

Approved February 17, 1992
Date

MINUTES OF THE House COMMITTEE ON Insurance

The meeting was called to order by Representative Turnquist at
Chairperson

3:30 ~~am~~ p.m. on Wednesday, February 12, 1992 in room 531 N of the Capitol.

All members were present except:

Representative Gilbert- Excused
Representative Welshimer - Excused
Representative Ensminger - Excused

Committee staff present:

Mr. Fred Carman - Revisor
Mr. Chris Courtwright - Research
Mrs. Emalene Correll - Research
Mrs. Nikki Feuerborn -

Conferees appearing before the committee:

Mr. Dick Brock, Insurance Department

Hearing on HB 2777 - Business transacted with broker controlled insurer

Mr. Chris Courtwright gave a staff review of the bill. This bill would enact the Business Transacted with Broker Controlled Insurer Act (BTBCIA), legislation based upon a model act from the National Association of Insurance Commissioners. The bill would bring certain kinds of controlled insurance business under the regulatory oversight of the Insurance Commissioner. The House Committee amendments are technical in nature.

Mr. Dick Brock of the Insurance Department appeared as a proponent of the bill. This bill is intended to provide additional safeguards preventing abusive practices which have occurred when the same individual or firm controlled production, underwriting and claims of an insurance company. Specifically, it provides for disclosure and contractual safeguards when an insurance broker (or brokers) also has a controlling interest in the writing company. The bill also provides a cause of action to the Commissioner to seek restitution to a company damaged by the improper actions of a producing and controlling broker. (See Attachment 1).

No opponents to the bill appeared.

Representative Neufeld moved to amend the bill by striking Section 2(b), and placing a comma after regulations on Page 2 Line 32 and for the bill to pass favorably from committee. The motion was seconded by Representative Sebelius. Motion carried.

Discussion continued on HB 2511 - Creates Kansas Health Insurance Association to make limited health insurance coverage available for certain persons unable to obtain coverage.

Mrs. Correl of the Research Department gave a staff review of the bill. It was suggested that language regarding mandates from **SB 561** be incorporated into the current bill. The first two years of the policy would cover basic services only. There might be a possibility of reviewing coverage after a two year period. Mrs. Correll will prepare a balloon copy of **HB 2511** for the committee's use.

Representative Helgerson moved the committee adopt the minutes of the February 11, 1992, meeting. Representative Sebelius seconded the motion. Motion carried.

The meeting adjourned at 4:45 p.m.

Testimony by
Dick Brock, Kansas Insurance Department
Before the House Committee on Insurance
House Bill No. 2777

House Bill No. 2777 is intended to provide additional safeguards preventing abusive practices which have occurred when the same individual or firm controlled production, underwriting and claims of an insurance company. Specifically, it provides for disclosure and contractual safeguards when an insurance broker or brokers also has a controlling interest in the writing company. The bill also provides a cause of action to the Commissioner to seek restitution to a company damaged by the improper actions of a producing and controlling broker.

The provisions of the bill can be summarized as follows:

The definition of control found in Section 2 simply refers to the Holding Company Act which states that control is presumed to exist if a person, in this case a broker, owns or controls 10% or more of the voting securities.

Pursuant to Section 3, House Bill 2777 is applicable to insurers domiciled in this state or domiciled in a state that is not an accredited state having in effect a similar law.

The provisions of the bill generally apply to a broker in any calendar year in which the controlling broker's written premium is equal to or greater than 5% of the admitted assets of the controlled insurer.

Section 4B contains the provisions that must be included in the contract between the controlling broker and the controlled insurer. The insurer may terminate the contract for cause. The broker shall render accounts, remit all funds at least monthly and hold funds in a fiduciary capacity. The contract shall provide for commissions, charges and fees no greater than those applicable to comparable business placed by other than controlling brokers. The contract shall provide a limit on the timing of

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Attachment 1*

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compensation to the broker and a limit on the amount of business the controlling broker may place with the controlled insurer.

Other provisions require every controlled insurer: to have an audit committee which shall meet with the independent auditors and the independent actuary; and to report to the Insurance Department yearly on its loss ratios, loss reserves and the amount of commissions paid to the controlling broker. Also disclosure of the relationship of the insurer and the broker must be made to the prospective insured prior to the effective date of the policy; and, finally, if the controlled insurer is to be liquidated or rehabilitated, the receiver may maintain a civil action for recovery of damages if he believes the controlling broker has not complied with the act.

The act would, if enacted, become effective December 31, 1992.