

Approved _____ 3/17/92
Date

MINUTES OF THE SENATE COMMITTEE ON FINANCIAL INSTITUTIONS AND INSURANCE

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

9:20 a.m./p.m. on Thursday, March 5, 1992 in room 529-S of the Capitol.

~~XX~~ members ~~were~~ present ~~except~~:
Senators Bond, Francisco, McClure, Moran, Parrish, Reilly, Salisbury, Strick,
and Yost.

Committee staff present:

Fred Carman, Revisor
Bill Wolff, Research
June Kossover, Secretary

Conferees appearing before the committee:

Mr. Brad Bergman, Johnson County Bank
Ms. Cathy Stover, State Bank Commissioner's Office
Mr. Richard Brock, State Insurance Department

The meeting was called to order by Chairman Bond at 9:20 a.m.

Chairman Bond reopened the discussion on SB 510, which was originally heard on February 18, 1992. Chairman Bond welcomed the Bank Commissioner, Frank Dunnick, to the committee.

Mr. Brad Bergman, Johnson County Bank, advised the committee that, after working with Cathy Stover, Attorney with the State Banking Department, both parties are now satisfied with compromise language and offer to the committee Substitute Senate Bill 510. (Attachment #1.) Ms. Stover advised that after studying the ABA model legislation, it was decided that the appropriate place for this amendatory language is in K.S.A. 17-5005. Ms. Stover also stated that the actual need for this bill is somewhat questionable since banks can currently amend individual trust instruments to accomplish what this bill allows; however, the Bank Commissioner's office realizes this bill makes the process more convenient and they have no objections to the bill in its present form. Senator Parrish made a motion to amend SB 510 with Substitute for SB 510, and to pass Substitute SB 510 favorably. The motion was seconded by Senator Salisbury. The motion carried.

The Chairman reopened the discussion on HB 2754. Mr. Richard Brock, State Insurance Department, appeared before the committee to explain the amendments to HB 2754, which addresses excess coverage insurers. (Attachment #2.) Following discussion of the proposed amendments, the Chairman declared the hearing closed. Senator Salisbury moved to adopt the balloon with one further amendment: the words "and elsewhere" will be deleted from Sec. 2 (e). Senator Reilly seconded the motion and the motion carried. Senator McClure made a motion to move HB 2754 favorably. Senator Yost seconded the motion. The motion carried. HB 2754 will be carried by Senator Salisbury.

The Chairman opened the hearing on HB 2771. Mr. Brock explained ~~this~~ this bill amends the continuing education requirement for insurance agents. (Attachment #3.) In response to Senator Reilly's question, Mr. Brock advised that courses are constantly and readily available for agents to meet the requirements. There being no further conferees, the Chairman declared the hearing on HB 2771 closed. Senator Reilly made a motion to move HB 2771 favorably; Senator Parrish seconded the motion. The motion carried. HB 2771 will be carried by Senator Reilly.

Senator Strick made a motion, seconded by Senator Yost, to approve the minutes of the meeting of March 4 as submitted. The motion carried.

Senator Reilly recognized visitors from Leavenworth: Carolyn Tillotson, Toni Stevens, Vada Johnson, and Sally Graham.

The committee adjourned at 9:50 a.m.
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.

SUBSTITUTE FOR SENATE BILL NO. 510

By Committee on Financial Institutions and Insurance

AN ACT concerning certain investments of banks and trust companies; amending K.S.A. 17-5005 and repealing the existing section.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 17-5005 is hereby amended to read as follows: 17-5005. Nothing contained in this act shall be construed as authorizing any departure from, or variation of, the express terms or limitations set forth in any will, agreement, court order or other instrument creating or defining the fiduciary's duties and powers, but:

(a) The terms "legal investment" or "authorized investment" or words of similar import, as used in any such instrument, shall be taken to mean any investment which is permitted by the terms of K.S.A. 17-5004 and amendments thereto; and

(b) Whenever any will, agreement, court order or other instrument creating or defining the fiduciary's duties and powers, directs, requires, authorizes or permits the fiduciary to invest in securities of a certain kind or class, the fiduciary, in the absence of an express provision to the contrary, may buy, hold and sell such securities either directly or in the form of shares of or other interests in any open-end or closed-end management type investment company or investment trust registered under the investment company act of 1940, or any common trust fund of a state or national bank or trust company as authorized by K.S.A. 9-1609 and amendments thereto, if the portfolio of such investment company, investment trust or common trust fund is limited to securities of the designated kind or class and to repurchase agreements fully collateralized by such securities.

(c) If a bank or trust company, or an affiliate of a bank or

FI & I 3/5/92
Attachment #1

HOUSE BILL No. 2754

By Committee on Insurance

1-23

8 AN ACT concerning insurance; list of approved insurance companies
9 for excess coverage; removal from such list; amending K.S.A. 40-
10 246e and repealing the existing section.

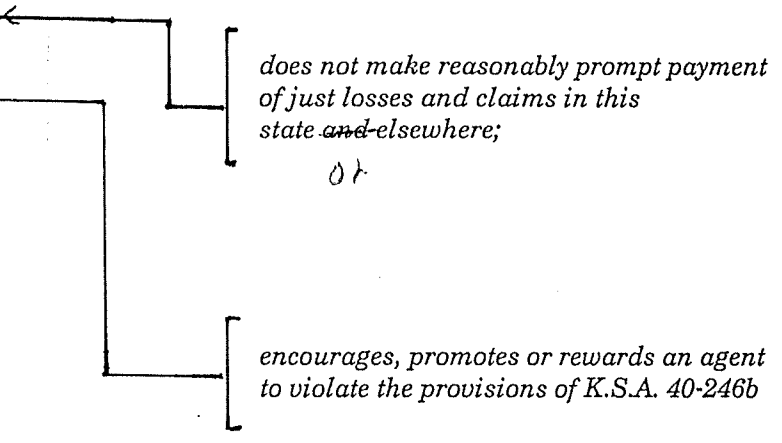
11 *Be it enacted by the Legislature of the State of Kansas:*

12 Section 1. K.S.A. 40-246e is hereby amended to read as follows:
13 40-246e. The commissioner shall maintain a list of insurers not au-
14 thorized to do business in this state for review by any interested
15 person. Only those insurers who have filed a certified copy of their
16 most recent annual statement with the commissioner in the form
17 prescribed by K.S.A. 40-225 and amendments thereto or, if domiciled
18 outside the United States, have filed their most recent annual state-
19 ment with the national association of insurance commissioners may
20 appear on the list. No excess lines agent shall place insurance on a
21 Kansas domiciled risk with an insurer whose name does not appear
22 on this list. No company shall appear on the list whose capital or
23 surplus as shown on the annual statement does not equal or exceed
24 \$1,500,000. Individual unincorporated insurers not listed by the na-
25 tional association of insurance commissioners may appear on the list
26 if they are authorized to transact an insurance business in at least
27 one state of the United States, possess assets which are held in trust
28 for the benefit of American policyholders in the sum of not less than
29 \$50,000,000 and pay the filing fee required by this section. Insurance
30 exchanges who issue contracts on behalf of their members and pay
31 the filing fee required by this section may appear on the list if their
32 individual members have a capital or surplus equal to or in excess
33 of \$1,500,000 and the aggregate capital or surplus of all members
34 of the exchange is at least \$15,000,000. A nonrefundable filing fee
35 of \$200 shall be required of any insurer submitting its annual state-
36 ment for review by the commissioner for inclusion on such list. The
37 commissioner shall remove an insurer's name from the listing only
38 when: (a) The insurer requests such removal; or (b) the insurer fails
39 to file its latest annual statement and required filing fee prior to
40 May 1 of each year as required by this section; or (c) the commis-
41 sioner is notified by the insurance supervisory authority of any state
42 in the United States that such insurer ~~has had its authority to~~

FI & I 3/5/92
Attachment #2

1 ~~any insurer listed, or~~ has been declared insolvent or placed
 2 receivership, conservatorship, rehabilitation or any similar status
 3 wherein the business of the insurer is formally supervised by an
 4 insurance supervisory authority ~~pursuant to an order by any court~~
 5 ~~of competent jurisdiction;~~ or (d) the commissioner is notified by the
 6 N.A.I.C. that any insurer domiciled outside the United States has
 7 been declared insolvent or placed in receivership, conservatorship,
 8 rehabilitation or any similar status wherein the business of the insurer
 9 is formally supervised by an insurance supervisory authority pursuant
 10 to an order by any court of competent jurisdiction; or (e) the insurer
 11 ~~has failed to effectuate prompt, fair and equitable settlement of a~~
 12 ~~claim or claims in which liability has become reasonably clear; or~~
 13 (f) the insurer ~~refuses to cooperate or demonstrates an unwillingness~~
 14 ~~to comply with reasonable regulatory requirements.~~ There shall be
 15 no liability on the part of and no cause of action of any nature shall
 16 arise against the commissioner, the commissioner's employees or
 17 the state of Kansas as a result of any insurer's name appearing or
 18 not appearing on the list required by this section if such list is
 19 constructed and maintained in good faith and without malice.

20 Sec. 2. K.S.A. 40-246e is hereby repealed.
 21 Sec. 3. This act shall take effect and be in force from and after
 22 its publication in the statute book.



Testimony by
Dick Brock, Kansas Insurance Department
Before the Senate Committee on Financial Institutions and Insurance
House Bill No. 2771

House Bill No. 2771 is a product developed by the insurance department in concert with an agents licensing study group that has, on an ad hoc advisory basis, provided input and assistance on various agents licensing issues for several years. This latest effort would make four changes, three of which can appropriately be described as technical refinements to the very significant additions and modifications to the statutes governing insurance agents that were enacted in 1988. The fourth change embodied in House Bill No. 2771 is simply a recognition of a requirement that no longer serves any purpose.

Specifically, House Bill No. 2771:

1. Amends the continuing education law applicable to insurance agents to provide for an automatic suspension of the agents license or licenses and a monetary penalty before imposing the penalty currently required for failure to provide timely proof of completion of continuing education requirements. In its original form, the bill included a monetary penalty of \$250. This was reduced by the House Committee to \$100 which is acceptable as far as the Department is concerned. Currently, the failure to provide this information or meet the requirements results in revocation of the agents' licenses. To be re-licensed, the agent must, of course, complete the continuing education requirements but, in addition, he or she must submit a new application, successfully complete the agents examination and be re-certified by all the companies he or she represents.

The addition of this intermediate penalty will avoid much of this unproductive paperwork while continuing to effectively prevent the agent from transacting business until compliance with the law is

FI&I 3/5/92
Attachment # 3

achieved. At the same time, the monetary penalty should serve as a disincentive to simply procrastinate.

2. Another change in the provisions relating to continuing education appears in lines 22 through 24 on page 4 of the bill. This is basically a housekeeping amendment which reduces the time continuing education attendance records must be retained. Currently, the law requires these records to be kept for seven years. However, such records are of no known practical use beyond the next biennium following the time the course is offered. Therefore, this provision of House Bill No. 2771 is amended accordingly.
3. Agents transacting variable life, universal life or variable annuity business are required to show evidence of satisfactory completion of a securities examination administered by the National Association of Securities Dealers or one of various other specified securities examinations. In addition, such agents must be licensed to sell standard life insurance products which requires passing a life insurance agents examination. This combination of securities and life insurance examinations covers variable contracts and it therefore does not appear necessary to require a third examination as the current law requires. House Bill No. 2771 therefore suggests that the designation of variable contracts as a separate class be deleted. This deletion appears in line 28, page 5 of the bill.
4. The current law imposes a penalty of not less than \$25 per day if an insurance company fails to certify an agent within 15 days of the time they become a representative of the company. There is no aggregate limit applicable to this penalty provision and probably shouldn't be because of its tendency to promote efforts to further delay certification or conceal the violation once the maximum penalty applies. On the other hand, as currently written, the

penalty can become so great - some have reached more than \$90,000 - that administrative application is almost impossible. As a result, House Bill No. 2771 suggests that the penalty language be changed to "not more than \$25 per calendar day ..." instead of "not less" in order that the commissioner will have some latitude with respect to penalties and situations not originally anticipated.

Enactment of the amendments proposed by House Bill No. 2771 will constructively improve administration of the laws relating to agents licensing without diminishing the qualifications an agent must meet or the responsibilities they must fulfill to properly serve the insuring public. We therefore respectfully request your favorable consideration of these amendments.