudential* v. *Hobbs* and *Aetna* v. *Hobbs*) upheld the regular Kansas premium tax. All four decisions merely cited *Prudential* v. *Benjamin* and *Robertson* v. *California.*

The 1946 Supreme Court Decisions

On June 3, 1946, the United States Supreme Court, in two decisions, effectively disposed of two questions arising out of the *South-Eastern* decision (namely, whether state laws which regulate and those which tax insurance violate the Commerce Clause because insurance has now been held to be commerce).

In *Prudential* v. *Benjamin,* the Court *with* the aid of Public Law 15, sustained the power of a state to impose a premium tax on the commerce of insurance even though the tax applied only to foreign, and not to domestic, companies.

In *Robertson* v. *California,* the Court *without* regard to Public Law 15, upheld state regulatory power exerted over such commerce.

A week later, the Court affirmed, without opinions, decisions by the Kansas Supreme Court upholding not only a similar premium tax but also the Kansas retaliatory tax. (See opposite page, last paragraph, for names of cases.) The retaliatory tax law of Kansas, which is similar to that in 28 other states, imposes an additional tax on companies from any foreign state to the extent that such foreign state's tax exceeds the Kansas tax. The validity of such laws was upheld by these decisions.

For details see facing page.

Exhibit 13

The ISO statistical plan requires the reporting of all major risk identifying characteristics, including coverage, class and premium for each policy written. Similarly, for each loss a record is reported with complete identifying detail.

PRINCIPAL ISO PREMIUM CODING FIELDS

- Company or Group Number
- Transaction Type
- Accounting Date
- Inception Date
- Transaction Effective Date
- Transaction Expiration Date
- State
- Territory
- Type of Policy
- Annual Statement L.O.B.
- Subline
- Classification
- Coverage
- Rating ID
- Construction
- Protection
- Deductible
- Exposure/Amount of Insurance
- Rating Modification Factor
- Rate Departure Factor
- Premium Amount
- Premium Record ID
- Form
- Policy Limits
- Entry into Claims Made Date
- Limits ID
- BI or CSL Limit
- PD Limit
- BI Deductible
- PD Deductible
- State Exception
- Zone Rating
- BI or Combined Premium
- PD Premium
- PIP Premium
- PIP Limit
- PIP Deductible
- PIP Rating Basis
- OTC Coverage
- Collision Coverage
- Anti-theft Device
- Age
- Value per Rating Unit
- Building and Open Lots
- Original Cost New
- OTC Premium
- Collision Premium
- Number of Employees
- Rate Group
- Type Rating Deductible
- Area/Number of Apartments

PRINCIPAL ISO LOSS CODING FIELDS

- Company/Group Number
- Transaction Type
- Accounting Date
- Inception Date
- Loss Date
- State
- Territory
- Type of Policy
- Annual Statement L.O.B.
- Subline
- Class
- Coverage
- Rating ID
- Construction
- Protection
- Deductible
- Type of Loss
- Claim Count
- Exposure/Amount of Insurance
- Loss amount
- Loss Record ID
- Premium Record ID
- Form
- Policy Limits
- Entry into Claims Made Date
- Receipt of Claims Notice Date
- Status of Claim
- Limits ID
- Notice of Occurrence Date
- State Exception
- Accident State
- Zone Rating
- PIP Unit
- PIP Deductible
- PIP Rating
- PIP Limit
- Anti-theft Device
- Age
- Value per Rating Unit
- Building and Open Lots
- Original Cost New
- Number of Employees
- Rate Group
- Type
- Rating Deductible
- Actual Deductible

Attachment 3

M E M O R A N D U M

TO: Michael F. O'Keefe
Director of the Budget

FROM: Fletcher Bell
Commissioner of Insurance

SUBJECT: Senate Bill No. 282

DATE: March 8, 1989

Senate Bill No. 282 proposes to subject casualty insurance ratemaking to the state's anti-trusts laws. In addition, it would eliminate ratemaking organizations' authorization to make rates on behalf of its affiliated insurers and eliminate reference filing authorization between insurers.

The bill would limit rating organization activities to the collection, compiling and dissemination of historical loss data. Trending and other ratemaking procedures would not be permitted. It would eliminate provisions allowing for the cooperation among rating organizations and insurers in making rates.

This proposal would also eliminate the Commissioner's authority to appoint rating organizations or other agencies to assist in maintaining and administering statistical plans. It would also eliminate provisions which allow for the exchange of rating plan data and consultation with other state insurance departments.

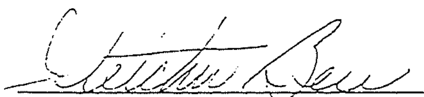
Additionally, Senate Bill No. 282 would prohibit ratemaking organizations from participating in the operation of certain assigned risk plans. The bill would finally repeal the anti-rebating statutes applicable to life and accident and health insurance.

Enactment of this legislation would require staff to assist many insurers in the development of statistical plans and reporting of statistical information to our Department as required by law. All casualty companies would also be required to individually file and justify their own rules and rates. This would create an immense problem for both companies and the Insurance Department. Many companies, especially smaller ones, would be faced with the obstacle of developing loss information and trending historical loss data. [If this bill were to be enacted, I would assume the changes made to the "Casualty" rating laws would also be applicable to the Property Insurance Rating laws (Chapter 40, Article 9) which would greatly increase the fiscal effect.]

It is anticipated that this bill would increase the number of rate and form filings submitted annually to our Department by casualty insurers from approximately 11,500 to 76,000. In addition to needing an incalculable number of new positions to review the increased number of filings, this number would be small when compared to the new positions needed to collect, maintain, and analyze the required statistical data. Along with these new positions, a very significant amount of additional office space and computer equipment would be needed which would be funded from the state general fund.

Based on our preliminary evaluation of Senate Bill No. 282's administrative impact we believe the development of any estimated costs to implement this bill would be impractical. This tentative conclusion is buttressed by information obtained from Insurance Services Organization. ISO indicated that it recently calculated very rough estimates for another state for start up costs of a data collection system for only the general liability line of insurance. Their estimate for additional personnel, office space and computer hardware totaled $39,000,000. This compares to a general fund appropriation received by the Insurance Department for FY 1989 to administer its insurance company regulation program totaling $4,170,178.

Respectfully submitted,



Fletcher Bell
Commissioner of Insurance

FB:jbad
4609rn
cc: Carolyn Rampey
Legislative Research Department

Since 1888

FARMERS ALLIANCE MUTUAL INSURANCE COMPANY
1122 N. MAIN P.O. BOX 1401 McPHERSON, KANSAS 67460 (316) 241-2200

March 17, 1989

SENATE BILL 282

Mr. Chairman and Members of the Committee:

I am Lowell Schmidt, Vice President and Actuary of the Farmers Alliance Mutual Insurance Company, the parent company of the Alliance Insurance Group, McPherson, Kansas. The Farmers Alliance Mutual Insurance Company was founded in 1888 to write insurance on farms in the State of Kansas.

Today, Farmers Alliance Mutual Insurance Company is a multiple line insurance company writing property and casualty insurance in eleven Midwestern and Rocky Mountain states.

In addition to Farmers Alliance Mutual Insurance Company, the group of companies consist of: The Alliance Insurance Company, Inc., McPherson, Kansas; Alliance Indemnity Company, McPherson, Kansas; Blakely Crop Hail, Inc., Topeka, Kansas; and North Central Crop Insurance, Inc., Eau Claire, Wisconsin.

Our premium writings for 1988 were approximately $70,000,000. We employ approximately 300 people and have service offices in Denver, Colorado and Oklahoma City, Oklahoma.

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Our companies provide personal lines, farm lines, and small commercial lines primarily to the many rural communities in the eleven states in which we operate. In addition, our two crop hail companies write insurance on growing crops in fifteen states. Our products are marketed by a network of local independent agents throughout our operating territory.

The Alliance Insurance Companies, similar to several other insurers domiciled in the State of Kansas, are regional property and casualty insurers. This group of regional companies plays an important role in stabilizing the insurance market especially for the insurance needs of individuals, families and small businesses in rural communities.

Many of these companies are "service" oriented instead of "market share" oriented and serve special local needs not always met by the large national insurers. As an example, 75% of the market for farm coverages in Kansas is provided by property and casualty insurers domiciled in the State of Kansas.

Collectively, smaller companies add significant insurance capacity, vitality and stability to the insurance marketplace.

I would like to focus on the impact the elimination of services currently being provided by rating organizations would have on the Alliance Insurance Companies and other regional companies domiciled in the State of Kansas.

First, let me briefly review the principal services performed by rating organizations. Rating organizations:

1. Collect, compile, edit and verify statistical data.
2. Analyze the data for rate making purposes.
3. Calculate advisory rates and premiums.
4. Provide regulators with composite statistical data of all reporting companies in the format and detail requested by regulators.
5. Develop policy forms and endorsements.
6. Develop manuals of rules governing the use or intended application of coverages offered for each program.
7. File advisory rules, rates, premiums, forms and endorsements with the state regulatory authorities in compliance with state laws.
8. Monitor legal, legislative, regulatory, social, economic and other changes impacting the insurance products and make the necessary changes to those products consistent with the principles of insurance.

Senate Bill 282 would clearly eliminate several of these services; most notably the calculation of advisory rates and premiums. It is not clear to us, however, if this legislation would eliminate such services as the development of policy forms and endorsements or the development of manuals of rules.

The elimination of these three services; calculation of advisory rates, development of policy forms and endorsements, and development of manuals of rules; would be devastating to the Alliance Insurance Companies and other regional property and casualty insurers. The calculation of rates is one of the most important and complex services rating organizations perform for insurance companies. The most obvious objective of the rate-making process is to develop a price structure that is adequate to:

1. cover the cost of future claims.
2. cover the cost of insurer expenses.
3. provide the insurer with a reasonable profit margin.

Of these three, covering the cost of future claims is the most critical and the most complex. To meet regulatory objectives, the rate-making process must develop rates that are adequate, non-excessive and not unfairly discriminatory.

Gathering statistical data is the foundation of the rate-making process. However, the collection, compilation and dissemination of raw historical loss data is, in itself, meaningless unless it is properly analyzed and interpreted. Consider, for example, how meaningless it would be to collect statistical data without some reasonable similarity in the underlying coverages provided by the policies that have produced the loss data. Also, the historical loss data is useless for rate-making purposes if not properly supplemented with statistical information regarding the exposures from which the loss data was generated.

Similarly, consider the confusion if the exposure data of one company rating a risk on the basis of square footage were to be combined with the exposure data of another company that rated the same type of risk on the basis of receipts, payroll, or any other exposure unit. Homogeneity of data is essential in the rate-making process. However, homogeneity cannot be achieved without due consideration being given to the rules, coverages, underwriting and marketing practices used by the various companies that produced the data.

Numerous other considerations are addressed by rating organizations in the rate-making process.

1. The type of statistical data base - meaning the use of calendar year, calendar-accident year or policy year data depending on the line of insurance.
2. The length of the experience period.
3. Loss development factors.
4. Trend factors.
5. Credibility factors.
6. Catastrophe or excess limit losses.
7. Various rating relationships such as:
   a) territory
   b) classification
   c) amount of insurance
   d) form of coverage
   e) deductibles
   f) public fire protection
   g) type of construction

Loss development and trend factors, which Senate Bill 282 would prohibit rating organizations from providing, play a particular significant role in establishing adequate rates. Loss development factors provide the necessary recognition for losses that have occurred but are not yet settled and make an allowance for incurred but not reported losses. Similarly, trend factors are used in the rate-making process to adjust past loss experience to better reflect the experience that can be expected during the period in which the rates will be used. Trend

factors attempt to quantify changes in social and economical conditions which are likely to have an impact on the frequency or severity of future losses. As an example, trend factors normally would estimate the impact of inflation on losses expected to occur in the future.

The Alliance Insurance Companies do not have sufficient data bases to properly estimate these factors for every line of business we currently write. Limiting rating organizations from providing us with this critical information can have a very significant impact on the financial stability of our companies. Additionally, without the rate-making information presently made available to companies and regulators by rating organizations, a far greater burden would fall on the regulators to determine that rates charged by individual companies are adequate, non-excessive and are not unfairly discriminatory.

With respect to the development and filing of forms and endorsements by rating organizations on the behalf of companies, it is difficult to imagine how the industry, consumers, regulators and our legal system would function without this service. Insurance departments would have to review each company's filing on its own merit, insurance agents representing multiple companies would find it very difficult, if not impossible, to accurately differentiate the products offered by their companies. The consumers would be at a real disadvantage in buying coverage. The courts would be clogged as they attempt to interpret policy language from a myriad of different forms and endorsements.

It is our conclusion that Senate Bill 282 would severely impact the Alliance Insurance Companies and other small and medium sized regional property and casualty

insurance companies. In fact, the continued existence in the marketplace of many of these companies would be threatened.

Predictability is essential for proper and adequate pricing of our insurance products. Senate Bill 282 would erode predictability for all but the very largest insurance carriers. Even these companies would find it necessary to eliminate many of their product lines in which their data would not provide adequate predictability. Availability would become a problem as small insurers are eliminated and others reduce the number of products they would make available. Specialty lines of business would be serviced by dangerously few, if any, insurers. Entry into new lines would be nearly impossible if rating organizations were restricted as proposed by Senate Bill 282.

The negative impact of Senate Bill 282 on the small and medium sized companies would be much greater than on the larger insurers, thereby placing us at a competitive disadvantage. The smaller companies simply would not have data bases of the size necessary to support some of the statistical activities required to adequately predict the future cost of claims.

For the smaller companies, the additional human resources required would be a significant fixed cost which would be spread over a relatively small premium base. These human resource costs, primarily actuarial and legal expertise, would be significant. For example, an experienced property and casualty actuary, if one could be located, would add a minimum of $50,000 to $75,000 annually to the underwriting expenses of an insurance company. In addition, costs would be incurred to acquire legal expertise and to expand information systems to support

those rate-making activities which the rating organizations would no longer be able to provide.

There is nothing of an anti-competitive or conspiratorial nature in the fact that the insurance industry utilizes advisory rating organizations, allowing smaller companies to enter and compete in the insurance marketplace. With more companies competing, consumers are given a greater choice of products and services at an equitable price. There are now a large number of insurers with low barriers to enter the marketplace. There is low market concentration (no company exceeds 10% of the market), price diversity and product innovation. Availability of comparative information is vital for the private sector to continue in the insurance risk-taking business.

Because of the greater efficiencies offered by advisory rating organizations, many more companies are able to compete in the insurance marketplace, ultimately benefiting the buying public.

STATEMENT ON SENATE BILL 282

Before The

Senate Financial Institutions and Insurance Committee

by

ALAN S. WALTER

Vice-President, National Crop Insurance Services, Inc.

Overland Park, Kansas

March 17, 1989

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3/17/89

STATEMENT ON SENATE BILL 282

Mr. Chairman and Members of the Committee:

I am Alan Walter, Vice-President for Actuarial and Statistical Services of National Crop Insurance Services, Inc. (NCIS). We are a not-for-profit rating organization providing services in Kansas and 48 other States. The insurance community better recognizes us under the name Crop-Hail Insurance Actuarial Association, which was our name until a few weeks ago when we consolidated with a sister organization. We recently relocated our organization to Overland Park, Kansas, from Chicago where our primary office was located for 40 years. We employ about 65 persons.

We appreciate the opportunity to offer our views today. Although Senate Bill 282 would change a number of insurance practices in the State of Kansas, our comments are limited to the impacts on the development and filing of forms and rates for crop-hail insurance.

We specialize in providing services for companies writing insurance on growing crops. We are nationally, even internationally, recognized for our understanding of crop risks. All companies selling crop insurance in the State of Kansas utilize our services. Although we also provide services to companies writing Multiple-Peril Crop Insurance, a program with funding and oversight by a Federal Agency, my testimony today pertains only to crop-hail insurance.

National Crop Insurance Services, Inc. provides our affiliated companies with a package of services for crop-hail insurance. We develop and file both forms and rates. The insurance companies annually report their statistics to us in accordance with a statistical plan that we maintain. The statistics are thoroughly edited to maintain quality and to assure continued usability over time. We report the statistics to the State Insurance Department and add the data to our base for use in rating. NCIS also conducts and supports research to seek improvements in our rating methods.

Our staff includes specialists in statistics, data processing, and agriculture. Few companies anywhere in the U.S. have a staff qualified to develop crop-hail rates without our resources. Kansas companies rely upon us for this specialty.

Crop-Hail Insurance is very important to the Farmers of the State of Kansas. Crop-hail is a hazard that can devastate a farmer's source of income for the year in minutes. In 1988, Kansas consumers purchased about $380 million dollars of crop-hail insurance protection. The total premium paid was $22 million. Since 1948 Kansas farmers have received about $260

million in claims payments on crop-hail policies. The crop-hail insurance industry, under careful regulation by the Kansas Insurance Department, has met the needs of Kansas farmers for a hazard that is very difficult to write and rate, but that has major impacts upon farmers in the State.

About 20 insurance companies or groups write crop-hail insurance in Kansas. The companies that utilize our rating and filing services in Kansas include: Farm Bureau Mutual Insurance Co. of Kansas, Cimarron Insurance Co., Farmers Alliance Insurance Companies, McPherson Hail Insurance Companies, Town and Country Fire and Casualty Ins. Co., and Wheat Growers Mutual Hail Insurance Co. These Kansas companies write about three-fourths of the hail insurance in the State.

Much of the insurance in Kansas is written by relatively small companies. However, some of the very large companies also provide hail insurance, usually through an organizational unit that specializes in crop insurance. The companies compete vigorously for the crop-hail business.

Senate Bill 282 permits a rating organization to collect and disseminate loss data, but prohibits the organization from developing or trending these data and from collecting or disseminating any information regarding profits or expenses. It is unclear to us if the revised statute would permit a rating organization to develop and file forms, although we understand that the Kansas Insurance Department interprets the Bill to prohibit this activity. We are also unsure whether the Bill would permit Kansas companies to contract with a rating organization to develop forms or rates on a custom basis.

Crop-hail insurance is a specialty. It requires specialized technical skills for selling, servicing, and adjusting crop-hail insurance. Maintaining the statistics and developing rates for crop-hail insurance is also a specialty.

The development of rates depends upon the maintenance of a quality data base. A primary prerequisite of a data base to adequately support crop-hail rating is that the insurance companies utilize similar policy forms so that the data from many years and many companies may be combined. Since crop-hail insurance is a weather peril, the data base ideally includes statistics over a long period of time.

The risk of damage to crops from hail varies even within small geographic areas with major differences among crops. Thus, we develop rates that vary by township, which indicates the complexity of the rating task. The specialized skills available through our organization make it possible to properly evaluate these risks so that the insurance consumers are fairly charged for their protection. It takes the combined talents of

the many individuals on our staff to properly analyze these risks for rating and forms development.

We do not believe that Senate Bill 282 would be of benefit to Kansas farmers. The Bill, if enacted, will increase company operating costs and could decrease the quality of the insurance product available. The farmers' traditional sources of insurance will be jeopardized.

If the Bill does prevent a rating organization from filing forms, each company must bear this cost. A secondary impact will be that the rating data base for crop-hail will deteriorate. Form differences among companies will make the data less comparable. It becomes much more difficult to maintain the "apples to apples" comparisons necessary in rating if every company develops its own forms. The result will be rates established with a much less adequate data base than presently available.

The proliferation of forms would also cause confusion in the market place. It is a common practice that insurance on a farm be split among two or more companies. With common forms used by all companies, the coverage is coordinated with the chance for coverage gaps or overlap minimized. With differences in forms among companies, coverage coordination when two or more companies are utilized would be a very serious problem to consumers.

It would be difficult for many companies to afford the specialized personnel and computer equipment needed for quality rating analyses. As an example, we recently invested about $300,000 just to update our systems. It would cost a lot more to replicate our system as a Kansas company might have to do under Senate Bill 282. In addition, we employ professional statisticians to conduct our analyses with Kansas companies paying only a proportionate share of the cost since the staff is used nationally. Even though our professional staff is relatively small, the cost could be high relative to premium if each of the companies selling in Kansas has to hire these skills and pay the full cost. Some of the companies, especially smaller ones, may not be able to compete with this new cost structure. The solvency of companies specializing in crop-hail could be jeopardized.

The provisions in Senate Bill 282 would, in our opinion, greatly reduce competition in crop-hail insurance. It would be costly to Kansas insurance companies if each is required to develop their own forms and conduct their own rating analyses. Some companies would be unable to justify the investment. Companies that are inadequate in their rate-making or forms development will fail. Only the very large companies would likely have adequate data for rate-making, especially if the current standardization of policy forms lapses. The industry

could be reduced to only a few, very large companies. It is almost certain that rates would be less equitable among the consumers.

In summary, the revisions proposed in Senate Bill 282 would be harmful to both Kansas insurance consumers and insurance companies. The statutory limitation of crop-hail companies from utilizing the specialized resources of a rating organization would make rates less equitable for consumers. Competition would be reduced. Costs of operation would increase. An insurance system that is working well would be left in disarray. We urge extreme care in further limiting the companies from utilizing rating organizations in Kansas since the results may well be opposite of what is intended.

I would be happy to respond to any questions from the Committee.

CONSOLIDATED FARMERS MUTUAL INSURANCE CO, INC.

COLWICH, KANSAS 67030

316
796-1055

March 17, 1989

I am Edward Andra, Colwich, Kansas. I have been associated with Consolidated Farmers Mutual Insurance Company, Inc. in various capacities since 1947 as agent, general agent, secretary, manager, and since 1975 as president. I am appearing in opposition to S.B. 282.

Our company is one of several small companies writing, fire and casualty policies for farm, home and small business risks in Kansas only. These companies have and are continuing to provide a large share of the market for the <u>average</u> Kansas policyholder. We are proud of the role whe have in providing insurance for this segment of Kansas Citizens.

We are at a loss as to how a small company can exist under the restrictions placed on us in the event this legislation becomes law. Please let me briefly state some of the problems I forsee.

Lines 36 to 38 outline the purpose of the act, but then impose restrictions that make it impossible for a small company to exist. The functions of a rating bureau have been an accepted procedure by the regulatory and legislative bodies. Two of their basic functions are to provide a guideline for companies to use in determining adequate rates for the survival of said company and to provide forms and rules for their members.

In the matter of rates, the rating bureaus presently have the expertise of many actuaries, performing a service valuable to an orderly rate making process. The cost would be prohibitive for our company and others like us to get independent actuaries to perform this function.

As to forms, they must be furnished by a central organization large enough to be staffed with an expert legal staff to ensure a workable product. If each company would be required to edit its own forms, the establishment of case law would not be valid as each company would have different language in their policies. It would create a nightmare among the insuring public as they would not have the expertise to properly evaluate the coverages best for them.

Not once in the 91 years our company has been in existance has a policyholder of our company had to go to court to settle a claim. Our consumer complaints are very low. The other small Kansas companies have similar records.

The restrictions placed on the small mutual companies by the implementation of this bill would be disastrous. Also one can imagine the confusion the agency force would have in explaining the differences of coverage because of the different language in each company's policy. The cost in errors and ommissions coverage would have to increase because of claims filed by confused policyholders.

Sincerely,

Edward Andra

Edward Andra, President

EA/ls

Attachment 4
Sen. F I & I
3/17/89

MIDWEST RATING & SERVICE BUREAU, INC.
c/o UPLAND MUTUAL INSURANCE, INC.
RR 2
CHAPMAN, KS 67431
913-762-4324

March 17, 1989

Mr. Chairman and Members of the Committee:

My name is Chris Brown and I appreciate the opportunity to address you. While I am an employee of Upland Mutual Insurance I am here today as secretary to MRSB, representing the bureau's concerns of S.B.282.

Midwest Rating and Service Bureau, Inc. is a nonprofit corporation and operates in the state of Kansas only as a rating organization. MRSB was originally organized, as The Kansas Farm Insurance Service and Rating Bureau sometime prior to 1948. It's main purpose is to assist companies in promptly determining appropriate rates for Kansas, as other rating organizations do not accurately reflect our Kansas experience. Midwest does not have any employees as it's functions are performed through a joint effort by the employees of it's member companies.

Currently four small Kansas domestic mutual insurance companies are members. These are:

Upland Mutual Insurance, Inc., Chapman, Kansas

Consolidated Farmers Mutual Insurance Company, Colwich, Kansas

Bremen Farmers Mutual Insurance Company, Bremen, Kansas

Kansas Mutual Insurance Company, Topeka, Kansas

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These companies write business only in the state of Kansas. Each of these companies have operated since being organized in the 1880s and 1890s. Each of these companies employ 10-15 people.

These companies principally write Farmowners and Homeowners coverages as well as fire and extended coverages. Combined, these four small companies write approximately 4 percent of Kansas Homeowner risks and 22 percent of Kansas Farmowner risks. In 1988 the combined premiums written by these companies was $20 million.

Insurance is based on the theory of large numbers. The more risks you insure, the greater the chance of loss, but less chance for a devastating event. The combined experience of Midwest is not equivalent to many of the large companies writing in Kansas.

The member companies of the MRSB need the ability to develop rates from a combined data base. The individual experience of one company is not enough to develop premiums that are not "excessive, inadequate and unfairly discriminatory".

The member companies need the ability to develop policy language to properly provide coverage as insurance needs change.

If S.B.282 is enacted, you will see companies less willing to enter into new markets as they will not be able to make rate adjustments based on a large data base developed from the experience of several companies. This will permit one company which has the data base to support a rate adjustment to gain approval. Other companies, which do not have the <u>individual data</u>

base will be exposed to excessive losses. They will be required to "Stand By" waiting for individual experience to support a rate adjustment.

S.B.282 will allow large, out of state companies to gradually take the market share of domestic companies. Insurance related jobs and investments in Kansas will gradually diminish. Meanwhile small domestic companies, which were organized before the turn of the century, will be stifled and discouraged from expanding into new areas.

S.B.282 will permit Midwest to furnish historical loss data, but prohibit it from developing or trending the data, and from collecting or disseminating information regarding profits or trending. None of the four member companies have personnel or equipment necessary to perform these duties and will be required to obtain these services from outside actuaries or to other experts.

Thank you for the opportunity to express our concerns of S.B.282.

Respectfully,

Chris P. Brown

MRSB Secretary

Testimony on SB 282
Before the Senate Financial Institutions & Insurance Committee
March 17, 1989
By: Larry W. Magill, Jr., Executive Vice President
Independent Insurance Agents of Kansas

Thank you, Mr. Chairman, and members of the committee for the opportunity to appear in opposition to SB 282 in its entirety. We view this proposal as simply a very dangerous smokescreen intended to divert attention from tort reform. It will not increase the availability or affordability of insurance - in fact, just the opposite. It will reduce the availability and affordability of insurance by driving small insurance companies and small agents out of the market, particularly in rural areas.

Anti-Trust

As near as we can determine, the sponsors of the legislation do not even know what the wording on page 18, lines 185-189 subjecting the insurance industry to Kansas anti-trust laws will accomplish. Clearly their intent is an attack on the federal McCarran-Ferguson Act by taking the issue to the state level. This can be seen by the language they have struck on page 17, lines 178-182 where Kansas law refers to the federal McCarran-Ferguson Act.

There is no exception for the insurance industry under the Kansas anti-trust laws other than the specific authority for rating organizations to operate contained in the insurance statutes. However, there is an exemption for the banking industry and industries regulated by the Kansas Corporation Commission which is interesting, since insurance is at least as regulated if not more so than these industries.

The only impact we see from these proposed changes is:

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1) A possible message to the U.S. Congress that Kansas supports repeal of the McCarran-Ferguson Act. If that is the purpose, then we would suggest that a straightforward debate of McCarran-Ferguson be held. However, we question spending the time since it is a federal issue and any action by the Kansas legislature would have no effect on the McCarran-Ferguson Act.

2) This language will create confusion and probable litigation that would be very costly and time consuming. For example, it is still unclear what impact Propositon 103's provision applying California anti-trust laws to the industry out there has had on the state. One immediate impact was that insurance companies no longer felt comfortable meeting in California. ISO can no longer provide policy forms for California Big "I" education classes for its members. The industry is still trying to determine what other "miscellaneous" effect Proposition 103 will have.

Rating Organizations

While SB 282 would have serious negative affects on consumers and agents in the personal lines area, we anticipate the most serious impact in the commercial lines area. Commercial lines would be property and liability insurance coverages for businesses and professionals including workers' compensation.

The anticipated effects would be:

1) No common classification system for rating risks and

reporting statistics. This would create chaos in the marketplace with one probable result being that there would be no credible statistics to look at for tort reform. Not a bad outcome if you are a proponent of this measure. (opponent of tort reform.)

There would be no yardstick available for comparison purposes. Neither agents or consumers would have any idea what the price should be for insurance for a given type of business. It would make shopping the marketplace virtually impossible with any reasonable assurances that the agent and consumer had found the best price and coverage possible.

Because of the necessity for large numbers of risks to have credible statistics, insurance companies would be leaving lines of business by the droves. There are over 600 workers' compensation classifications for different types of employments. Only the very largest insurers would be able to develop rates for this many classifications - let alone offer coverage for most classes. There are over 1,000 general liability classifications with the same result for all but the largest insurers. The ultimate impact would be less competition and serious availability and affordability problems.

ISO, the Insurance Services office, and NCCI, the National

Council on Compensation Insurance, each spend millions of dollars each year maintaining credible classification plans. Forcing each insurance company to do this separately makes about as much sense as forcing a dozen utility companies to compete for the same customers. Consumers would ultimately pay for the duplication of power distribition systems if utilities competed - the analogy would also be true for classification plans.

2) Assigned risk plans in Kansas would have to bear their own experience and develop their own rates. One result of this would be that in workers' compensation, for example, rates for firms in the workers' compensation assigned risk plan would go up dramatically. As it stands now, businesses that are in the assigned risk plan pay standard NCCI (National Council on Compensation Insurance) rates.

Although NCCI would like to apply a surcharge to all businesses in the plan, IIAK and the Insurance Department have opposed NCCI's proposed surcharge. A lot of small businesses are there only because their premiums are small or they have a large amount of clerical payroll developing a very low rate or they are in hazardous classes but have good experience. All of these small businesses would be hurt by SB 282.

For small assigned risk plans like the medical malpractice health care provider insurance availability plan, rates could be on a roller coaster if they had to rely strictly on their own claims experience. There have been several years when the Plan actually made money, but most years it has lost money. The number of health care providers insured under the plan has ranged from over 400 to currently over 800, still a relatively small number of vastly different types of providers to develop credible rates. For example, there are presently four hospitals insured for primary medical malpractice.

3) There would be no common rules. Each insurance company would use different rating and underwriting rules creating a nightmare for agents and their insureds. Agents and their insureds have enough problems now when you have common rules with items like audits where the insurance company is entitled to come in at the end of the policy period and check actual sales, payrolls, etc. For example, IIAK and the Insurance Department have been active recently helping one agent and his customer appeal a substantial audit for independent contractors used to haul materials for the contractor-client. Because we have ISO rules to fall back on, there is a good chance the Insurance Department will convince the carrier to reconsider on the audit. In the absence of common rules, these sorts of problems would probably take on epidemic

proportions.

4) There would be no standardized forms. This would make it extremely difficult to price shop and compare "apples to apples" on coverage. This lack of standardized forms would hurt consumers as well as agents because of the difficulty of comparison shopping.

Small insurance companies could not afford to develop their own policy forms for lines of business where they did not write a significant premium volume. Thus, again, SB 282 would eliminate competition, not encourage it.

A lack of standardized forms would also hamper the efforts by associations such as ours and the Risk and Insurance Management Society (RIMS) composed of the risk managers or insurance buyers of companies from effectively fighting new form filings where we do not like the changes. If you had to deal with thousands of different forms from hundreds or thousands of different companies, the task would be virtually impossible.

For example, RIMS recently opposed at the national level ISO's proposed changes to the present commercial general liability policy, while our association took a similar position on the state level. As a result of the opposition, ISO has backed off for the moment from

making the proposed changes. Among them, they would have eliminated all coverage for employment related liability under the commercial general liability policy. Not an unimportant change in today's litiguous society where employment suits are becoming commonplace.

A lack of standardized forms would be a professional errors and omissions disaster for insurance agents. Our professional or errors and omissions liability rates are relatively modest compared to the medical community for example, but might not be if there were no standardized forms.

It takes years for court decisions to interpret the meaning of forms and under proposed SB 282 there would be thousands more to interpret. Who would be the clear winner there?

Even without legislation like SB 282, there is a significant problem now with non-standard forms. But at least where you have an ISO form to use for comparison purposes that provides agents and insureds with a benchmark to gauge non-standard forms by.

5) Elimination of rating bureaus would add a tremendous cost to agents' operations. Agents would no longer be able to rate a commercial account using ISO rates

and then shop the markets available to them for the maximum credits.

In the absence of rating organizations, agents would have to separately rate a given commercial account with each of the 5-20 insurance markets the typical agent represents to have any idea who might be the most competitive on that particular type of business. Keep in mind that there would also be no standard classification plans, no standard rating plans and no standard underwriting requirements.

Nor would elimination of rating bureaus affect the use of schedule and experience rating plans which modify filed rates. You would still see companies deviate from their own filed rates by using credits or debits based upon individual insured's characteristics and experience. In a "hard" market you will still see a reduction of credits allowed raising the actual <u>premium</u> charged closer to the filed <u>rate</u>.

Agents would be forced to buy expensive computer based comparative rating systems for commercial insurance that could easily cost anywhere from $5-10,000 per year. And this assumes that they could even find a computer software firm capable of keeping up with the volume of changes for the hundreds of different companies providing commercial

insurance in Kansas, all using their own unique classification systems and different rating rules.

These added costs could easily force the medium to small agents to severely limit the number of companies they represent - again restricting competition, not increasing it. Small agents might decide to simply get out of the commercial lines business rather than incur these costs, leaving their clients with fewer options and again less competition.

6) There would be a tremendous cost to consumers from the elimination of rating bureaus because of the added cost of actuaries employed by each of the thousands of insurance companies for the thousands of filings that they have to make each year.

Even assuming consumers want to pay these added costs, no amount of money can provide actuaries with the kind of loss data they would need to develop credible rates. If insurance companies do not write a significant enough volume of business to develop credible trending and loss development statistics, they cannot hire an actuary to "dream them up". Under the provisions of SB 282, we assume that actuaries would also be prevented from sharing trending and loss development data among themselves since then they would become somewhat of a rating bureau.

Clearly under these circumstances, small insurance companies writing a small volume will cease writing that coverage altogether. Increasingly over the last 10-20 years, small insurance companies, those we refer to as domestics or regional carriers, have kept the small and rural agents in Kansas in business. The large national companies have long since abandoned small, rural agents as unprofitable or too expensive to service, in other words. Thus not only will SB 282 eliminate small insurance companies from competing in many markets, it will also eliminate many small and rural agents. That means no local service for consumers of insurance and a direct economic impact on some rural communities.

Rebates

The anti-rebating statutes are intended to prevent agents from paying or giving anything of value to customers to induce them to buy. Up until several years ago, all 50 states had virtually identical anti-rebating statutes on the books that went back to the turn of the century. Only within the last two years has the Florida Supreme Court declared their law unconstitutional. Last fall with Proposition 103's passage, rebating was allowed in California. In neither of these jurisdictions has there been enough time to develop any information on the impact on consumers.

According to Bill Gunther, Florida Insurance Commissioner, "The practice of rebating was first called into question by insurance

regulators soon after the turn of the century. Bribes and kickbacks to corrupt union bosses and other group purchasers often resulted in inadequate and inferior insurance coverage for workers. Those practices, along with blatant discrimination against some clients, began to undermine public trust in the insurance industry as a whole".

Clearly, if rebating is allowed, it will be unfair to small consumers. Large accounts will benefit while the small consumers will subsidize the large accounts. It goes without saying that those with the economic clout, the large premium payers, will have the leverage to negotiate the highest rebates. As they drive the cost of their coverage down, small customers will likely pick up the difference.

Rebating could force many small agencies out of business if the large national and regional brokers choose to engage in predatory rebating practices in a given community. A large agency could come into a smaller community and offer rebates until they drive the competition out. This could actually reduce competition in the longrun.

Widespread rebating would also reduce agents' ability to provide services, advice and counsel to their clients. Particularly given the implications of the other provisions of SB 282 in regard to standardized forms, the difficulty of comparison shopping and the elimination of competition, this would be another blow to the choices now available to consumers.

Rebating would encourage the lapsing of life insurance policies, forcing companies to charge everyone more to cover the added expenses of a continually churning book of business. This results from the high first-year commissions traditionally paid in life insurance to cover

the high initial sales costs. A "smart" consumer with enough leverage could force significant rebates on the first year's premium. To keep their costs down, they would have to use that leverage each year and change companies, so long as they stayed healthy.

Agencies using rebating on a wide scale would quickly build a large book of business that they could then use to pressure their companies into giving them higher commission scales. If the company refused to grant a higher commission rate, the agent would simply move the book of business to a company that would. The combination of higher commission scales and the added costs of processing due to increased lapse rates could threaten some life insurance companies' solvency.

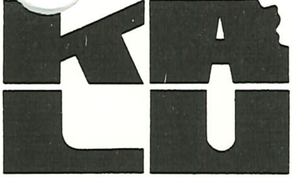
Ultimately, widespread rebating would further damage the industry's image with the public.

Conclusion

The proponents' simplistic view that by eliminating rating bureaus, subjecting the industry to anti-trust laws (whatever that means) and eliminating anti-rebate statutes is going to make liability insurance more available or affordable could not be further from the truth. A careful examination of the way the industry actually operates clearly shows that SB 282 would produce the opposite effects. Companies would not be willing to operate in the dark without adequate loss statistics or reliable rates, agents can ill afford the added costs of operations and consumers would be bewildered and overwhelmed by the lack of standardized forms and difficulty of comparison shopping. Competition would be reduced. Availability would be reduced. Affordability would be reduced. The "cycle" would be

unaffected. Those are the results of SB 282.

We respectfully urge the committee to "kill" SB 282. We specifically urge the committee not to hold the bill over. This issue has been extensively studied at the federal level and by a number of states and every time the conclusion has been the same. Repeal or modification of the McCarran-Ferguson Act serves no useful purpose.



KANSAS ASSOCIATION of LIFE UNDERWRITERS

216 S.W. 7TH - P.O. BOX 2639 - TOPEKA, KANSAS 66601 - 913-234-3491 - FAX 913-234-3713

March 17, 1989

TESTIMONY IN OPPOSITION TO SENATE BILL #282

BEFORE: Senate Committee on Financial Institutions and Insurance

BY: Dan E. Molden, Executive Director, KALU

Mr. Chairman and members of the committee, my name is Dan E. Molden, and I am the Executive Director of the 1,900 member Kansas Association of Life Underwriters.

My comments will be confined to that portion of Senate Bill #282 that would repeal the Kansas statues against offering to make or making a rebate of premiums payable on a life or health insurance contract.

The idea of allowing rebates is not a new idea. Rebating was a practice for a number of years, and was a major cause of the chaotic conditions in the life insurance industry during the later part of the 1800's. The National Association of Life Underwriters was organized in June 1890...with one of its major goals to seek passage and enforcement of state anti-rebating laws.

At the 25th annual meeting of the National Association of Insurance Commissioners, September 1904, a speaker noted, "Rebating cheapens the public estimation of insurance indemnity. It educates the insurance buyer to the idea of "Kiting", it demoralizes the agency field and renders precarious its financial returns from the honorable advocation of insurance soliciting."

The Kansas Association of Life Underwriters urge you to reject attempts to make the practice of rebating of insurance premiums a legal practice in Kansas.

Our arguments in support of retaining the current anti-rebating statues are:

- The purpose of anti-rebating statues is to provide regulatory protection to consumers in general rather than narrowly focusing upon individual transactions.

- Rebating allows the more sophisticated, larger volume purchaser to demand that they be subsidized by those in a weaker bargaining position, which is contrary to unfair discrimination.

- The cost of insurance should be based upon actuarial considerations and not bargaining strength of certain individuals. The intention is that every individual pay a fair price for his or her insurance and share equally in expenses.

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- Life insurance contracts may run for many years, maturing only at death. It is proper for a legislature, in the interest of the people, to promote the general welfare by regulating insurance companies in the management of their affairs, to guarantee insurer solvency, to establish business ethics, and to promote fair dealings at all consumer levels. Kickbacks in the form of rebates corrupt normal business decisions.

- More established agents will be able to offer more attractive rebates until less productive agents are driven out from the business leaving a monopolistic environment.

- Companies could deliberately price certain products out of the competitive marketplace and then direct agents to give extensive kickbacks to individuals whom they wish to insure. This could result in discrimination of the worst kind.

- Healthy policy holders would be more likely to keep switching insurance policies than those with serious illnesses. The poorest risks would hold on to insurance policies leaving insurers with higher claim costs.

- Rebating in insurance has nothing whatsoever to do with rebates which come from manufacturers, wholesalers, or retailers. It is the individual salesman "kicking back" part of his earnings in order to place the coverage. In no other merchandising scenario is this encouraged much less sanctioned by government.

- Discrimination, misrepresentation, monopolization, solvency and quality of service problems in the insurance industry were rampant when rebating was legal.

Thank you for the opportunity to appear before you to express our views on this vital issue.

Sincerely,

Dan E. Molden
Executive Director
KALU

Security Benefit Life Insurance Company
A Member of The Security Benefit Group of Companies

Date: March 17, 1989

To: SENATE COMMITTEE ON FINANCIAL INSTITUTIONS AND INSURANCE

Re: SENATE BILL 282

Statement by

James D. Hall
Assistant Counsel

The Security Benefit Life Insurance Company

Members of the Committee, thank you for the opportunity to testify in opposition to Senate Bill 282.

From the life insurance perspective, we oppose Senate Bill 282 on two grounds. First, the bill repeals the prohibition against rebating by life insurance agents. This will have a negative effect on company solvency, new agents and consumers. Second, a law making the insurance industry subject to the state antitrust statutes will create confusion over who is responsible for regulating insurance at the state level and will generate litigation that will clog the courts and raise prices to consumers.

REBATING

Senate Bill 282 would, among other things, repeal the prohibition against life insurance agents engaging in rebating. Rebating is when an insurance agent offers something of value (such as a percentage of his or her commission) to the consumer to get the consumer to purchase a policy.

Before moving to more substantive objections, I would first raise a question over why the supporters of this provision chose to repeal the prohibition against rebating by life insurance agents, but not property/casualty agents. Unless the life insurance industry has done something to incur the special ire of the bill's supporters, we see no reason to make this legislative distinction.

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Sen. F I + I

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3/17/89

The decade's old policy against rebating should remain in place. There are several reasons to maintain the anti-rebating laws.

The solvency of companies may be adversely affected by the number of policies that would lapse if the anti-rebate laws were repealed. Generally, in the life insurance industry the greatest commissions are afforded the agents in the first year of policies. Thus, it follows that the most significant rebates would be offered with the first year of a policy. Such a practice would encourage lapsing as consumers attempt each year to obtain the most advantageous rebates and price for their policies. If the anti-rebate laws were repealed, policyholders would be encouraged not to renew their existing policies, but rather to find an agent who will give them bigger discounts from the new first-year commissions.

As greater lapsing occurs, and agents demand greater commissions, the solvency of some companies could be impaired as the companies attempt to absorb these added costs.

Repealing the anti-rebating law would permit unfair discrimination among policyholders of the same actuarial class. The more sophisticated purchasers would obtain the better deals. The larger volume buyers would demand bigger rebates than the smaller buyers. Eventually, the smaller buyer would end up subsidizing the larger buyer. Therefore, if rebating was allowed, similarly classified policyholders of an insurer with identical coverages might find their premiums would not be governed solely by the characteristics of the risk and policy type, but instead would be subject to the amount of rebate offered.

Finally, the ability to legally rebate will encourage elimination of smaller and newer agencies and will place the larger, well established agents in a superior position. This will lead to a decline in competition and a monopolistic domination of the market by a few large agencies. Less total agents would mean more clients per agent and thus a corresponding decline in personal attention to each client by the agent.

For these reasons, we oppose Senate Bill 282 and its repeal of the anti-rebating law relating to life insurance agents.

ANTITRUST

Senate Bill 282 would make ". . . remedies contained in the antitrust statutes applicable to the insurance industry; . . .". By doing so, the bill will create confusion over who is responsible for regulating insurance and will generate expensive litigation the cost of which will be passed on to consumers by the companies.

Currently, the insurance industry is subject to regulation by the State Insurance Commissioner. The commissioner may use the skills of the professional insurance regulators in his department to oversee the business operations of those insurers doing business in Kansas. The Commissioner and his staff may use the provisions of the Kansas Unfair Trade Practices Act, K.S.A. 2401 et. seq. and other insurance statutes and regulations to govern the business of insurance. The decision of whether to investigate or take action on an alleged violation of the law by an insurer is one made by full-time insurance regulators in the insurance department.

The state antitrust statutes, on the other hand, require the Attorney General and County Attorneys to prosecute violations of the Act, K.S.A. 50-109, 50-118. The business of insurance, regardless of the type, is complex and highly specialized. Regardless of what formidable prosecutorial skills the Attorney General and County Attorney staffs may possess, they cannot be expected to have the same expertise in insurance as the full-time professionals in the insurance department. Therefore, by making " . . . remedies contained in the antitrust statutes applicable to the insurance industry . . . ", Senate Bill 282 would place on the Attorney General and County Attorneys the added burden of making decisions regarding insurance industry practices that would be better if left to the insurance regulators. What the insurance regulators may understand as a necessary and beneficial sharing of actuarial information which would ultimately lower premium rates might be viewed by the Attorney General and County Attorneys as a violation of the antitrust statutes. The insurance industry would find itself caught between the views of two governmental authorities. However, even if this problem were solved, the insurance industry would still have to respond to suits brought by private individuals.

The Kansas antitrust laws provide for a private right of action by persons who have sustained damages from violations of the Act. These provisions would provide a litigation bonanza for plaintiff's lawyers.

Even if every defense to private suits were successful, the added costs to insurers would be passed on to consumers. Any individual benefit to a single plaintiff is countered by the increased cost of insurance to the majority of consumers.

Therefore, for the foregoing reasons, we oppose Senate Bill 282 and ask that the Committee decline to recommend the bill for passage.

JDH/aab/rs

KANSAS

Testimony before the Senate FI&I Committee

Friday, March 17, 1989

PROFESSIONAL INSURANCE AGENTS

DOROTHY M. TAYLOR
EXECUTIVE DIRECTOR

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

My name is Jim Oliver, Legislative Representative of the Professional Insurance Agents of Kansas. An association of 507 agencies.

Other conferees have told you about their concerns about SB282 and about the consequences of passage of this bill to insurance companies doing business in this state. The 17 members of the Kansas Association of Property & Casualty Insurance Companies (all the domestic insurors), as well as most of the small regional companies serving Kansas would be hard put to survive. This result would not increase competition. It would stifle competition.

My concern is for the agents who represent these small domestic and regional companies which may be forced out of business. Our members rely heavily on these domestic and regional insurance companies to provide insurance to their customers. To a great extent, these agents would also be forced out of business. According to a partial survey of our member agencies, some 252 of them produce less than $500,000 a year in premiums. Some 144 of them produce less than $1,000,000 a year in premiums. Our records show that approximately 1080 agents and their employees would be affected should their domestic and regional companies be forced out of business by this bill.

Oh, but you say they could represent other companies. Yes, they could if they could meet the production requirements for an

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agency contract. How many of these agents could qualify for a contract, with a major company. Not many! Not because they are not qualified educationally or not because they aren't licensed to sell the types of insurance they sell, but because the production requirements of the major companies start at about $1,000,000 and an agent in a small town just could not produce that much business in competition with the other agents in his community.

I appreciate the opportunity to appear before you in opposition to SB282 and to point out that this bill affects not only the insurance companies, but also the insurance agents who serve you.

TESTIMONY

Charles D. Baxter
Vice President - General Manager
The Farm Bureau Mutual Insurance Company, Inc.

In opposition to

SENATE BILL NO. 282

COMMITTEE ON FINANCIAL INSTITUTIONS AND INSURANCE

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Sen. F. I & I
3/17/89

My name is Charles D. Baxter. I am Vice President and General Manager of the Property and Casualty operations for Farm Bureau Insurance.

Before getting into the specifics of my concern about S.B. 282, I would like to give you some background information on our insurance companies. We write insurance only in the State of Kansas. In 1988, we had gross premium income in excess of $131,000,000, and had 373,750 policies in force. We are a significant writer of several lines of business including the following:

1988 Premiums Written	
Automobile	$58,384,159
Homeowners	$11,990,195
Farm Master	$13,480,001

Insurance rate making is predicated on the theory of large numbers. You must have a credible statistical base in order to promulgate rates which will be reasonably accurate. As evidenced by the above premium volumes, we are able to set rates in the Farm Bureau Mutual Insurance Company for these lines of business where we do have significant credibility.

Our KFB Insurance Company had premium writings in 1988 of $8,228,940 which are premiums for both Personal Auto and Commercial Auto. We do not have sufficient credibility to determine our own rate needs in the KFB Insurance Company.

My major concern about S.B. 282 is the potential restriction of activities presently being performed by rating bureaus. For example, in our KFB Insurance Company, we had commercial writings in 1988 of $3,945,496.

The following is a listing of some of the Commercial classifications and premiums we have developed in this Company.

BUREAU CLASS	1988 PREMIUM
3018	$ 35,069
3417	$ 46,043
8417	$ 19,905
3712	$ 4,559
8712	$ 8,409
3612	$ 32,810
8612	$ 50,033
3278	$ 4,719
8278	$ 9,615

BUREAU CLASS

3018 Light, local, contractor, fleet, service vehicle

3417 Extra heavy, dump truck, fleet, hauling for hire

8417 Extra heavy, dump truck, non-fleet, hauling for hire

3712 Semi-truck, fleet, trailer only

8712 Semi-truck, non-fleet, trailer only

3612 Semi-truck, extra heavy truck tractor only, fleet, hauling for others

8612 Semi-truck, extra heavy truck tractor only,non-fleet, hauling for others

3278 Medium size, custom harvester, fleet, grain truck

8278 Medium size, custom harvester, non-fleet, grain truck

Without the statistical credibility of a rating bureau we would not - and could not - write these commercial classifications.

In order to operate in the marketplace, we need a rating bureau that has statistical credibility in providing us the rate which we should charge on classes of business with small premium bases. The trending of rates is essential. The loss frequency and severity on a historical basis is used to project the future premium needs which must be collected in order to cover losses and expenses. The elimination of this trending function as set forth in S.B. 282 would be a significant loss to our insurance operations.

The Property side of our insurance operations in Kansas presents a similar challenge. We insure many small business and, for example, we insure restaurants. But, here again, we need the services of a rating bureau to tell Farm Bureau Insurance what the rate needs are to properly insure restaurants.

The following is the premium that we wrote on restaurant risks in the State of Kansas:

RESTAURANTS

CLASS	DESCRIPTION	1988 PREMIUM
16812	Self-service type restaurant	$ 2,719
16814	Full service type restaurant	$13,462

It is obvious that our premium writings do not have statistical credibility.

I have another major concern that I would like to share with you. Being a one state insurance operation, it is important that our operations grow and we must be flexible in our approach to marketing.

It is impossible to predict, for example, what the farming operations might be ten years from now. But it could well be that there would be a boiler located on many farms in Kansas and as the insurance carrier, we would be looked to by our insureds to provide Boiler Insurance. Frankly, I have no idea what rates and insurance forms and endorsements would be needed to insure boilers because this is an exposure we do not presently insure. It would be absolutely essential that we have available the services of a rating bureau in order for our companies to meet this insurance need of our customers. I am confident there will be other lines of insurance business that we will need to offer in the future.

I appreciate the opportunity of relaying to you my concerns about S.B. 282 and if you have questions, I will be glad to try to answer them.