

Approved _____
Date

MINUTES OF THE House COMMITTEE ON Insurance

The meeting was called to order by Dale Sprague at _____
Chairperson

3:30 ~~xx~~ a.m./p.m. on March 14, 90 in room 531-n of the Capitol.

All members were present except:
Representative Hank Turnbaugh, absent

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

Conferees appearing before the committee:

see attached list

The Chairman called the meeting to order at 3:40 p.m.

A motion was made by Representative Littlejohn to approve the minutes of March 12 and March 13, 1990. Representative Helgerson seconded. The motion carried.

SB 475 -- An Act relating to insurance; concerning hearings of the commissioner of insurance with respect to certain rate filings; amending K.S.A. 1989 Supp. 40-929 and 40-1113 and repealing the existing sections; also repealing K.S.A. 1989 Supp. 40-929a and 40-1113b.

SB 477 -- An Act relating to health maintenance organizations; concerning contract provisions; amending K.S.A. 1989 Supp. 40-3209 and repealing the existing section; also repealing K.S.A. 1989 Supp. 403209a.

Bill Edds, Revisor of Statutes explained that these bills are a technical measure recommended by the Revisor of Statutes' Office and are simply statute reconciliation bills. Mr. Edds also explained that HB 2676 which was previously heard and is now in the Senate Insurance Committee, would iron out the technical problems in SB 477. He recommended the Committee let SB 477 lie for now.

Representative Littlejohn made a motion to recommend SB 475 favorable for passage. Representative Hoy seconded. The motion carried.

SB 474-- An Act relating to captive insurance companies; concerning pure captive insurance companies insuring risks of certain aircraft manufacturers and affiliated companies; amending K.S.A. 1989 Supp. 40-4301, 40-4303 and 40-4311 and repealing the existing sections.

Chris Courtwright, Legislative Research Department gave an overview of the bill. He explained that the bill would set up a new classification within the Captive Insurance Company law to specifically define an "Aircraft captive insurance company" and also authorize the aircraft captive

CONTINUATION SHEET

MINUTES OF THE House COMMITTEE ON Insurance,

room 531-N, Statehouse, at 3:30 ~~xx~~a.m./p.m. on March 14, 1990

insurance company to provide insurance for an admitted insurance company which is an affiliate of the the aircraft company.

John Peterson, Beech Aircraft briefly appeared to introduce Dan Smart, Travel Air Insurance Company. Mr. Smart provided testimony (Attachment 1) supporting SB 474 and explained that the bill would allow the Beech Aircraft Corporation to bring to Kansas its offshore insurance company, Travel Air Insurance Company, into the State of Kansas and operate under Kansas Captive Laws. He stated that this change would assist Beech Aircraft Corporation in its efforts to control product liability costs.

There were no others wishing to testify and the hearings on SB 474 were closed.

The Committee began hearings on SB 757.

SB 757 -- An Act concerning insurance; authorizing certain insurance companies to issue policies under plans for apportionment of risk among insurers of applicants for professional liability insurance; amending K.S.A. 1989 Supp. 40-12a06 and repealing the existing sections.

Chris Courtwright, Legislative Research Department gave a brief overview of the bill. He stated that SB 757 would allow mutual insurance companies to organize and provide medical malpractice coverage and would authorize any such company to contract with the board of directors of any plan for apportionment of risk among insurers of applicants for professional liability insurance for health care providers to issue and service policies issued under the plan and to administer and carry out the functions of the plan.

Lori Callahan, Kansas Medical Mutual Insurance Company (KaMMCO) appeared in support of SB 757 and noted that the bill would allow KaMMCO to submit a bid to the Kansas Insurance Department to be the servicing carrier for the Kansas Medical Malpractice Joint Underwriting Authority (Attachment 2.)

There were no others wishing to testify on SB 757 and the hearings were concluded.

Representative Allen made a motion to recommend SB 757 favorable for passage. Representative Brown seconded. The Motion carried.

A motion was made by Representative Cribbs to recommend SB 474 favorable for passage and place on the consent calendar. Representative Allen seconded. The motion carried.

The Chairman appointed a Subcommittee to hear HB 3073. The Subcommittee would consist of, Representative Hoy, Chairman, Representative Turnbaugh and Representative Helgerson and would schedule to meet on Monday, March 19, 1990.

The meeting was adjourned at 4:30 p.m.

Travel Air Insurance Company (Kansas)

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STATEMENT BY DAN SMARTT
PRESIDENT
TRAVEL AIR INSURANCE CO.
MARCH 14, 1990
BEFORE THE KANSAS HOUSE COMMITTEE
ON INSURANCE

THANK YOU MR. CHAIRMAN, MEMBERS OF THE COMMITTEE. MY NAME IS DAN SMARTT. I AM PRESIDENT OF TRAVEL AIR INSURANCE COMPANY, A WHOLLY-OWNED SUBSIDIARY OF BEECH AIRCRAFT CORPORATION. BEECH IS THE STATE'S SECOND LARGEST PRIVATE SECTOR EMPLOYER WITH APPROXIMATELY 6500 EMPLOYEES WORKING IN THE STATE OF KANSAS. TRAVEL AIR INSURES THE PRODUCT LIABILITY OF ITS PARENT, BEECH.

* I AM APPEARING BEFORE YOU TODAY TO TESTIFY ON BEHALF OF SB 474 WHICH AMENDS THE KANSAS CAPTIVE INSURANCE STATUTES. THESE AMENDMENTS WOULD ALLOW BEECH TO BRING ITS BERMUDA OFFSHORE CAPTIVE, TRAVEL AIR INSURANCE COMPANY, LTD., INTO THE STATE OF KANSAS AND OPERATE UNDER THE KANSAS CAPTIVE LAWS.

MOST OF YOU ARE AWARE THAT THE SOARING COST OF PRODUCT LIABILITY HAS BEEN A MAJOR PROBLEM FACING AIRCRAFT MANUFACTURERS DURING THE PAST DECADE. THE PROBLEM HAS REACHED SUCH LARGE PROPORTIONS THAT, SEVERAL YEARS AGO, ANOTHER KANSAS AVIATION MANUFACTURER HALTED PRODUCTION OF ALL OF ITS NEW SINGLE AND LIGHT TWIN PISTON-POWERED AIRCRAFT. THOUSANDS OF KANSAS JOBS HAVE BEEN LOST AS A RESULT OF HIGHER PRODUCT LIABILITY EXPENSES.

EFFORTS ARE UNDERWAY TO OBTAIN FEDERAL LEGISLATION THAT WOULD PROVIDE SOME RELIEF TO MANUFACTURERS, BUT NOTHING OF SUBSTANCE HAS BEEN ACHIEVED IN THIS AREA TO DATE. THE CHANGE WE ARE PROPOSING WOULD ASSIST BEECH AIRCRAFT CORPORATION IN ITS EFFORTS TO CONTROL PRODUCT LIABILITY COSTS.

LET ME GIVE YOU A BRIEF LOOK INTO THE BACKGROUND OF THE BEECH EXPERIENCE. TRAVEL AIR INSURANCE COMPANY, LTD. WAS ORGANIZED IN 1972, AS A BERMUDA OFFSHORE CAPTIVE INSURANCE COMPANY AND WHOLLY-OWNED SUBSIDIARY OF BEECH AIRCRAFT CORPORATION, TO UNDERWRITE THE PRIMARY PRODUCT LIABILITY OF BEECH FOR THE SOLE PURPOSE OF ENABLING BEECH TO GAIN CONTROL OF ITS CLAIMS.

THE WORLD INSURANCE MARKET ALLOWS THE PRIMARY INSURER, NOT THE INSURED, TO CONTROL CLAIMS AND FUNCTION AS A COORDINATING AGENT WITH EXCESS INSURERS. AT LLOYDS OF LONDON, TRAVEL AIR AND BEECH WERE SUCCESSFUL IN A BATTLE WITH LLOYD'S UNDERWRITERS AND THE REST OF THE AVIATION INSURANCE INDUSTRY FOR THE RECOGNITION THAT TRAVEL AIR WAS A VIABLE PRIMARY INSURER WITH ACCEPTABLE CLAIMS CONTROL AUTHORITY.

FOR NEARLY TWENTY YEARS TRAVEL AIR HAS HAD IN PLACE WITH LLOYDS AN AGREEMENT ON CLAIMS CONTROL, A SOUND WORKING RELATIONSHIP, AND A UNIQUE AND EFFICIENT SET OF RESERVING PRACTICES WHICH HAVE BEEN ACCEPTABLE TO AVIATION UNDERWRITERS, EVEN IN THOSE YEARS IN WHICH THE PRIMARY LAYER HAS BEEN EXHAUSTED AND CLAIMS AND DEFENSE EXPENSES HAVE PENETRATED THE EXCESS LAYERS.

BEECH IS THE ONLY AVIATION MANUFACTURER WHICH EXERCISES

EFFECTIVE CLAIMS CONTROL THROUGH ITS CAPTIVE INSURANCE COMPANY. WE WANT TO CONTINUE TO MANAGE OUR CLAIMS IN ORDER TO HELP CONTROL PRODUCT LIABILITY EXPENSE. THE BEECH EXPERIENCE HAS SHOWN THAT OUR PRODUCT LIABILITY COST IS SUBSTANTIALLY LOWER THAN OUR COMPETITORS BOTH WITHIN AND OUTSIDE OF THE STATE OF KANSAS.

THE 1986 FEDERAL TAX ACT, AND SUBSEQUENT INTERPRETATIONS HAVE IMPOSED POTENTIAL NEW LIABILITIES ON TRAVEL AIR INSURANCE COMPANY LTD. AS A FOREIGN SUBSIDIARY CORPORATION. WE BELIEVE THE POTENTIAL LIABILITY CAN BE ELIMINATED BY BRINGING TRAVEL AIR LTD. ONSHORE AS A DOMESTIC CAPTIVE FORMED IN ONE OF THE STATES HAVING CAPTIVE INSURANCE LAWS. KANSAS, OF COURSE, IS THE PREFERRED STATE IF TWO CHANGES CAN BE MADE IN THE LAW.

OUR PROPOSED AMENDMENT TO THE LAW PROTECTS THE TRAVEL AIR NAME WITHOUT ADDING THE WORD "CAPTIVE" TO THAT NAME. THIS PROTECTS THE REPUTATION THE COMPANY HAS FOUGHT FOR AND FIRMLY ESTABLISHED OVER MANY YEARS WITH LLOYDS OF LONDON.

CURRENTLY, TRAVEL AIR INSURANCE COMPANY OF KANSAS, A REGULATED INSURANCE COMPANY AND WHOLLY-OWNED SUBSIDIARY OF TRAVEL AIR LTD. WRITES THE PRIMARY POLICY FOR BEECH AIRCRAFT PRODUCTS LIABILITY. THIS POLICY IS REVIEWED AND APPROVED BY THE KANSAS INSURANCE COMMISSIONER EACH YEAR. THE KANSAS COMPANY RETAINS 1% OF THE RISK AND REINSURES 99% OF THE REMAINING RISK WITH TRAVEL AIR LTD. THE CURRENT KANSAS LAW ALLOWS A CAPTIVE TO REINSURE ONLY RISKS OF ANOTHER CAPTIVE. OUR PROPOSED AMENDMENT WOULD ALLOW TRAVEL AIR LTD., AS A KANSAS DOMESTIC CAPTIVE, TO REINSURE THE RISKS OF ITS REGULATED SUBSIDIARY AFFILIATE, TRAVEL AIR OF KANSAS. THESE

REINSURED RISKS WOULD BE LIMITED TO THE PRODUCT LIABILITY OF BEECH AIRCRAFT.

THIS, THEN, IS A BRIEF EXPLANATION OF WHY WE ARE PROPOSING THESE MODIFICATIONS TO EXISTING KANSAS LAW. WE WOULD APPRECIATE YOUR SUPPORT. I APPRECIATE THE PRIVILEGE OF APPEARING BEFORE YOU TODAY AND I AM AT YOUR DISPOSAL TO ANSWER ANY QUESTIONS.

THANK YOU MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE.

KaMMCO

KANSAS MEDICAL MUTUAL INSURANCE COMPANY AND KANSAS MEDICAL INSURANCE SERVICES CORPORATION

March 14, 1990

TO: House Insurance Committee

FROM: Lori M. Callahan
Legislative Counsel

SUBJECT: Senate Bill 757

The Kansas Medical Mutual Insurance Company, KaMMCO, is a Kansas, physician-owned, non-profit professional liability insurance company formed by the Kansas Medical Society pursuant to legislation enacted two years ago by the legislature. KaMMCO currently insures 400 Kansas doctors and has capitalized and anticipates insuring in the next few months 400 more.

On April 3, 1990, the Kansas Insurance Department will be taking bids from insurance companies who wish to operate the Health Care Provider Insurance Availability Plan, which is a joint underwriting association, and is commonly referred to as the JUA. The JUA is similar to an assigned risk pool and is operated for health care providers who are unable to obtain medical malpractice insurance from the private market.

Companies who operate the JUA provide the administrative functions normally associated with insurance such as underwriting, issuance of policies, claims handling and data processing. When the enabling legislation which allowed KaMMCO to form was enacted two years ago, it was intended that the legislation would allow KaMMCO to be qualified to be the servicing carrier for the JUA. It has now been determined that this enabling legislation, which allows companies formed in that manner to issue policies of insurance only to their own members, would preclude companies formed under that legislation from being the servicing carrier for the JUA, since the JUA is comprised of individuals who may not necessarily be members of KaMMCO.

Accordingly, the Kansas Insurance Department and KaMMCO have determined that S.B. 757 would provide the technical change in the enabling legislation so that on April 3, 1990, KaMMCO could join with other insurance companies in bidding to be the servicing carrier for the JUA.

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At the hearing before the Senate Financial Institutions and Insurance Committee, there were no opponents and the bill passed out of the Senate 40-0. KaMMCO respectfully requests your consideration of this legislation and requests that its passage be expedited so that the legislation will be in force and effect prior to the April 3, 1990, bidding process.