

Approved: 3/14/97
Date

MINUTES OF THE HOUSE COMMITTEE ON BUSINESS, COMMERCE & LABOR.

The meeting was called to order by Chairman Al Lane at 9:05 a.m. on February 18, 1997 in Room 526-S of the Capitol.

All members were present except: Rep. David Adkins - excused

Committee staff present: Jerry Donaldson, Legislative Research Department
Bob Nugent, Revisor of Statutes
Bev Adams, Committee Secretary

Conferees appearing before the committee: Bob Nugent, Revisor
Janet Stubbs, Ks Building Industry Assn.
Tom Wilder, Ks Insurance Dept.
Terry Leatherman, KCCI
Bill Curtis, Ks Assn. of School Boards
Andrew Sabolic, NCCI
Tom Slattery, Associated General Contractors
Rep. Gwen Welshimer
Kenneth Sanderson, Miami Co. National Bank
Edward Liggins, Natl. Assn. of Ind. Fee Appraisers
Jack Shelton, Ks Appraiser Board

Others attending: See attached list

The minutes of January 28 and 31 were passed out to the committee. They will be corrected or approved at the next meeting.

A list of the members of the Employment Security Advisory Council, which was requested by the Chairman, was passed out to the committee. (see Attachment 1)

Action on: **HB 2176 - Allowing social workers to form professional corporations.**
A motion was made by Rep. Geringer to pass out HB 2176 favorably and place it on the Consent Calendar. It was seconded by Rep. Grant. The motion carried.

Action on: **HB 2026 - Municipal housing authorities; rental security deposits; interest.**
Rep. Pauls made a motion to pass out HB 2026 favorably and place it on the Consent Calendar. It was seconded by Rep. Flora. The motion passed.

Action on: **HB 2121 - Extending grace period for employers to file wage reports.**
Rep. Pauls made a motion to amend HB 2121. Bob Nugent supplied the committee with a balloon for the amendment (see Attachment 2). The motion was seconded by Rep. Crow. In the discussion following, Rep. Pauls stated that Rep. Aldritt, the bill's sponsor, is satisfied with the amendment. The motion to amend passed. Rep. Grant made a motion to pass the bill favorably as amended. It was seconded by Rep. Pauls. The motion carried.

Hearing on: **HB 2011 - Workers compensation pools, rating organizations.**

Bob Nugent, Revisor of Statutes, explained the bill to the committee. The bill changes the wording found in statute, "the national council on compensation insurance" to "any approved rating organization."

Janet Stubbs, Kansas Building Industry Workers Compensation Fund, testified in favor of the bill. It was introduced at the request of the Interim Committee on Insurance to remove the National Council on Compensation Insurance (NCCI) from statute as the designated "rating organization." (see Attachment 3)

Tom Wilder, Director of Government and Public Affairs, Kansas Insurance Department, appeared as a proponent of the bill. Currently, NCCI is the only rating organization for workers compensation insurance in Kansas. There are other rating organization that have expressed an interest in doing business in our state. In

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON BUSINESS, COMMERCE & LABOR, Room 526-S
Statehouse, at 9:05 a.m. on February 18, 1997.

his testimony, it was stated that workers compensation pools should be given the option to use a rating organization other than NCCI, and that the competition would be healthy for the workers comp market. Included in his testimony is a copy of a proposed amendment which was talked about in interim committee but was not adopted. The department would like the committee to consider the amendment, which concerns workers compensation rating organizations and fees charged for data-related products and services. (see Attachment 4)

Terry Leatherman, KCCI, appeared as a proponent of the bill representing the Kansas Chamber of commerce and Industry Workers Compensation Corporation, a group-funded workers compensation self insurance pool. His principal reason for appearing was to support the amendment by the Kansas Insurance Department. (see Attachment 5)

Bill Curtis, Kansas Association of School Boards (KASB), appeared in support of the bill. He is the staff person responsible for the workers compensation pool administered by the KASB. They are concerned about the escalating fees charged by the NCCI. (see Attachment 6)

Andrew Sabolic, Director of Government, Consumer & Industry Affairs, National Council on Compensation Insurance (NCCI), appeared in support of the bill. They think that it is appropriate that the groups representing the pools should have choices. They do have problems with the department's amendment to give the department regulatory authority on their pricing of products and services. The issue of pricing is in litigation at this time. They are developing a response to what Mr. Peacock, a competitor of NCCI, writes in his letter (part of Attachment 4). The NCCI feels that for a competitor to take their product and duplicate it puts NCCI at a competitive disadvantage. They went to a fee for service on January 1, 1995. Prior to that time they were on an assessment basis. They are working with the non-affiliated groups in Kansas using their services and are trying to resolve some of the problems.

Tom Slattery, Associated General Contractors, spoke from the audience that his organization supports the bill.

No others were present to testify for or against the bill and Chairman Lane closed the hearing.

Hearing on: **HB 2154 - Real estate appraisers, real estate-related transactions.**

Rep. Gwen Welshimer appeared as a supporter of the bill. Real estate appraisers are not required by statute to be licensed by federal law, except for federally related transactions above one quarter million dollars. This bill would require licensing of all appraisers, except those appraisers who are exempt. (see Attachment 7) She concluded her appearance by answering questions from the committee.

Kenneth A. Sanderson, Vice President of Miami County National Bank, Paola, Kansas, appeared in support of the bill. His bank uses state certified appraisers for the majority of the real estate loans they have originated over the past seven years. (see Attachment 8)

Edward L. Liggins appeared as a member of the National Association of Independent Fee Appraisers. They strongly support the bill. In order to better protect the public in real estate transaction, they endorse the amendment proposed by the Coalition of Kansas Appraisers which would require all real estate appraisals in the State of Kansas to be performed by a state licensed or certified appraisers. (see Attachment 9)

Jack Shelton, member of the Kansas Real Estate Appraisal Board, appeared before the committee in support of the bill. The Board voted in favor of the bill as they feel the best way to insure uniform standards of professional practice is to require licensing and certification of real estate appraisers. (see Attachment 10)

The hearing on **HB 2154** will be continued tomorrow.

The next meeting is scheduled for February 19, 1997.

HOUSE BUSINESS, COMMERCE & LABOR COMMITTEE
GUEST LIST

DATE: February 18, 1997

NAME	REPRESENTING
James Mattes	Coalition of Kansas Appraisers
Ken Sanderson	Miami County National Bank
Tom Wilder	Kansas Insurance Dept.
Terry Leatherman	KCCI
Linda Tierce	KDHR
PAUL BICKWELL	KDHR
Wayne Maubue	25 AFL-CIO
Ray T. Detman	Dept. of Administration
Chuck Stone	KBA
Mithey Gannon	Kansas Bar Assn.
Walter E. Binn	Western Resources, Inc.
John J. Boyer	NCAI
Andrew Galovic	NCCI
Dick Cook	KS Ins. Dept.
JJ CROWDER, ASK	Coalition of Kansas Appraisers.
Hal Hudson	NFIB/KS
Jam Milton	US APPRAISAL BD
Richard J. Livingston	Coalition of Kansas Appraisers
Edward L. Higgins	National Association of Independent FIR Appraisers

Kansas Employment Security Advisory Council
(Amended November 6, 1996)

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*Business, Commerce
& Labor Committee
2/18/97
Attachment 1*

HOUSE BILL No. 2121

By Committee on Business, Commerce and Labor

1-29

2-1

[not filed

[to be filed

by the last day of the month following the close
of each calendar quarter

9 AN ACT concerning the employment security law; relating to wage re-
10 ports; amending K.S.A. 1996 Supp. 44-717 and repealing the existing
11 section.

12
13 *Be it enacted by the Legislature of the State of Kansas:*
14 Section 1. K.S.A. 1996 Supp. 44-717 is hereby amended to read as
15 follows: 44-717. (a) *Penalties on past-due reports, interest on past-due*
16 *contributions, payments in lieu of contributions and benefit cost pay-*
17 *ments.* Any employer or any officer or agent of an employer, who fails to
18 file any wage report or contribution return ~~when due, as required by the~~
19 ~~secretary of human resources, or within a five-day grace period,~~ shall pay
20 a penalty as provided by this subsection (a) for each month or fraction of
21 a month until the report or return is received by the secretary of human
22 resources. ~~However, wage reports shall be deemed received when post-~~
23 ~~marked.~~ The penalty for each month or fraction of a month shall be an
24 amount equal to .05% of the total wages paid by the employer during the
25 quarter, except that no penalty shall be less than \$25 nor more than \$200
26 for each such report or return not timely filed. Contributions, payments
27 in lieu of contributions and benefit cost payments ~~unpaid on the date on~~
28 ~~which they are due and payable, as prescribed by the secretary of human~~
29 ~~resources, or within a five-day grace period,~~ shall bear interest at the rate
30 of 1% per month or fraction of a month until payment is received by the
31 secretary of human resources except that an employing unit, which is not
32 theretofore subject to this law and which becomes an employer and does
33 not refuse to make the reports, returns and contributions, payments in
34 lieu of contributions and benefit cost payments required under this law,
35 shall not be liable for such penalty or interest if the wage reports and
36 contribution returns required are filed and the contributions, payments
37 in lieu of contributions or benefit cost payments required are paid within
38 10 days following notification by the secretary of human resources that a
39 determination has been made fixing its status as an employer subject to
40 this law. Upon written request and good cause shown, the secretary of
41 human resources may abate any penalty or interest or portion thereof
42 provided for by this subsection (a). Interest amounting to less than \$1
43 shall be waived by the secretary of human resources and shall not be

*Business, Commerce,
& Labor Committee
2/18/97
Attachment 2*

A wage report, a contribution return, a contribution, a payment in lieu of contribution or a benefit cost payment is deemed filed as of the date it is placed in the United States mail.

1 collected. Penalties and interest collected pursuant to this subsection shall
2 be paid into the special employment security fund. For all purposes under
3 this section, amounts assessed as surcharges under subsection (j) or under
4 K.S.A. 44-710a and amendments thereto shall be considered to be con-
5 tributions and shall be subject to penalties and interest imposed under
6 this section and to collection in the manner provided by this section. X

7 (b) *Collection.* (1) If, after due notice, any employer defaults in pay-
8 ment of any penalty, contributions, payments in lieu of contributions,
9 benefit cost payments, or interest thereon the amount due may be col-
10 lected by civil action in the name of the secretary of human resources
11 and the employer adjudged in default shall pay the cost of such action.
12 Civil actions brought under this section to collect contributions, payments
13 in lieu of contributions, benefit cost payments, penalties, or interest
14 thereon from an employer shall be heard by the district court at the
15 earliest possible date and shall be entitled to preference upon the cal-
16 endar of the court over all other civil actions except petitions for judicial
17 review under this act and cases arising under the workmen's compensa-
18 tion act. All liability determinations of contributions due, payments in lieu
19 of contributions or benefit cost payments due shall be made within a
20 period of five years from the date such contributions, payments in lieu of
21 contributions or benefit cost payments were due except such determi-
22 nations may be made for any time when an employer has filed fraudulent
23 reports with intent to evade liability.

24 (2) Any employing unit which is not a resident of this state and which
25 exercises the privilege of having one or more individuals perform service
26 for it within this state and any resident employing unit which exercises
27 that privilege and thereafter removes from this state, shall be deemed
28 thereby to appoint the secretary of state as its agent and attorney for the
29 acceptance of process in any civil action under this subsection. In insti-
30 tuting such an action against any such employing unit the secretary of
31 human resources shall cause such process or notice to be filed with the
32 secretary of state and such service shall be sufficient service upon such
33 employing unit and shall be of the same force and validity as if served
34 upon it personally within this state. The secretary of human resources
35 shall send notice immediately of the service of such process or notice,
36 together with a copy thereof, by registered or certified mail, return receipt
37 requested, to such employing unit at its last-known address and such
38 return receipt, the affidavit of compliance of the secretary of human re-
39 sources with the provisions of this section, and a copy of the notice of
40 service, shall be appended to the original of the process filed in the court
41 in which such civil action is pending.

42 (3) Any contractor, who is or becomes an employer under the pro-
43 visions of this act, who contracts with any subcontractor, who also is or

secretary for the employment security fund an amount equal to the amount of regular benefits and 1/2 of the extended benefits paid that are attributable to service in the employ of such reimbursing employer, except that each reimbursing governmental employer shall pay an amount equal to the amount of regular benefits and extended benefits paid for weeks of unemployment beginning after December 31, 1978, to individuals for weeks of unemployment which begin during the effective period of such election.

(A) Any employer identified in this subsection (e)(1) may elect to become a reimbursing employer for a period encompassing not less than four complete calendar years if such employer files with the secretary a written notice of such election within the thirty-day period immediately following January 1 of any calendar year or within the thirty-day period immediately following the date on which a determination of subjectivity to the employment security law is issued, whichever occurs later.

(B) Any employer which makes an election to become a reimbursing employer in accordance with subparagraph (A) of this subsection (e)(1) will continue to be liable for payments in lieu of contributions until such employer files with the secretary a written notice terminating its election not later than 30 days prior to the beginning of the calendar year for which such termination shall first be effective.

(C) Any employer identified in this subsection (e)(1) which has remained a contributing employer and has been paying contributions under the employment security law for a period subsequent to January 1, 1972, may change to a reimbursing employer by filing with the secretary not later than 30 days prior to the beginning of any calendar year a written notice of election to become a reimbursing employer. Such election shall not be terminable by the employer for four complete calendar years.

(D) The secretary may for good cause extend the period within which a notice of election, or a notice of termination, must be filed and may permit an election to be retroactive but not any earlier than with respect to benefits paid after January 1 of the year such election is received.

(E) The secretary, in accordance with such regulations as the secretary may adopt, notify each employer identified in subsection (e)(1) of any determination which the secretary may make of its status as an employer and of the

effective date of any election which it makes to become a reimbursing employer and of any termination of such election. Such determinations shall be subject to reconsideration, appeal and review in accordance with the provisions of K.S.A. 44-710b and amendments thereto.

(2) *Reimbursement reports and payments.* Payments in lieu of contributions shall be made in accordance with the provisions of paragraph (A) of this subsection (e)(2) by all reimbursing employers except the state of Kansas. Each reimbursing employer shall report total wages paid during each calendar quarter by filing quarterly wage reports with the secretary which shall ~~become due on or before the 25th day of the first month following the last month of the calendar quarter or in accordance with such rules and regulations as the secretary may adopt.~~

(A) At the end of each calendar quarter, or at the end of any other period as determined by the secretary, the secretary shall bill each reimbursing employer, except the state of Kansas, (i) an amount to be paid which is equal to the full amount of regular benefits plus 1/2 of the amount of extended benefits paid during such quarter or other prescribed period that is attributable to service in the employ of such reimbursing employer; and (ii) for weeks of unemployment beginning after December 31, 1978, each reimbursing governmental employer shall be certified an amount to be paid which is equal to the full amount of regular benefits and extended benefits paid during such quarter or other prescribed period that is attributable to service in the employ of such reimbursing governmental employer.

(B) Payment of any bill rendered under paragraph (A) of this subsection (e)(2) shall be made not later than 30 days after such bill was mailed to the last known address of the reimbursing employer, or otherwise was delivered to such reimbursing employer, unless there has been an application for review and redetermination in accordance with paragraph (D) of this subsection (e)(2).

(C) Payments made by any reimbursing employer under the provisions of this subsection (e)(2) shall not be deducted or deductible, in whole or in part, from the remuneration of individuals in the employ of such employer.

(D) The amount due specified in any bill from the secretary shall be conclusive on the reimbursing employer, unless, not later than 15 days after the bill was mailed to the last known address of

be filed by the last day of the month following the close of each calendar quarter. Wage reports are deemed filed as of the date they are placed in the United States mail.

HOUSE BUSINESS, COMMERCE & LABOR
HB 2011

February 18, 1997

MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE:

My name is Janet Stubbs and I am appearing today on behalf of the Kansas Building Industry Workers Compensation Fund in support of HB 2011 which was introduced at the request of the interim committee to remove NCCI from the statute as the designated "rating organization". We see this legislation as the minimum action which should be taken by the Legislature to remove the monopoly status which NCCI has enjoyed.

I am the Administrator of our group fund which is in the fifth year of operation and provides workers compensation coverage for over 300 companies in the residential and light commercial business. We are required by current statute to use the "rules, classifications and rates as promulgated by the National Council on Compensation Insurance for workers compensation". We operate our Fund by NCCI rules.

Our concern began in approximately November 1995 when the Service Agent, which we hire to perform the day-to-day operation of the Fund, advised us that NCCI told them the experience mod calculations, which we must have calculated each year approximately 60 days prior to the end of the Fund Year in order to establish the rate for the business during the following year, would not be done because KBIWCF had not "affiliated" with NCCI. This was the first I had heard of a problem and had never been contacted by NCCI.

Since that time, NCCI rescinded that decision and calculated the mods necessary for the 1996 Fund Year business, have publicly stated things were mishandled in Kansas, we have met with NCCI on several occasions to resolve the late arrival of experience mod calculations, NCCI has advised the Funds of the new method of operation for their entity as it became a for-profit company, the Commissioner of Insurance has held public hearings on the complaints by Funds and Agents and asked for clarification of absolute authority to regulate NCCI fees (just as that office sets the rates we pay for WC coverage), we have received our experience mod calculations in a timely manner for 1997, a bill for those mods of \$75 each instead of the \$40 we had been paying, and are in the process of requesting information as to why 41 of the 200 plus mods appear to be based upon incomplete data.

I am attaching for your review the proposed schedule of charges for the future, if we abide by the current statute.

Before it appears that I do not expect to pay for services which we need to operate the Fund, please let me assure you that is not correct. The Funds are accused of not "paying their way". However, I believe I should be able to select the services needed by the KBIWCF at a price which bears some resemblance to a "reasonable" fee, or I should have the ability to seek the service from another business. I do not have

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2/18/97
Attachment 3*

that ability under current law and I feel sure this Body would frown upon similar practice by one of my members.

I do not believe that in order to obtain the experience mod calculations we need that I should be "blackmailed" or coerced into paying a percentage of the premium written each year, as well as a flat fee per million dollars for legislative representation. It is the position of some of the group funds that NCCI is owned by the voluntary market carriers and the funds do not receive equal representation by NCCI. We certainly do not want to pay the fee for representation we can provide for ourselves. If NCCI chooses to be a for-profit operation than it should not have the "protection" of a monopolistic environment which they now have in Kansas. If telephone and electric services are to be deregulated, then surely you believe the insurance rating services should be also.

Mr. Chairman, I respectfully urge your Committee to recommend this bill favorably for passage. I will stand for questions.

Proposed Affiliate and Non-Affiliate Cost Comparison Example

Based on Fund Operating Assumptions of:

- \$1,000,000 Net Premium
- 100 Members in the Fund
- 50 Members Eligible for Experience Rating

<u>Licensing Fees:</u>	Affiliate	Non-affiliate
Affiliation Charge @ 4 basis points (.0004 x \$1M)*	\$400	N/A
Classification System & Statistical Plan License @ 2 basis points (.0002 x \$1M)	\$200	\$200
Experience Rating Plan License @ 2 basis points (.0002 x \$1M)	\$200	\$200
Regulatory & Legislative Services @ 24 basis points for the first \$25M [(.0024 x \$1M) = \$2,400 x State Fee (1.00) + \$1000 Base Fee x 60% Discount** for Self Insurers during 1996]	\$1,360	\$1,360
<u>Transaction & Products & Services Fees:</u>		
Policy Forms (Elective for SIF unless state mandated)		
Data Collection Fee***	\$300 (\$3 per member)	\$600 (\$6 per member)
Experience Rating Production Actual Cost based on Premium Size:	\$1,300 (Estimated based on average cost per rating of \$26 x 50 ratings)	\$2,600 (Estimated based on average cost per rating of \$52 x 50 ratings)
0-\$5,000	\$15	\$30
\$5,001 - \$7,500	\$22	\$44
\$7,501 - \$15,000	\$26	\$52
\$15,001 - \$25,000	\$29	\$58
\$25,000 or greater	\$34	\$68
Proof of Coverage***+ (Elective for SIF unless state mandated)		
TOTAL:	\$3,760	\$4,960

* Most funds choosing affiliation elected the Subscriber Affiliation Status, therefore the affiliation assumptions are based on Subscribership.

** 1996 Discount is 60%. 1997 Discount is 40%. 1998 Discount is 20%. 1999 No Discount Applied.

*** No additional charges are incurred for electronic submission of data. However, because NCCI encourages electronic submission of data, additional charges per transaction may be incurred for data submitted via hard copy. Hard copy charges are currently waived for all self insurance affiliates through 12/31/96. Hard copy charges for new affiliates are waived for a period of one year after affiliation to encourage them to submit electronically and enable progression through NCCI's testing process for electronic submissions. Hard copy charges will apply for all non-affiliates



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Willard W. Peacock, MAAA, ACAS, CPCU

January 23, 1997

Ms. Darla L. Lyon, Director
Division of Insurance
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500 E. Capitol
Pierre, SD 57501-5070

*0 1/23/97
1/23/97*

RE: NCCI Pricing and Rate Filings

Dear Commissioner Lyon:

I am writing to you in your capacity as chairperson of the NAIC Workers Compensation (D) Taskforce. As a practicing actuarial consultant, I recently requested from the National Council on Compensation Insurance (NCCI) a copy of certain rate filings for the States of Georgia, Florida, Alabama, and Mississippi. These filings have been used in the past by myself and other casualty actuaries in our firm for the purpose of obtaining information on industry loss cost trends and other vital statistical information in Workers' Compensation. The loss costs provided in the NCCI filings are generally accepted as industry benchmarks because of the required participation of all Workers' Compensation insurance carriers in the statistical database over which NCCI has, in effect, the exclusive rights in most states.

While Insurance Industry Consultants, Inc. is more than willing to pay a fair and appropriate price for the copy of a rate filing and other information over which NCCI has control, we were shocked and incredulous when NCCI quoted us a price of \$967,557 for the four rate filings (letter enclosed). Prior to 1/1/95 the price was \$150 per copy. I believe either NCCI is grossly overstating the cost of these rate filings, or NCCI is deliberately attempting to withhold information that should be available to the insurance industry to comply with regulatory and statutory requirements. These requirements include the certification of loss reserves by a qualified actuary and the filing of rates which comply with statutory guidelines.

The result of this unregulated monopolistic pricing by NCCI, if continued, would be an unsustainable financial burden on small insurers, self-insured funds, and independent actuarial consultants. If consolidated industry statistics in Workers' Compensation become, in effect, unavailable, the outcome will be to seriously undermine the validity of loss reserve opinions and filed rates, both of critical importance in fulfilling the objectives of regulatory supervision of the Workers' Compensation insurance industry.


3-4

Darla L. Lyon
January 23, 1997
Page 2

In light of the NCCI actions to become a for-profit enterprise, we believe that NCCI has completely misinterpreted its charter and mission as a monopolistic statistical agent of the state. NCCI appears to be expanding and distorting its statutorily granted authority for its own gain, to the detriment of policyholders and the insurance industry. In contrast, the Workers' Compensation statistical agents/bureaus in non-NCCI states, such as Pennsylvania and Massachusetts, continue to supply us with their rate filings at reasonable costs.

We would like to call this situation to the attention of the NAIC and will be grateful for any relief which you and the Workers' Compensation Taskforce can provide.

Sincerely,


Willard W. Peacock
Consulting Actuary

cc: NAIC Workers' Compensation (D) Taskforce
State Regulatory Agencies
The Casualty Actuarial Society
The American Academy of Actuaries
The Trade Press
Labor Organizations

35



Kathleen Sebelius
Commissioner of Insurance
Kansas Insurance Department

MEMORANDUM

To: House Business, Commerce and
Labor Committee

From: Tom Wilder

Re: H.B. 2011 (Rating Organizations/Workers Compensation Pools)

Date: February 18, 1997

The Kansas Insurance Department appears today in support of House Bill 2011 which would remove references to the National Council on Compensation Insurance ("NCCI") from the workers compensation pool statutes. NCCI is an insurer owned rating organization for workers compensation insurance. This bill was introduced by the Interim Committee on Insurance at the request of the Insurance Commissioner.

There are two specific references in our laws to NCCI which are found in K.S.A. 12-2621 (municipal workers compensation pools) and K.S.A. 44-585 (group workers compensation pools). Those groups are required to use, "the rules, classifications and rates promulgated by the National Council on Compensation Insurance." The bill would replace that language with a requirement that pools use information from any approved rating organization.

Currently, NCCI is the only rating organization for workers compensation insurance in Kansas. Another company has been issued a license in Kansas as a workers compensation rating organization but has not yet filed any rating plans with the Insurance Department. There are other rating organizations which have expressed an interest in doing business in this state. Workers compensation pools should be given the option to use a rating organization other than NCCI. This competition will be healthy for the workers compensation market.

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2/18/97
Attachment 4*

The Insurance Department is also requesting that the Committee consider an amendment to H.B. 2011 that will give the Commissioner the authority to review and determine the reasonableness of fees charged by workers compensation rating organizations. I have included suggested language with my testimony that allows the Commissioner to disapprove fees for any data-related products or services. This is an issue that the Department is currently litigating with NCCI.

The issue of the reasonableness of the fees charged by organizations such as NCCI is important because businesses must use this information to calculate workers compensation costs. Questions have been raised in Kansas, as well as nationally, over who owns this data and what reasonable charges should be assessed by NCCI for providing the information. Last August, the Kansas Insurance Department held a fact finding hearing on the costs charged by the National Council for services provided to Kansas insurance agents and workers compensation pools.

The National Council on Compensation Insurance was originally incorporated as a nonprofit rating organization. In 1995 they decided to move their business to a "fee for service" operation where the charges for their services would arguably reflect the organization's cost for providing that information. NCCI announced last year that they are now taking steps to become a "for profit" corporation. As a result of these changes, a number of groups have complained about dramatic increases in the prices charged by the National Council for providing workers compensation data.

I have attached to my testimony a letter to the South Dakota Insurance Commissioner from an actuarial consulting firm in Atlanta. Prior to 1995, they were charged by NCCI a total of \$600 for workers compensation data from the States of Georgia, Florida, Alabama and Mississippi. The National Council on Compensation Insurance has now informed the company that the new charges will be \$957,557 for the same information. The Kansas Insurance Department is requesting specific authority to review and determine the reasonableness of any similar charges that may be assessed against Kansas employers, insurance agents or workers compensation pools.

4-2

Willard W. Peacock, MAAA, ACAS, CPCU

January 23, 1997

Ms. Darla L. Lyon, Director
Division of Insurance
State of South Dakota
500 E. Capitol
Pierre, SD 57501-5070

RE: NCCI Pricing and Rate Filings

Dear Commissioner Lyon:

I am writing to you in your capacity as chairperson of the NAIC Workers Compensation (D) Taskforce. As a practicing actuarial consultant, I recently requested from the National Council on Compensation Insurance (NCCI) a copy of certain rate filings for the States of Georgia, Florida, Alabama, and Mississippi. These filings have been used in the past by myself and other casualty actuaries in our firm for the purpose of obtaining information on industry loss cost trends and other vital statistical information in Workers' Compensation. The loss costs provided in the NCCI filings are generally accepted as industry benchmarks because of the required participation of all Workers' Compensation insurance carriers in the statistical database over which NCCI has, in effect, the exclusive rights in most states.

While Insurance Industry Consultants, Inc. is more than willing to pay a fair and appropriate price for the copy of a rate filing and other information over which NCCI has control, we were shocked and incredulous when NCCI quoted us a price of \$967,557 for the four rate filings (letter enclosed). Prior to 1/1/95 the price was \$150 per copy. I believe either NCCI is grossly overstating the cost of these rate filings, or NCCI is deliberately attempting to withhold information that should be available to the insurance industry to comply with regulatory and statutory requirements. These requirements include the certification of loss reserves by a qualified actuary and the filing of rates which comply with statutory guidelines.


The result of this unregulated monopolistic pricing by NCCI, if continued, would be an unsustainable financial burden on small insurers, self-insured funds, and independent actuarial consultants. If consolidated industry statistics in Workers' Compensation become, in effect, unavailable, the outcome will be to seriously undermine the validity of loss reserve opinions and filed rates, both of critical importance in fulfilling the objectives of regulatory supervision of the Workers' Compensation insurance industry.

4-3

In light of the NCCI actions to become a for-profit enterprise, we believe that NCCI has completely misinterpreted its charter and mission as a monopolistic statistical agent of the state. NCCI appears to be expanding and distorting its statutorily granted authority for its own gain, to the detriment of policyholders and the insurance industry. In contrast, the Workers' Compensation statistical agents/bureaus in non-NCCI states, such as Pennsylvania and Massachusetts, continue to supply us with their rate filings at reasonable costs.

We would like to call this situation to the attention of the NAIC and will be grateful for any relief which you and the Workers' Compensation Taskforce can provide.

Sincerely,


Willard W. Peacock
Consulting Actuary

cc: NAIC Workers' Compensation (D) Taskforce
State Regulatory Agencies
The Casualty Actuarial Society
The American Academy of Actuaries
The Trade Press
Labor Organizations

4-4



National
Council on
Compensation
Insurance, Inc.

October 23, 1996

Mr. Tony Pipia
Insurance Industry Consultants, Inc.
1775 The Exchange
Suite 300
Atlanta, GA 30339

Dear Tony:

To follow up on our discussions concerning licensing rate filings from NCCI, we require the licensee, which in this case would be IIC, to identify for us the party on whose behalf they are using the rate filings. The licensing fee allows the licensee to use the rate filings for one customer only. An additional fee would be charged for reusing those filings on the behalf of other customers. Both the licensee and their customer(s) must sign a licensing agreement to ensure that the data is not further distributed.

Again, the fee to license from us rate filings for Georgia, Florida, Alabama, and Mississippi is \$967,557. This is the price you would need to pay for using all four filings for one customer. The price would be adjusted for customer requests requiring use of less than four filings. We require that payment be made in quarterly installments with the first payment due within 10 days of receiving the filings.

Please let me know if you have any further questions.

Sincerely,

Lisa Lancellotti
Product Manager

TO: Tony Pipia

FROM: Lisa Lancellotti

DATE: 10/14/96

Below are our prices for the requested rate filings:

Georgia \$307,360

Florida \$254,107

Alabama \$138,854

Mississippi \$267,236

Total \$967,557

Prices are calculated based on what our affiliates pay plus 10% administrative charge.



National
Council on
Compensation
Insurance

December 14, 1994

DEC 26 1994

Anthony J. Pipia
Insurance Industry Consultants, Inc.
1815 The Exchange, Suite 150
Atlanta, GA 30339

RE: Rate Filings

Dear Anthony:

Our records indicate that you are currently subscribing to our Rate Filings for the following states: Alabama, Florida, Georgia, Mississippi, North Carolina and South Carolina.

Currently, the Rate Filings cost \$150.00 per issue per state. This is to notify you that effective January 1, 1995 the price will be increased to \$3,000.00 per year for each state.

Please contact Robin Prudhomme at 407-997-4812 if you wish to renew your subscription to the Rate Filings. If we do not hear from you by January 15, 1995, it will be our understanding that you no longer wish to receive them.

Sincerely,

Lisa Lancellotti

Lisa Lancellotti
Product Manager

4-7

PROPOSED BILL NO. _____

By Special Committee on Insurance

AN ACT relating to workers compensation rating organizations; concerning fees charged for data-related products and services; amending K.S.A. 40-1117 and repealing the existing section.

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

Section 1. K.S.A. 40-1117 is hereby amended to read as follows: 40-1117. (a) Every rating organization and every insurer which makes its own rates ~~shall~~, within a reasonable time after receiving written request ~~therefor~~, shall furnish to any insured affected by a rate made by it, or to the authorized representative of such insured, all pertinent information as to such rate. Every rating organization and every insurer which makes its own rates shall provide within this state reasonable means whereby any person aggrieved by the application of its rating system may be heard, in person or by authorized representative, on written request to review the manner in which such rating system has been applied in connection with the insurance afforded such person. If the rating organization or insurer fails to grant or reject such request within 30 days after it is made, the applicant may proceed in the same manner as if such applicant's application had been rejected. Any party affected by the action of such rating organization or such insurer on such request ~~may~~, within 30 days after written notice of such action, may appeal to the commissioner, who after a hearing conducted in accordance with the provisions of the Kansas administrative procedure act, may affirm or reverse such action.

(b) The commissioner of insurance shall review and determine the reasonableness of fees charged by any rating organization for workers compensation insurance for any data-related products or services.

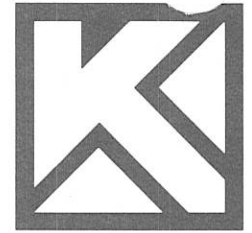
(c) The provisions of subsection (b) shall expire on July 1, 2001.

Sec. 2. K.S.A. 40-1117 is hereby repealed.

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

LEGISLATIVE TESTIMONY

Kansas Chamber of Commerce and Industry



835 SW Topeka Blvd. Topeka, Kansas 66612-1671 (913) 357-6321 FAX (913) 357-4732
HB 2011

February 18, 1997

KANSAS CHAMBER OF COMMERCE AND INDUSTRY

Testimony Before the

House Committee on Business, Commerce and Labor

by

Terry Leatherman
Executive Director
Kansas Industrial Council

Mr. Chairman and members of the Committee:

My name is Terry Leatherman. My appearance today is on behalf of the Kansas Chamber of Commerce and Industry Workers Compensation Corporation, a group-funded workers compensation self insurance pool.

The Kansas Chamber of Commerce and Industry (KCCI) is a statewide organization dedicated to the promotion of economic growth and job creation within Kansas, and to the protection and support of the private competitive enterprise system.

KCCI is comprised of more than 3,000 businesses which includes 200 local and regional chambers of commerce and trade organizations which represent over 161,000 business men and women. The organization represents both large and small employers in Kansas, with 46% of KCCI's members having less than 25 employees, and 77% having less than 100 employees. KCCI receives no government funding.

The KCCI Board of Directors establishes policies through the work of hundreds of the organization's members who make up its various committees. These policies are the guiding principles of the organization and translate into views such as those expressed here.

The principal reason for my testimony is support for an anticipated amendment by the Kansas Insurance Department regarding that office's authority to regulate fees charged by the National Council on Compensation Insurance (NCCI) for information which an insurance entity must have to operate in Kansas.

*Business, Commerce
& Labor Committee
2/18/97
Attachment 5*

Using our group-funded pool as an example, we must have experience modification worksheets on our member businesses to establish the premiums they will pay for membership in our program. Currently in Kansas, the NCCI is the only source for this critical information. The proposed amendment would assure our Corporation that a regulatory agency of government would have the authority to establish a reasonable fee which the NCCI could charge for their services.

The Kansas Chamber, and its workers compensation program, do not typically advocate government control of free enterprise pricing of goods and services. The difference in this situation is today's reality is the NCCI is the sole provider of essential services if a workers compensation insurance entity wants to do business in our state. Until the day when competition can assure insurance operations, like ours, that they will be able to buy the information it needs at a fair price, it is important for state government to have regulatory authority.

Thank you for the opportunity to comment on this matter. I would be happy to answer any questions.

5-2



HB 2011

February 18, 1997

Mr. Chairman and members of the committee, we appreciate the opportunity to testify today on HB 2011 which strikes the statutory reference to the National Council on Compensation Insurance (NCCI) from both statutes governing pools. My name is Bill Curtis and I am the staff member responsible for the workers compensation pool administered by the Kansas Association of School Boards. That pool began operations on July 1, 1987 and currently has 215 members with an annual payroll in excess of \$1 billion. It provides coverage to over 50,000 employees in public schools and community colleges. We support HB 2011.

Prior to September, 1995 the KASB pool annually used the NCCI forms to report the loss information of pool members and, in return, received the updated experience modification or rating factors to correctly calculate premiums. For those services the KASB pool paid NCCI \$35 per member. In September of 1995 we were informed that NCCI would no longer calculate the experience rating factors unless the pool became an affiliate member of NCCI. For the privilege of becoming an affiliate member, the pool would pay for additional services, whether used by the pool or not, which would raise the annual fees to approximately \$100 per member. Those additional services had such titles as affiliation charge, classification system and statistical plan license, experience rating plan license, regulatory and legislative services, data collection fee, policy forms, and experience rating production. Each of these services had to be purchased and were based upon the premium volume of the pool, not a per member charge. It is also worth mentioning that the losses from the KASB pool were never used by the NCCI in rate filings in Kansas. HB 2011 would encourage competition by allowing the Commissioner to approve other workers compensation rating organizations. Competition would lower the price and provide an incentive for rating organizations to treat us as customers.

In summary, KASB is concerned about the escalating fees charged by the NCCI remembering that pools are limited to 30% of premiums for administrative expenses. We also object to the monopolistic attitude of NCCI regarding the purchase of all services. Thank you for listening to our concerns. We urge the committee's favorable action on HB 2011.

*Business, Commerce
& Labor Committee
2/18/97
Attachment 6*

GWEN WELSHIMER
 REPRESENTATIVE, EIGHTY-EIGHTH DISTRICT
 SEDGWICK COUNTY
 6103 CASTLE
 WICHITA, KANSAS 67218
 316-685-1930

DURING SESSION
 LEGISLATIVE HOTLINE
 1-800-432-3924
 OFFICE: 913-296-7687



TOPEKA

HOUSE OF
 REPRESENTATIVES

COMMITTEE ASSIGNMENTS
 MEMBER: ADMINISTRATIVE RULES & REGULATIONS—
 MINORITY LEADER
 GOVERNMENTAL ORGANIZATION—
 MINORITY LEADER
 FINANCIAL INSTITUTIONS
 HEALTH & HUMAN SERVICES

Gwen Welshimer

DATE: February 18, 1997

TO: Rep. Al Lane, Chairman
 and Members House Business, Commerce and Labor Comm.

FROM: Rep. Gwen Welshimer

SUBJECT: HB2154-Mandatory Licensing of Real Estate Appraisers

Contrary to public belief, real estate appraisers are not required by statute to be licensed by federal law, except for federally related transactions above one quarter million dollars.

Even though appraisals are expected not to be influenced by the client, both appraisals and appraisers are influenced and financially dependent upon the banking industry and their regulatory agencies.

I am a certified Kansas residential appraiser who does not depend on appraisal income. I am not hired by financial institutions on a regular basis. I provide continuing education for appraisers and real estate licensees. It is through this activity that I have seen the absolute need for licensing of real estate appraisers. These professionals must be separated from their principals in all real estate transactions.

Since 1989, appraisers have been regulated by the Rules and Regulations of the Kansas Banking Commission. These Rules required a licensed appraiser for transactions above \$15,000 in 1989. However, the 1989 rules have been eliminated as recommended by the Kansas Banking Commission.

As a licensed appraiser, I face loss of license, fines or imprisonment for errors or misrepresentations on appraising a \$35,000 house. Any one of you on this committee can legally appraise the same property and make the same mistakes or misrepresentations and you will not face the Kansas Real Estate Appraisal Board, fines, or imprisonment.

There is nothing right in Kansas for the profession of real estate appraiser. I urge the committee to correct these problems and pass HB2154 favorably.

*Business, Commerce,
 & Labor Committee
 2/18/97
 Attachment 7*

To: House Committee on Business, Commerce and Labor

February 18, 1997

From: Kenneth A. Sanderson
Vice President
Miami County National Bank
Paola, Kansas

Re: House Bill # 2154

Our bank utilized state certified appraisers for the majority of the real estate loans we have originated over the past seven years. The reason we have used state licensed appraisers for our loans is due to the following factors:

1. We believe we have received realistic values on the property we have taken as collateral.
2. We believe that an independent valuation has enabled us to be credit lenders and not guarantors of future market values (although an appraisal is not intended to guarantee future value).
3. It has allowed our staff to primarily focus on underwriting and processing loans, enabling us to give prompt and efficient service to our customers.

We have used state certified appraisers for 1-4 family loans for the secondary market loans. We have also used them on the loans within the bank's portfolio. Currently, we service \$85 million dollars worth of loans for the secondary market and we service \$45 million dollars for the bank's portfolio. Based on both groups of loans we have not experienced a material deterioration of asset value. There have been occasions where the market value was lower than the original appraised value due to the lack of home maintenance and/or poor housekeeping practices. However those factors can not be underwritten for, or expected.

I trust this information will provide testimony as to why state licensed appraisers provide a benefit to a lender. They also provide fair and impartial valuations for consumers who rely on professionals to help them make perhaps the largest investment decision they may have in their lifetime.

Kenneth A. Sanderson

*Business, Commerce
& Labor Committee
2/18/97
Attachment 8*

February 15, 1997

To: Business, Commerce and Labor Committee.

From: Edward L. Liggins, IFAS, Member of the Board of the
National Association of Independent Fee Appraisers

Re: Proposed amendment to K.S.A. 58, ARTICLE 41-
THE KANSAS STATE CERTIFIED AND LICENSED REAL PROPERTY APPRAISAL ACT.

The Kansas chapters of the National Association of Independent Fee Appraisers strongly support and urge the passage of the proposed amendment to the above reference bill.

The National Association of Independent Fee Appraisers was founded in 1961 as a non-profit professional society of real estate appraisers with a current membership of approximately 4,500.

The Association's objective is to raise the standards of the appraisal profession, gain recognition for its members as qualified appraisers and to protect the consumer and the banking industry in all real estate transactions requiring an opinion of value.

The association encourages modifications to the current legislation in order to eliminate blatant and dangerous loopholes which serve to circumvent the basic intent of FIRREA and USPAP, that being to protect the public in all real estate transactions which are predicated on an estimate of a market value..

The original law, while well intentioned, has serious deficiencies which for all practical purposes, renders it impotent. The principal cause of this is the current deminimus level of \$250,000 for all federally related transactions. This constitutes an excess of 90% of single family mortgages in this country which are technically exempt from FIRREA and the USPAP and therefore are not required to be performed by a licensed or certified appraiser.

To exacerbate matters, in 1990 after the enactment of FIRREA, there were approximately 90,000 licensed and certified appraisers; currently there are fewer than 60,000 appraisers who are either licensed or certified. This represents a significant decline of over 30%; most of whom found it conveniently expedient to drop their certification in order to take advantage of the deminimus loophole and operate totally out of the control of states' appraisal regulatory systems.

In order to better protect the public in real estate transaction, we endorse the amendment proposed by the Coalition of Kansas Appraisers which would require all real estate appraisals in the state of Kansas to be performed by a state licensed or certified appraisers.

We recognize and concur with the Coalition of Kansas Appraisers, the need to make necessary exceptions whereas real estate brokers should be able to perform comparative market analyses in the due course of selling and listing real estate. We are also amenable to and understand the necessity for permitting financial institutions to use non-licensed/certified employees in the performance of appraisals on real estate loans which will be portfolioed by that particular institution; However, we take strong exception with the Kansas Bankers Association who has expressed opposition to this proposed amendment, on grounds of inflexibility created by not being able to "bundle" loans which have not had appraisals performed by state license/certified appraisers and sell them on the secondary market at some later date.

We view this position as just another attempt by the banking industry to cloud the real issues and attempt to maintain control over and further dilute any appraisal regulations. We suggest, this position is certainly not in the best public interest and take this opportunity to remind the committee that over \$100,000,000 of public money was not used for an "Appraiser Bailout".

We respectfully request the passage of the proposed amended "KANSAS STATE CERTIFIED AND LICENSED REAL PROPERTY APPRAISAL ACT". To date, thirty-eight states have enacted mandatory appraisal legislation.


Edward L. Liggins, IFAS
Member of Board, N.A.I.F.A

*Business, Commerce
& Labor Committee
2/13/97
Attachment 9*

February 18, 1997

From: Jack Shelton
Member, Kansas Real Estate Appraisal Board

To: House Committee for Business, Commerce and Labor

SUBJECT: House Bill 2154; Amendment to The Kansas State
Certified and Licensed Real Property Appraisers
Act

Thank you for allowing me to speak with the Committee regarding House Bill 2154.

I am testifying today as a representative of the Kansas Real Estate Appraisal Board. The Board was created as a result of federal legislation resulting from the S & L crisis of the 1980's, specifically an act called FIRREA (Financial Institutions Reform, Recovery and Enforcement Act of 1989).

As a result of Title XI of FIRREA each state was tasked with creating an appraisal board, and legislation that implements the standards of performance that are contained in the Uniform Standards of Professional Appraisal Practice (USPAP).

It is the responsibility of the Appraisal Board to respond to complaints regarding appraiser violations of USPAP, and unfortunately the complaints appear to be increasing rapidly. In 1996 the Appraisal Board received half of all the complaints filed since its beginning in 1991. That is the bad news, however the good news is that the existence of the Board is now public knowledge, and in fact, we view complaints as the efforts of an informed public to hold appraisers to higher standards than ever before.

At the January 31st meeting of the Appraisal Board therefore, after hearing the objectives of House Bill 2154 we voted in favor of the bill. It is our opinion that appraisals involving real estate transactions should be completed only by qualified professionals, in compliance with the Uniform Standards of Professional Practice, and that the best way to insure the Standards are being observed is to require licensing and certification. We believe that taxpayers expect high standards from appraisers, and in fact, expect those who hold themselves out as appraisers to be licensed or certified.

I would therefore urge the Committee to pass House Bill 2154, the amended Kansas State Certified and Licensed Real Property Appraisers Act.

*Business, Commerce
& Labor Committee
2/18/97
Attachment 10*