

Approved March 26, 1990
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 20, 90 in room 531-n of the Capitol.

All members were present except:

Representative Theo Cribbs, excused

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. and the Committee began discussion and possible action on previously heard bills.

SB 575 -- An Act concerning insurance; relating to transfer of the domicile of certain domestic life insurance companies to other states.

Representative Gross made a motion to recommend SB 575 favorable for passage. Representative Allen seconded. The motion carried.

SB 576 -- An Act relating to insurance holding companies; concerning notices, hearings and administrative costs; amending K.S.A. 40-3301 and K.S.A. 1989 Supp. 40-3304 and repealing the existing sections.

A motion was made by Representative Sawyer, seconded by Representative Littlejohn to recommend SB 576 favorable for passage. The motion carried.

HB 3082 -- An Act relating to insurance companies and fraternal benefit societies; excluding certain assessments to pay claims of insolvent insurers from the retaliatory taxation, penalty and fee structure; amending K.S.A. 40-253 and repealing the existing section.

The Chairman asked that it be noted in the minutes that the Committee has had hearing on HB 3082 in the previous form of HB 2812.

Chris Courtwright, Legislative Research Department gave an overview of the bill explaining that HB 3082 is a reincarnation of HB 2812 which would exempt other states guarantee fund association assessments from our retaliatory tax in Kansas. Mr. Courtwright stated that the bill could have a state general fund fiscal note of as much as \$330,000 according to the budget division.

Representative Gross commented that the House is frowning on any kind of bill requiring an increase in state funds, considering the shortness of state funds available this year.

Representative Gross made a motion to table HB 3082. Representative Turnbaugh seconded. The motion carried.

CONTINUATION SHEET

MINUTES OF THE House COMMITTEE ON Insurance

room 531-N, Statehouse, at 3:30 ~~xxm.~~/p.m. on March 20, ~~199~~

The Committee began hearings on SB 514.

SB 514 -- An Act relating to insurance; providing for licensure and regulation of managing general agents; prescribing authorities and duties of the commissioner of insurance; prescribing requirements for insurers utilizing the services of managing general agents; requiring a written contract for the placement of business with an insurer by a managing general agent and prescribing contents thereof; providing penalties for violations.

Chris Courtwright, Legislative Research Department gave an overview of the bill. He stated that SB 514 would create a new insurance law in Kansas applicable to managing general agents. Mr. Courtwright explained that the bill was recommended by the Insurance Commissioner which would address solvency problems and regulatory concerns.

Dick Brock, Insurance Department appeared in support of SB 514 and provided testimony (Attachment 1) explaining that the bill was recently adopted by the National Association of Insurance Commissioners designed to address solvency and regulatory problems that have become increasingly troublesome as a result of arrangements some insurers have entered into with independent entities known as managing general agents. Mr. Brock stated that the bill is intended to assure that management deficiencies of this kind are eliminated or significantly reduced. Mr. Brock offered an editorial amendment on page 2 of the bill, where reference is made to an agent or broker licensed pursuant to this act, that this act be deleted and in lieu therefor insert "K.S.A. 1989 Supp. 40-240 or K.S.A. 40-3701 et seq". Reference was also made to an oversight in the bill's use of the term "producer(s)" throughout its provisions, and three conceptual amendments were proposed which substitute the words "agent(s)" or "broker(s)" for the word "producer(s)".

There were no others wishing to testify and hearings on SB 514 were closed.

The Committee began hearings on SB 547.

SB 547 -- An Act relating to insurance; concerning adverse underwriting decisions and premium refund obligations under certain circumstances; amending K.S.A. 1989 Supp. 40-2,112 and repealing the existing section.

Chris Courtwright, Legislative Research Department gave an overview of the bill. He explained that SB 547 would provide that in refund, which is the difference between the payment and the premium would not have to be provided in the event of an adverse underwriting decision, if there has been material underwriting requested on the application which was clearly misstated or omitted and the company attempted to provide the coverage based on the proper underwriting information.

CONTINUATION SHEET

MINUTES OF THE House COMMITTEE ON Insurance,

room 531-N, Statehouse, at 3:30 ~~xx~~ p.m. on March 20, 1990.

Dick Brock, Insurance Department provided testimony (Attachment 2) in support of SB 547 explaining that the bill would correct two unintended results of 1989 Senate Bill No. 107 by ensuring that coverage is in effect upon application and continues in effect for ten days while the insured considers any counter offer. Mr. Brock also noted that regarding information on applications, the bill would allow the company to attempt to correct the errors without returning the premium and beginning the application process over again.

There were no other wishing to testify and hearings on SB 547 were closed.

The Chairman announced that hearing on SB 605 would be rescheduled for March 21, 1990 so that the conferee who requested the bill could be present.

The meeting was adjourned at 4:23 p.m.

Kansas Insurance Department
Testimony Before the
House Insurance Committee
on Senate Bill No. 514
Presented by Dick Brock

/ Senate Bill No. 514 is a model act recently adopted by the National Association of Insurance Commissioners and is designed to address solvency problems and regulatory concerns that have become increasingly troublesome as a result of arrangements some insurers have entered into with independent entities known as managing general agents. In some of these arrangements, significant managerial decisions have been made by managing general agents without the exercise of any or insufficient oversight by the insurer itself. As a result, some insurers have been forced into liquidation because of a lack of knowledge and/or a lack of control with respect to the risks it had assumed; the reinsurance it had or had not secured; the inadequate reserves it had established and undisclosed liabilities for which it was responsible.

Senate Bill No. 514 is intended to assure that management deficiencies of this kind are eliminated or significantly reduced by: (1) requiring all such arrangements between an insurer and a managing general agent to be governed by a written contract meeting certain minimum standards; (2) imposing certain prohibitions on the activities of managing general agents; (3) requiring insurers to exercise certain management responsibilities and obtain periodic reports of essential information; (4) subjecting the managing general agent to the same Insurance Department examinations as apply to the insurer; and (5) authorizing the assessment of specific penalties for violations.

The Senate committee's amendment appears on page 2, lines 8 and 9, and simply makes it clear that the attorney-in-fact for a reciprocal will not be deemed to be a managing general agent for purposes of Senate Bill No. 514.

However, a subsequent review of the bill as passed by the Senate reveals that some other editorial amendments are in order.

On page 2, lines 19 and 20, reference is made to an agent or broker licensed pursuant to this act. Agents and brokers are licensed pursuant to other Kansas laws -- not the provisions of Senate Bill No. 514. Therefore the following amendment is suggested:

Page 2, line 20, delete the words "this act" and in lieu thereof insert "K.S.A. 1989 Supp. 40-240 or K.S.A. 40-3701 et seq".

Also, the NAIC model bill uses the term "producer" or "producers" throughout its provisions. Kansas law does not refer to "producers" so, in preparing the legislative proposal, we substituted the words "agent(s)" or "broker(s)" for the word "producer(s)". We have discovered 3 places in Senate Bill No. 514 where this substitution was overlooked. The following amendments would correct these oversights:

Page 5, line 21, delete the word "producer" and in lieu thereof insert "agent or broker".

Page 5, line 23, delete the words "a producer" and in lieu thereof insert "an agent or broker".

Page 5, line 42, delete the word "producer's" and in lieu thereof insert "agent's or broker's".

Kansas Insurance Department
Testimony Before the
House Insurance Committee
on Senate Bill No. 547 as Amended by the Senate Committee
Presented by Dick Brock

Enactment of Senate Bill No. 547 would correct two unintended results of 1989 Senate Bill No. 107. The first amendment appears on page 2, lines 23 through 26 and concerns erroneous information on the application. The applicant is or should be in a position to know whether or not the information on the application is accurate. Therefore, it is not appropriate or in keeping with the original intent of 1989 Senate Bill No. 107 to require the delay both the insurer and applicant would experience if, in such situations, the company was required to return the premium and the application to obtain corrections that were or should be already evident to both parties.

In addition, as currently structured, the 1989 enactment could permit death benefits under a life insurance application to be denied if coverage was made effective when the application was taken; the insurer determined it would not issue the policy on the basis applied for but would issue the policy on the basis applied for but would issue a policy of some kind; and, the covered person or persons died before the company's counter-offer was accepted. The second amendment appearing in lines 27 through 36 on page 2 of the bill would preclude the occurrence of situations such as this by providing that coverage would remain in effect until the potential consumer had an opportunity, 10 business days, to respond to the counter-offer.

Although the Senate amendments constitute a complete revision of the original proposal such revision was designed to produce greater clarity but produced no substantive change in the end result.