

Approved \_\_\_\_\_

3/20/91  
Date

MINUTES OF THE SENATE COMMITTEE ON FINANCIAL INSTITUTIONS AND INSURANCE

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

9:00 a.m./~~p.m.~~ on MONDAY, MARCH 18, 1991 in room 529-S of the Capitol.

~~All~~ members ~~xxxx~~ present ~~xxxxxx~~

Senators Anderson, Francisco, Kerr, Moran, Parrish, Salisbury, and Strick.

Committee staff present:

Bill Wolff, Research Department  
Fred Carman, Revisors Office  
Louise Bobo, Secretary

Conferees appearing before the committee:

Dick Brock, Kansas Insurance Department

Chairman Bond called the meeting to order at 9:15 a.m.

The Chairman requested a motion to refer SB 205 to an interim study committee as requested by Senator Walker, sponsor of the bill.

Senator Salisbury made a motion to refer SB 205 to an interim study committee. Senator Kerr seconded the motion. The motion carried.

HB 2146 - Insurance premium finance company act amended and supplemented.

Dick Brock, Kansas Insurance Department, explained that this bill amended the statutory provisions enacted in 1968 to identify, authorize and regulate entities engaged solely in the business of financing insurance premiums. Mr. Brock further stated that several changes were editorial: (1) incorporating reference to the consumer credit code in line 26, page 1, and, (2) changes to accommodate current bill drafting criteria. Mr. Brock said that the more substantive amendments would permit the Department to; (1) issue premium finance companies a continuous license, (2) accept the House amendments to correctly note that the formula for calculation of unearned service charges really describes the actuarial method, (3) remove the \$5 limit on delinquency charges, and (4) establish a specific time limit of 20 days for the return of unearned premiums in the event of cancellation. (Attachment 1)

Discussion ensued. A committee member asked the definition of a premium finance company. Mr. Brock said that it was a separate lending institution that does nothing but loan money for financing insurance premiums. Staff stated that the wording in line 26, page 1, should be changed to reflect the proper name of the act, that is, the Uniform Consumer Credit Code. Staff also advised that on page 2, lines 38-41, the unearned service charge could not be figured on an actuarial basis and the rule of 78ths--that it had to be one or the other. Mr. Brock stated that he would rather go back to the rule of 78ths.

Senator Salisbury made a motion to amend Page 1, lines 26, 27, to read Kansas Uniform Consumer Credit Code. Senator Parrish seconded the motion. The motion carried.

Senator Bond requested Staff to clean up the language on page 2, lines 38-41, referring to the method of computing any unearned service charge. He further stated we would continue the discussion on SB 2146 at a later date.

SB 2147 - Insurance agents certification fee billing procedure.

Dick Brock explained to the committee that this bill would alleviate administrative inefficiencies caused by certification submissions being in error and needing additional processing. This bill would allow the Insurance Commissioner to establish the billing procedures. (Attachment 2)

Senator Parrish made a motion to recommend HB 2147 be placed on the Consent Calendar. Senator Salisbury seconded the motion. The motion carried.

Printed and electronically proofed. Individual comments to be added to this printout must be submitted to the individuals appearing before the committee for editing or corrections.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON FINANCIAL INSTITUTIONS AND INSURANCE,  
room 529-S, Statehouse, at 9:00 a.m./~~p.m.~~ on MONDAY, MARCH 18, 1991

HB 2148 - Insurance agents: waiver of examination for certain applicants.

Mr. Brock explained to the committee that this bill would allow the Insurance Commissioner to waive additional examinations for insurance agents who had already qualified by taking an examination but had not been certified due to clerical oversight by the insurance company. The bill would also provide that, under such circumstances, the company would be required to pay all certification fees and penalties normally paid by the applicant. (Attachment 3)

Staff voiced a concern over the word "penalty" not being included in the title of the bill when the bill refers to penalties for violation.

Senator Parrish made a motion to amend the title of the bill to include the word "penalty". Senator Kerr seconded the motion. The motion carried.

Senator Anderson made a motion to recommend HB 2148, as amended, favorable for passage. Senator Moran seconded the motion. The motion carried.

Senator Kerr made a motion to approve the minutes of Wednesday, March 6, Thursday, March 7, and Friday, March 8. Senator Anderson seconded the motion. The motion carried.

The Chairman adjourned the meeting at 9:45 a.m.



Testimony By

Dick Brock, Kansas Insurance Department

Before the Senate Committee on Financial Institutions and Insurance  
on House Bill No. 2146

March 18, 1991

In 1968 separate and specific statutory provisions were enacted to identify, authorize and regulate entities engaged solely in the business of financing insurance premiums. Since inception, there has been no general review or revision of these statutory provisions. Therefore, in 1989 former Commissioner of Insurance Fletcher Bell created a study group consisting of representatives of premium finance companies doing business in this state and members of the Insurance Department staff to review the relevant statutes and recommend any appropriate changes.

House Bill No. 2146 consists of the recommended amendments resulting from that effort which Commissioner Bell forwarded to the study group members under date of July 5, 1989. These were put in the form of a legislative proposal for the 1990 session but because of other more pressing matters and with the concurrence of at least some of the study group members were deferred to this year with the exception of the one deleted by the House amendment. Several editorial changes are included such as incorporating reference to the consumer credit code in line 26, page 1 instead of its predecessors and changes to accommodate current bill drafting criteria such as using numbers only, making the language gender neutral and so forth.

The more substantive amendments include changes contained in Section 2 that are necessary to permit the Department to issue premium finance companies a continuous license to parallel the process used for insurance entities and agents; the House Committee amendments in Section 3, lines 38 and 39, page 2 to correctly note that the formula for calculation of unearned service charges really describes the actuarial

*Attachment 1*  
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method; the removal of the \$5 limit on delinquency charges in Section 4, line 5, page 3 in order that the charge will vary with the magnitude of the delinquency; and, in Section 6, line 13, page 4 establish a specific time limit of 20 days for the return of unearned premiums to the premium finance company by insurers in the event a financed policy is cancelled.

The addition of the language contained in New Section 5 to permit premium finance companies to charge a penalty equal to 10% of the amount of the check for worthless checks was removed by the House Committee because the provision was for some unknown reason a mixture of the civil and criminal statutes but, more important, there was no persuasive reason for premium finance companies to have a separate penalty.

The amendments proposed by House Bill No. 2146 are not of great magnitude but they will simplify the administration of the laws relating to premium finance companies for both the Insurance Department and the regulated industry. For that reason, we support House Bill No. 2146 and hope you will give it favorable consideration.

*[Handwritten signature]*

Testimony By

Dick Brock, Kansas Insurance Department

Before the Senate Committee on Financial Institutions and Insurance

on House Bill No. 2147

March 18, 1991

House Bill No. 2147 would require the Commissioner of Insurance to establish a billing system for the collection of required certification fees when an insurer authorizes or continues an authorization of an agent to represent them. Insurance agents transacting insurance business in Kansas are required to hold an insurance agent's license which denotes the fact that such agent has met the qualifications for a license including successful completion of the prescribed written examination. However, the license only documents a person's qualifications and does not itself confer any authority to transact the business of insurance. This is done through a certification process whereby the insurer or insurers the licensee is going to represent certifies that he or she is their agent. House Bill No. 2147 deals with the certification process.

The current statute requires the fee to accompany the request for certification. This often entails the repeated processing of a series of relatively small payments by both the state and insurers. However, even more troublesome is the fact that, primarily when multiple agents are involved, it is not unusual for the amount accompanying the request for certification be in error. When this occurs, the certifications are not only delayed but the processing time and resources are multiplied. It is estimated that at least 10% of the certification submissions are in error. House Bill No. 2147 provides a means of addressing these inefficiencies while at the same time assuring the prompt collection of the correct fees.

Pursuant to K.S.A. 40-241j, we, effectively, already bill for the renewal certification fees because we automatically recertify the agents our

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records show are certified for each company as of the close of business on April 30 each year. Therefore, when we notify the respective insurers of the agents who have been recertified, we also bill them the certification fees pertaining to those agents. Therefore, in terms of the fiscal effect, of the \$3 million collected in various agents fees in FY 1990, \$2.6 million were renewal certification or license fees which this bill would not affect. The remaining \$400,000 is certification fees that are spread throughout the year. The billing system established would be designed to more efficiently acquire this revenue and deposit it in the state general fund in a timely fashion.

Testimony By

Dick Brock, Kansas Insurance Department

Before the Senate Committee on Financial Institutions and Insurance  
on House Bill No. 2148

March 18, 1991

The laws relating to the agents qualifying examination describe several situations where the Commissioner is required to waive the examination. One of these relates to licensed agents who have been previously licensed and certified but whose "... license and certification have been permitted to lapse for not more than two years ...".

We have encountered situations where applicants for an agent's license have qualified and successfully completed the examination either for their initial license or for an additional class of insurance but have either not been certified because of a clerical error on the part of the insurance company they represent or the certification has been inadvertently terminated. If the lack of certification exists for less than a two year period, the Department has applied the above waiver provision. However, in instances where the error is not discovered for more than two years, there is no existing remedy. These situations have not been frequent but when they occur, the agent is placed in an untenable situation even though they have done everything required and expected of them.

House Bill No. 2148 would address these rare but, to the agent involved, quite significant situations by requiring the Commissioner to waive the examination when they occur.

Attachment 3  
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