Approved: January 29, 1996
Date

MINUTES OF THE HOUSE COMMITTEE ON FINANCIAL INSTITUTIONS AND INSURANCE.

The meeting was called to order by Chairperson Bill Bryant at 3:30 p.m. on January 24, 1996 in Room 527S-of the Capitol.

All members were present except: Representative Delbert Crabb
Representative Graeber
Representative Phill Kline
Representative Tom Sawyer

Committee staff present: Bill Wolff, Legislative Research Department
Bruce Kinzie, Revisor of Statutes
Nikki Feuerborn, Committee Secretary

Conferees appearing before the committee: Jean M. Schmidt, Kansas Insurance Department Fraud Unit
Patrick J. Morris, KAIA

Others attending: See attached list

Representative Bill Bryant asked for the introduction of clean up (technical) legislation for the State Banking Commissioner (Attachment 1). This proposed legislation does not include any policy changes.

Representative Correll moved for the introduction of the proposal as a committee bill. Representative Dawson seconded the motion. Motion carried.

Hearing on HB 2629 - Insurance agents or brokers, separate fund for clients' funds

Jean Schmidt of the Kansas Insurance Department Fraud Unit presented testimony supporting the bill which would prohibit co-mingling of money belonging to others entrusted to the insurance agent with the agent's own funds (Attachments 2.) She cited examples of insurance agents neglecting to forward customer premiums to the insurance companies or diverting the premiums for their own use. In some instances the insurance company is liable for any claims by the consumer but not so in cases of workers' compensation or extended lines policies. The bill would not require separate accounts for each company that the independent agents does business with. All other licensed professions who have a fiduciary relationship with a customer must keep separate the business and personal monies. Failure to segregate funds held in trust is grounds for professional discipline and/or license revocation. Requiring agents to establish an account for receipt of premiums would strongly deter misappropriate of funds by instilling and supporting a continuing understanding of the agent's role within these transactions.

The Committee discussed the alternative of requiring posting a bond upon licensure as errors and omissions does not cover this type of shortage of funds. There are currently 4,000-5,000 agents in Kansas with 9 cases affecting 70-80 consumers. Educational courses regrading the dangers of co-mingling the funds could be part of the education curriculum and continuing education programs.

Patrick Morris, representing the Kansas Association of Insurance Agents, stated that the proposed amendment provides no additional protection for the consumer as Kansas law now states that payment to an agent or broker is deemed as payment to the insurer whether the payment was forwarded to the company or not (Attachment 3). Setting up separate funds will not stop dishonest agents or brokers from misappropriating premiums. Inasmuch as most companies require that these funds be kept separate, the proposed legislation will only affect small agencies by forcing them to maintain separate accounts and implement extra accounting procedures. Mr. Morris asked the Insurance Department to provide the following information in support of their request:

1. How many fraud cases of this nature are being pursued by the KID? Percentage of agents?
2. What is the procedure in other states?

3. Has the Department evaluated cost to agents for compliance? What will be cost to agents?

Mr. Morris did stated that KAIA would be willing to incorporate information regarding the dangers of co-mingling and the fiduciary arrangement between agent/broker and consumer into continuing education courses.

Action on HB 2630 - Insurance agents or brokers, revocation or suspension of licenses
Pat Morris of KAIA presented a proposed language change in the amendment to the bill stating that when the license of any agent is suspended or revoked, the broker's license of such person is also suspended or revoked (Attachment 4).

Representative Samuelson moved to amend the bill as presented. Motion was seconded by Representative Correll. Motion carried.

Representative Cox moved to pass the bill out favorably as amended. Motion was seconded by Representative Landwehr. Motion carried.

Action on HB 2632 - Insurance, countersignature requirements
Representative Dawson moved to pass the bill out favorably and place it on the Consent Calendar. Motion was seconded by Representative Gilbert. Motion carried.

Action on HB 2647 - Insurance agents, licenses and registrations
Patrick Morris, KAIA, presented prepared amendments which would reinsert the original language in the bill regarding the definition of "inactive agent, " how they should comply with continuing education requirements, by adding "compliance to Page 5 line 20, and technical cleanup (Attachment 5).

Representative Correll moved to accept all amendments as presented. The motion was seconded by Representative Humerickhouse. Motion carried.

Representative Landwehr moved that the bill be passed as amended. Motion was seconded by Representative Samuelson. Motion carried. Representative Vickery asked to be recorded as a "NO" vote.

Representative Cox moved to approve the minutes of January 22, 1996. Motion was seconded by Representative Landwehr. Motion carried.

The meeting adjourned at 4:45 p.m. The next meeting is scheduled for January 25, 1996.

HOUSE FINANCIAL INSTITUTIONS AND INSURANCE COMMITTEE GUEST LIST

DATE: 1-24

NAME	REPRESENTING
Pat Morris	KAIA
Bill Sneed	State Farm
Kevin Davis	Am. Family
Lee Wright	Farmers Ins. Group
Linda McKinney	KS Insurance Dept
Tom Wilson	Kansas Insurance Dept
[illegible]	Kansas Insurance Dept
[illegible]	KS INS. DEPT.
Rogers Brazier	ST. Treas.
David Hanson	KS INSUR Assocs
Lori Callahan	KAMMCO
Kelly Kultala	KTLA
Whitney Damron	Kansas Bar Association
Mallard Wilborn	Alliance Ins Co
Brad Smoot	BCBS
Roger Tomlin	KGC

HOUSE BILL NO. ____

By Committee on Financial Institutions and Insurance

AN ACT concerning banks and banking; relating to certain definitions; amending K.S.A. 1995 Supp. 9-519 and repealing the existing section.

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

Section 1. K.S.A. 1995 Supp. 9-519 is hereby amended to read as follows: 9-519. For the purposes of K.S.A. 9-520 through 9-524, and amendments thereto, and K.S.A. 9-532 through ~~9-539~~ 9-541, and amendments thereto, unless otherwise required by the context:

(a) (1) "Bank holding company" means any company:

(A) Which directly or indirectly owns, controls, or has power to vote 25% or more of any class of the voting shares of a bank or 25% or more of any class of the voting shares of a company which is or becomes a bank holding company by virtue of this act;

(B) which controls in any manner the election of a majority of the directors of a bank or of a company which is or becomes a bank holding company by virtue of this act;

(C) for the benefit of whose shareholders or members 25% or more of any class of the voting shares of a bank or 25% or more of any class of the voting shares of a company which is or becomes a bank holding company by virtue of this act, is held by trustees; or

(D) which, by virtue of acquisition of ownership or control of, or the power to vote the voting shares of, a bank or another company, becomes a bank holding company under this act.

(2) Notwithstanding paragraph (1), no company:

(A) Shall be deemed to be a bank holding company by virtue of its ownership or control of shares acquired by it in connection with its underwriting of securities if such shares are

Duane F. No. 1
Attachment 1
1-24-96

held only for such period of time as will permit the sale thereof on a reasonable basis;

(B) formed for the sole purpose of participating in a proxy solicitation shall be deemed to be a bank holding company by virtue of its control of voting rights of shares acquired in the course of such solicitation;

(C) shall be deemed to be a bank holding company by virtue of its ownership or control of shares acquired in securing or collecting a debt previously contracted in good faith, provided such shares are disposed of within a period of two years from the date on which such shares could have been disposed of by such company;

(D) owning or controlling voting shares of a bank shall be deemed to be a bank holding company by virtue of its ownership or control of shares held in a fiduciary capacity except where such shares are held for the benefit of such company or its shareholders.

(b) "Company" means any corporation, trust, limited partnership, association or similar organization including a bank but shall not include any corporation the majority of the shares of which are owned by the United States or by any state, or include any individual or partnership.

(c) "Bank" means an insured bank as defined in section 3(h) of the federal deposit insurance act, 12 U.S.C. 1813(h), except the term shall not include a national bank which engages only in credit card operations, does not accept demand deposits or deposits that the depositor may withdraw by check or similar means for payment to third parties or others, does not accept any savings or time deposits of less than $100,000, accepts deposits only from corporations which own 51% or more of the voting shares of the bank holding company or its parent corporation of which the bank engaging only in credit card operations is a subsidiary, maintains only one office that accepts deposits, and does not engage in the business of making commercial loans.

(d) "Subsidiary" with respect to a specified bank holding

company means:

(1) Any company more than 5% of the voting shares of which, excluding shares owned by the United States or by any company wholly owned by the United States, is directly or indirectly owned or controlled by such bank holding company or is held by it with power to vote;

(2) any company the election of a majority of the directors of which is controlled in any manner by such bank holding company; or

(3) any company more than 5% of the voting shares of which is held by trustees for the benefit of such bank holding company or its shareholders.

(e) "Commissioner" means the Kansas state bank commissioner.

(f) "Kansas bank" means any bank, as defined by subsection (c), which, in the case of a state chartered bank, is a bank chartered under the authority of the state of Kansas, and in the case of a national banking association, a bank with its main office located in Kansas.

(g) "Kansas bank holding company" means a bank holding company, as defined by subsection (a), with total subsidiary bank deposits in Kansas which exceed the bank holding company's subsidiary bank deposits in any other state.

(h) "Out-of-state bank holding company" means any holding company which is not a Kansas bank holding company as defined in subsection (g).

(i) "Foreign bank" means any company organized under the laws of a foreign country, a territory of the United States, Puerto Rico, Guam, American Samoa or the Virgin Islands, which engages in the business of banking, or any subsidiary or affiliate, organized under such laws, of any such company.

Sec. 2. K.S.A. 1995 Supp. 9-519 is hereby repealed.

Sec. 3. This act shall take effect and be in force from and after its publication in the statute book.

Kathleen Sebelius
Commissioner of Insurance
Kansas Insurance Department

House Bill 2629
Hearing before the Committee on Financial Institutions and Insurance
January 24, 1996
Jean M. Schmidt
Kansas Insurance Department Fraud Unit
Testimony in Support

My name is Jean M. Schmidt. I am a staff attorney at the Kansas Insurance Department and head of the fraud unit. I also serve as special assistant attorney general for defense of actions relating to the department and for prosecution of a number of cases relating to insurance fraud.

This is consumer protection legislation that is long overdue. The bill would put insurance agents on the same playing field as every other professional or licensed person who is entrusted with other people's money. It would prohibit co-mingling of money belonging to others entrusted to the agent with the agent's own funds.

The Kansas Insurance Department is charged by statute and public interest to promote, maintain, and regulate the practices of the business of insurance in the state of Kansas. We are here today to do exactly that, promote good business. The effects of agents' failure to maintain acceptable business practices can be devastating both to consumers and to companies. Let me tell you how I learned of this situation.

Shortly after my arrival at the department I was called upon to assist several consumers who had paid premiums to their agent but could not confirm their insurance coverage. One man who operates a small trucking business in western Kansas was at risk of losing his ICC license for failure to maintain coverage. Since he had excellent financial records he was able to prove payment to the insurer who was obligated to continue coverage. In exploring the situation further it became apparent that there were a

420 SW 9th Street
Topeka, Kansas 66612-1678
913 296-3071
Fax 913 296-2283

☎ Consumer Assistance Hotline
1 800 432-2484 (Toll Free)

Attachment 2
1-24-96

number of this agent's customers who had paid their premiums directly to the agent, but the premiums were never forwarded by insurance companies, (to the tune of approximately $150,000 to one company alone).

Another consumer learned that his workers' compensation policy was being canceled for non-payment, despite the fact that his premium finance company had paid the premium for an entire year. He remained liable to the premium finance company for the entire amount that had been paid to the agent, even though the workers' compensation pool never received the money, and thus, a policy was never issued. In that case, the consumer was left totally without coverage. Since a policy had never been issued, there was no company from which he could demand coverage based on standard legal principles. He was forced to purchase another policy, thus paying twice. If a workers' compensation claim is filed based on an act occurring during the period in which he was uninsured, it could bankrupt him.

Agents' ability to abscond, misuse, divert, and otherwise inappropriately handle client money is due in part to lack of a basic necessary statutory standard, i.e. trust accounts. There is no statutory or regulatory prohibition against co-mingling of funds. Maintaining a trust account for those occupations that routinely are entrusted with clients' money is a concept so basic that it defies reasoned opposition. Money is changing hands. You are giving money to a person in a commercial environment for a commercial purpose, to enter into a contract for protection. You can give money to an insurance agent for the purpose of making a premium payment. Currently he/she can take that money and deposit it into the same account that he/she writes checks from to pay for groceries, and sad to say, we have examples of agents who do just that.

I can't think of one business or profession with remotely similar responsibilities that is allowed to use money that is given in trust for their own purposes. Law, securities, real estate, probate, even pre-financed funeral agreements all require maintenance of a separate account for client funds.

Insurance company response is also interesting. In informal discussions with several companies, I found divided opinion. One company official pointed out that his company required trust accounts for agents as a condition of appointment and asserted that any company that failed to do the same rightly bears the ensuing risk. Even though companies are more often than not "on the hook" to provide coverage, that is not always the case, as illustrated earlier in relation to workers' compensation and new applications. An agent may be criminally charged or the company and/or consumer may sue the agent for damages, but those efforts rarely result in repayment of the missing funds.

Opposition may assert that this bill would punish good agents for the actions of a few bad ones. My response is that the "good" agents already have this arrangement set up because it is a sound business practice. Many are also required to maintain a premium account as a term of their appointment contract with insurance companies. Also, many maintain dual licenses with other states that already require trust accounts, such as Colorado.

The cost associated with maintaining a separate account for premiums is minimal compared to value that the account would serve. While it is true that agents could still steal their clients' and/or company's money by simply not depositing the premiums into the account, criminals do find a way to commit their crimes, I believe strongly that requiring agents to establish an account for receipt of premiums would strongly deter misappropriation of funds by instilling and supporting a continuing understanding of the agent's role within these transactions, i.e. only the commission portion of the payment is theirs.

But just as importantly, if not more important than the goal of deterring wrongdoing is the goal of providing the insurance consumer the same level of trust and confidence in the integrity of the process as that enjoyed by the clients of lawyers, realtors, stockbrokers, and others.

Most agents in this state are just like you and me, good honest folks working hard to support their families. Unfortunately, some are not. Some fall on hard times or suffer economic setbacks at which point they become vulnerable to the temptation of using the money with an intent to "pay it back." In virtually every other profession, failure to segregate funds held in trust is grounds for professional discipline and/or license revocation.

Testimony regarding

House Bill 2629

Before the House Financial Institutions and Insurance Committee

Presented by Patrick J. Morris, Executive Vice President
Kansas Association of Insurance Agents
January 24, 1996

Thank you, Mr. Chairman and members of the committee for the opportunity to appear today in opposition to H.B. 2629. I am Pat Morris, representing the Kansas Association of Insurance Agents, an association that represents approximately 643 independent agency members and over 3,200 licensed independent insurance agents across Kansas.

This bill proposes an amendment to K.S.A. 1995 Supp. 40-247. Subsection (a) would require every insurance agent or broker to maintain separate accounts for funds received from clients in order to prevent combining such funds with the agent's or broker's own funds or with funds held by the agent or broker in any other capacity. The proposed amendment specifically provides that the agent or broker shall be responsible in a fiduciary capacity for such funds received from clients.

This amendment provides no additional protection for the consumer. This amendment is proposed by the Insurance Commissioner with the express purpose of providing additional protection for the consumer. However, we contend that this proposal will have no impact on the insuring public. Kansas law has already clearly addressed the protection afforded consumers in this area. K.S.A. 40-247 was designed for the benefit of the consumer who pays his or her premiums to an agent or a broker of the insurer. This statute, in its current form, adequately protects the consumer's rights under the insurance policy regardless of whether the agent or broker submits

House FI&I
Attachment 3
January 24, 1996

these payment to the insurance company. Under Kansas law, payment by a consumer to an agent or broker is deemed as payment to the insurer. Once payment has been made and a policy or binder delivered, the consumer is completely protected by the insurer regardless of whether the payments are forwarded to the insurance company. One has to ask the proponents of this bill whether this proposal will in any manner give the consumer more protection than he or she already receives under Kansas law? The answer appears to be "no."

This amendment, as acknowledged by the Insurance Department, will not prevent fraud. The intent behind this proposal appears to be to safeguard the funds received from a consumer while in the possession of an agent or broker. Creating separate accounts for consumers' funds will not stop dishonest agents or brokers from misappropriating premiums even under this proposed amendment. Brokers and agents will still receive the funds initially from the consumer and will have the ability to misappropriate those funds before they are ever placed in a separate account. We pose a challenge to the proponents of this legislation to provide a factual situation in Kansas that, had this bill been in effect, the outcome would have been changed and the consumer would have received better protection. We believe that due to the current protection afforded consumers and due to the ability of dishonest agents or brokers to still misappropriate the funds they receive, that this legislation will not afford greater protection to consumers, nor will it prevent misconduct by an agent or broker, and, therefore, this legislation is unnecessary.

Lines 28-30 provide that "every insurance agent or broker will be responsible in a *fiduciary capacity* for all funds received or collected as an agent or broker from their clients." H.B. 2629 does not provide to whom this fiduciary duty is owed, whether it is owed to the consumer or to the

insurance industry. Currently, insurance agents and brokers are already charged with a fiduciary duty which is owed to the insurance company as to the premiums they collect from consumers. K.S.A. 1995 Supp. 40-247 expressly provides that premiums collected are deemed to be held in trust for the insurance company making the contract. It is clear that agents and brokers do have fiduciary duties, but these duties, under current Kansas law, flow to the company and not to the insured.

We are concerned that this additional duty placed upon agents and brokers will create confusion as to the agent/principal relationship that has been established between an agent or broker and the insurer. Because of the law of agency, brokers and agents are responsible to hold funds for payment to their contract company. The agent or broker acts on behalf of the company and has the authority to bind coverage and accept payment. Once the agent is paid, the agent's fiduciary duty as to those funds is owed to its principal, (e.g., the insurance company) as long as the agent holds those funds in trust for the company. If an agent or broker breaches this duty owed to its principal by failing to pay the funds due, such failure is deemed prima facie evidence that the agent or broker has appropriated the funds for some other purpose and will be guilty of a class A nonperson misdemeanor if the premium is less that $500, up to a level 7, nonperson felony if the premium is $25,000 or more.

This amendment will penalize the 99% of the agents who are hard-working, honest, and wh[illegible] do not commit fraud. Another point that must be addressed is that many companies already require these funds to be kept separate from other funds that the agent or broker acquires. This proposed legislation will in reality only affect small agencies. The additional burdens of

maintaining separate accounts and extra accounting procedures will only hurt these small operations in Kansas. It is hard to imagine that anything will be gained from this proposed legislation that will outweigh the harmful effect on the small insurance agency.

It is difficult to agree to a solution if we do not yet know the dimension and size of the problem. Prior to today's hearing, we were provided with only anecdotal evidence of selected agent fraud cases. It is difficult for us to gauge how widespread a problem this is, and should be equally difficult for the committee, without knowing the full dimension of the problem. The following questions have been generated in our evaluation of this proposed legislation:

Q: **Of the more than 3,000 licensed insurance agents in Kansas, how many fraud cases are being pursued by the Insurance Department now? What percentage of agents does this include?**

Q: **What other states have this type of statute and what has been their experience in discouraging fraud?**

Q: **Has the department evaluated the cost to agents of complying with this proposed legislation? What is their estimate as to what this will cost?**

Due to these and similar unanswered questions, our concern is that there is insufficient information available to the Department to know whether this is a major problem. In that case, perhaps the Department is proposing a statutory requirement to satisfy the exception rather than focusing on the existing laws to prosecute those who commit fraud.

We understand that the Commissioner is trying to provide the consumer with as much protection as possible. However, under current Kansas law, the consumer is already protected from an agent or broker's misappropriation of premiums. The proposed amendment will only serve to confuse the fiduciary duties placed upon agents and brokers, interfere with the common principals of agency law and add unnecessary burdens on small agencies. In our view, this may be the case of a nice-sounding solution in search of a problem. Thus, we respectfully request your disfavorable action on H.B. 2629.

Testimony regarding

House Bill 2630

Before the House Financial Institutions and Insurance Committee

Presented by Patrick J. Morris, Executive Vice President
Kansas Association of Insurance Agents
January 24, 1996

Thank you, Mr. Chairman and members of the committee for the opportunity to appear again today regarding H.B. 2630. I am Pat Morris, representing the Kansas Association of Insurance Agents, an association that represents approximately 643 independent agency members and over 3,200 licensed independent insurance agents across Kansas.

We had initially testified in opposition to this bill on January 18, 1996, and had expressed our reservations about the specifics of the proposed language. We have discussed our concerns with the proposed language with a representative of the Insurance Department, and KAIA would request that the following amended language on the enclosed page be adopted.

Financial Inst. & Ins.
Attachment 4
1-26-96

4-2

and make a record of the facts of any violation of law for any lawful purpose. No such disciplinary proceedings shall be instituted against any licensee after the expiration of two years from the termination of such license.

(c) In the event the commissioner of insurance imposes a penalty as permitted under subsection (e) or suspends or revokes the license of any agent or broker, any costs incurred as a result of conducting any administrative hearing authorized under the provisions of this section shall be assessed against the broker or agent who is the subject of the hearing or the company or companies represented by such broker or agent who is the party to the matters giving rise to the hearing. As used in this subsection, "costs" shall include witness fees, mileage allowances, any costs associated with the reproduction of documents which become a part of the hearing record and the expense of making a record of the hearing.

(d) No person whose license as an agent or broker has been suspended or revoked shall be employed by any insurance company doing business in this state either directly, indirectly, as an independent contractor or otherwise to negotiate or effect contracts of insurance, suretyship or indemnity or do any act toward soliciting or otherwise transacting the business of insurance during the period of such suspension or revocation.

(e) In lieu of revocation or suspension of the agent's or broker's license, the commissioner may:

(1) Censure the person; or

(2) issue an order imposing an administrative penalty up to a maximum of $500 for each violation but not to exceed $2,500 for the same violation occurring within any six consecutive calendar months unless the agent or broker knew or reasonably should have known the act could give rise to disciplinary action under subsection (a). If the agent or broker knew or reasonably should have known the act could give rise to disciplinary proceedings as aforementioned, the commissioner may impose a penalty up to a maximum of $1,000 for each violation but not to exceed $5,000 for the same violation occurring within any six consecutive calendar months.

~~*(f) When the license of any agent is suspended or revoked, the broker's license of such person, or agency license, if organized as a sole proprietorship, is also suspended or revoked.*~~

(f) When the license of any agent is suspended or revoked, the broker's license of such person is also suspended or revoked.

Sec. 2. K.S.A. 40-242 is hereby repealed.

Sec. 3. This act shall take effect and be in force from and after its publication in the statute book.

Testimony regarding

House Bill 2647

Before the House Financial Institutions and Insurance Committee

Presented by Patrick J. Morris, Executive Vice President
Kansas Association of Insurance Agents
January 24, 1996

Thank you, Mr. Chairman and members of the committee for the opportunity to appear again today regarding H.B. 2647. I am Pat Morris, representing the Kansas Association of Insurance Agents, an association that represents approximately 643 independent agency members and over 3,200 licensed independent insurance agents across Kansas.

We had initially expressed some concerns about the deletion of language concerning the "inactive agent" status contained in this bill during the hearing on January 18, 1996. We have discussed our concerns with the proposed language with a representative of the Insurance Department, and KAIA would request that the bill be amended to reinsert K.S.A. 40-240f (a) (5) and 40-240f (c) (7) to the original language contained in the statute. The following amended language on the enclosed pages is submitted for your consideration.

House Fin. I
Attachment 5
1-24-96

Reinsert original language.

~~(5) "Inactive agent" means a licensed agent who presents evidence satisfactory to the commissioner which demonstrates that such agent will not do any act toward transacting the business of insurance for not less than two but not more than six years from the date such evidence is received by the commissioner. Such additional periods may be granted by the commissioner upon further presentation of evidence satisfactory to the commissioner.~~

(b) (1) Every licensed agent who is an individual and holds a property or casualty qualification, or both, shall biennially obtain a minimum of twelve C.E.C.'s in courses certified as property and casualty which, on and after April 1, 1995, shall include at least one hour of instruction in insurance ethics. No more than three C.E.C.'s shall be in insurance agency management.

(2) Every licensed agent who is an individual and holds a life, accident and health, or variable contracts qualification, or any combination thereof, shall biennially complete twelve C.E.C.'s in courses certified as life, accident and health, or variable contracts which, on and after April 1, 1995, shall include at least one hour of instruction in insurance ethics. No more than three C.E.C.'s shall be in insurance agency management.

(3) Every licensed agent who is an individual and holds a crop only qualification shall biennially obtain a minimum of two C.E.C.'s in courses certified as crop under the property and casualty category.

(4) Every licensed agent who is an individual and is licensed only for title insurance shall biennially obtain a minimum of four C.E.C.'s in courses certified by the board of abstract examiners as title under the property and casualty category.

(5) Every licensed agent who is an individual and holds a life insurance license solely for the purpose of selling life insurance or annuity products used to fund a prearranged funeral program and whose report of compliance required by subsection (f) of this section is accompanied by a certification from an officer of each insurance company represented that the agent transacted no other insurance business during the period covered by the report shall biennially obtain a minimum of two C.E.C.'s in courses certified as life or variable contracts under the life, accident and health, or variable contracts category.

(c) Individual agents who hold licenses with both a property or casualty qualification, or both, and a life, accident and health, or variable contracts qualification, or any combination thereof, and who earn C.E.C.'s from courses certified by the commissioner *or the commissioner's designee* as qualifying for credit in any class, may apply those C.E.C.'s toward either the property or casualty continuing education requirement or to the life, accident and health, or variable contracts continuing education [illegible]. However, a C.E.C. shall not be applied to satisfy both the

Reinsert original language.

~~(7) This section shall not apply to inactive agents as herein defined during the period of such inactivity. Upon return to active status or expiration of the maximum inactive period, the agent shall have the remainder of the current calendar year plus the next calendar year to comply with the continuing education requirement.~~

(f) (1) A course, program of study, or subject shall be submitted to and certified by the commissioner *or the commissioner's designee* in order to qualify for purposes of continuing education.

(2) The following information shall be furnished with each request for certification:

(A) Name of provider or ~~sponsoring~~ *provider* organization;

(B) course title;

(C) date course will be offered;

(D) location where course will be offered;

(E) outline of the course including a schedule of times when subjects will be presented;

(F) names and qualifications of instructors;

(G) number of C.E.C.'s requested; and

(H) a nonrefundable *course* fee in the amount of $50 per course or ~~a nonrefundable fee in the amount of~~ $250 per year for all courses, *and a nonrefundable annual provider fee of $100.*

(3) Upon receipt of such information, the commissioner *or commissioner's designee* shall grant or deny certification as an approved subject and indicate the number of C.E.C.'s that will be recognized for the subject. Each approved subject or course shall be assigned by the commissioner *or commissioner's designee* to one or both of the following classes:

(A) Property and casualty ~~insurance contracts~~ or

(B) life insurance ~~contracts~~ (including annuity and variable contracts) and accident and health insurance ~~contracts~~.

(4) A course or subject shall have a value of at least one C.E.C.

(5) A provider seeking approval of a course for continuing education credit shall provide for the issuance of a certificate of attendance to each person who attends a course offered by it. The certificate shall be signed by either the course instructor or the provider's authorized representative. Providers shall also maintain a list of all persons who attend courses offered by them for continuing education credit for the remainder of the biennium in which the courses are offered and the entire biennium immediately following.

~~(6) A course may be approved after a program of study has been held if the required material is furnished within 60 days after the program was completed and prior to the biennial due date.~~

~~(7)~~ *(6)* The commissioner may grant approval to specific programs of study that have appropriate merit, such as programs with broad national