

Approved: February 21, 1997
Date

MINUTES OF THE Senate Committee on Financial Institutions and Insurance.

The meeting was called to order by Chairperson Don Steffes at 9:00 a.m. on February 13, 1997 in Room 529-S of the Capitol.

All members were present except:

Committee staff present: Dr. William Wolff, Legislative Research Department
Fred Carman, Revisor of Statutes
Nikki Feuerborn, Committee Secretary

Conferees appearing before the committee: Robert McAdoo, Governor's Appointee to PMIB
Bill Lewis, Pooled Money Investment Board
Lee Wright, Farmers Insurance Group
Patrick Morris, KAIA

Others attending: See attached list

Confirmation Hearing on Robert McAdoo, Governor's appointee to Pooled Money Investment Board

Robert McAdoo reviewed his resume and fielded questions from the Committee regarding his experiences in large investment ventures and managerial positions. During the discussion, Mr. McAdoo stated he was not affiliated with any political party and had not voted for twenty years. This caused some concern from Committee members as some saw it as a lack of interest in government. It was brought to the attention of the Committee that the Board is to be made up of six members with one of them being the Securities Commissioner. No more than three members are to be of the same political party. At this time there are three Republicans serving on the Board. Is recommending a non-affiliated person really a way to tip the balance of the Board?

Bill Lewis, Pooled Money Investment Board, reminded the Committee that the Securities Commissioner has no voting privileges but acts in an advisory capacity only. The Securities Commissioner is a Republican which means the Board is made up of two Republicans, 1 Democrat, Mr. Lewis stated his knowledge of Mr. McAdoo for many years and verified his successful business experiences and current activity with the KU School of Business.

A bill regarding the membership of the Board will be heard tomorrow.

Senator Corbin moved to confirm Mr. McAdoo. The motion was seconded by Senator Becker. Upon voting, there was a four/four split so another vote will be taken tomorrow.

Continued Hearing on SB 94 -- Insurance agents and brokers names, etc., not to be disclosed by insurance department

A substitute bill for **SB 94** was presented which included the proposed amendment which would exempt four pieces of personal information regarding insurance agents, brokers, or applicants for licenses from being disclosed by the Insurance Department. The agent would have to specifically request the non-release of this information. It would be the Commissioner's decision on how notification would be made (Attachment 1).

Committee members were concerned that this was giving preferential treatment to insurance agents and exempting them from the Open Records Act. This Act controls what type of information is available to the public by listing 43 exemptions. The inclusion of this amendment in the Act would made 44 exemptions. The request could not be granted under Rules and Regulations.

Senator Biggs moved to recommend Substitute SB 94 as presented for favorable passage. Motion was seconded by Senator Barone. Motion failed.

CONTINUATION SHEET

MINUTES OF THE Senate Committee on Financial Institutions & Insurance, Room 529-S Statehouse, on February 13, 1997.

Committee concerns were that such an exemption might be setting a bad precedent for 2 to 300 professional groups. Privacy issues in electronic transfer of information were discussed. The Committee requested a list of agencies who require personal information such as birth dates, social security numbers, home addresses, and home phone numbers. Birth dates are often required to verify age requirements for licensure, certification, etc.

Senator Becker moved for an amendment to **Sub SB 94** which would require information gatherers to seek this information through writing and the insurance agent in question have on file a written request that such information not be given out. The motion died for lack of second.

The Committee will recommend **Sub SB 94** be placed in an interim committee for further study.

Hearing on SB 218 - Transaction of insurance business

Lee Wright, Farmers Insurance Group, requested support of the bill which would allow unlicensed persons working for a licensed agent to call potential customers for insurance policy expiration dates and possible competitive bids (Attachment 2). The bids would be made by a licensed insurance agent. Current state law interprets this canvassing as doing insurance business and a license is required for such action. Neighboring states do not have this restriction on the insurance industry.

Pat Morris, Kansas Association of Insurance Agents, reported their association is concerned for the following reasons (Attachment 3):

1. It would create a group of telephone solicitors who would be largely unregulated.
2. It would be very difficult for such solicitors to avoid the thin line that separates asking for a policy expiration date and offering insurance advice.
3. Would dilute the authority of the Insurance Commissioner on how insurance is represented and sold.
4. There would be no authority to protect consumers from such solicitors.

The hearing was continued.

The meeting was adjourned at 10:07 a.m. The next meeting is scheduled for February 14, 1997.

SENATE FINANCIAL INSTITUTIONS & INSURANCE
COMMITTEE GUEST LIST

DATE: 2/13/97

NAME	REPRESENTING
Pat Morris	I.C.A.I.A.
Rick Wilkerson	Farmers Alliance
Chanta Chustian	Washburn - Soc. Worker
Chris Keenan	KTLA
Aue Schmeizer	KCUA
ROBERT MCADD	
Callee Hill Denton	K. Peterson's Associates
Neressa Sittenauer	State Fair
Susan Baker	Hein + Wein
Judy Krueger	Gov's Office
Ignatius Dunion	State Treasury
Jed Miller	State Treasury
Kerri Davis	Am Family
Lee Wright	Farmers Ins. Group
Sandra Wilkerson	KS Insurance Dept.
Janie Stramberg	Go Co. Gov't
David Halson	K's Insur Assoc

Substitute for Senate Bill 94

By Committee on Financial Institutions and Insurance

AN ACT concerning insurance; agents, nonresident agents and insurance brokers; applicants for licensure; *amending K.S.A. Supp. 45-221*

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

Section 1. (a) The commissioner of insurance shall implement methods and procedures to ensure that any person who is an applicant or a licensed insurance agent under this act, an applicant or nonresident insurance agent pursuant to K.S.A. 40-246 and amendments thereto or an applicant or licensed insurance broker pursuant to K.S.A. 40-3701 et seq. and amendments thereto, is provided an opportunity, in a clear and conspicuous manner, to prohibit the disclosure by the insurance department of such person's social security number, birthdate, home address and telephone number, except:

(1) For use by any government agency, including any state, federal or local court or law enforcement agency, in carrying out its functions or any private person or entity acting on behalf of a federal, state or local agency in carrying out its functions;

(2) for use in connection with any civil, criminal, administrative or arbitration proceeding in any federal, state or local court or agency or before any selfregulating body, including the use of such information in the service of process, investigations in anticipation of litigation and the execution of enforcement of judgments and orders, or for use pursuant to an order of the federal, state or local court;

(3) for use in research activities, or for use in preparing statistical reports so long as such information is not made public, redisclosed or used to contact individuals; and

(4) for use by anyone who has obtained the written consent of the individual to whom the information pertains.

(b) The commissioner of insurance shall comply with subsection (a) above notwithstanding the provisions of the Kansas open records act, K.S.A. 45-215 et seq. and amendments thereto.

Sec. 2. K.S.A. 1996 Supp. 45-221 is hereby amended to read as follows:

(44) Personal information of applicants or insurance agents specifically prohibited from disclosure by the Insurance Department under Section 1.

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

*Senate FID
Attachment 1
2/13/97*



FARMERS INSURANCE GROUP OF COMPANIES

10850 LOWELL AVENUE
SHAWNEE MISSION, KANSAS 66210-1613
Mailing Address: P.O. BOX 387
SHAWNEE MISSION, KANSAS 66201-0387
Telephone Number: 913-661-6300

SENATE FINANCIAL INSTITUTIONS & INSURANCE TESTIMONY BY LEE WRIGHT RE: SENATE BILL 218

Mr. Chairman and members of the committee, my name is Lee Wright and I represent the Farmers Insurance Group of Companies. We appreciate the opportunity to testify in favor of SB 218.

Current law says you must be a licensed agent with the State to transact the business of insurance. Both past and present Insurance Department's have interpreted this statute to include phone calling for insurance policy expiration dates.

SB 218 would allow an unlicensed employee, working for a licensed agent, to make these calls.

Calling to acquire expiration dates, or "x-dating" as it is referred to in the insurance business, is simply inquiring of an individual if they would like to receive a competitive bid on their insurance when their current policy or policies expire.

*Senate F.I.G.
Attachment 2
2/13/97*

If an individual says they would like a bid, then the caller will simply ask the individual the date their current policy expires and who they are insured with. A licensed agent will then follow-up with the potential customer to provide a quote shortly before the policy is to expire.

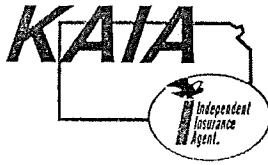
I have visited with the Kansas Insurance Department on this issue and they have advised me their position on the bill is neutral.

A survey of our surrounding states indicates Missouri, Nebraska, Colorado, Oklahoma, Iowa and Arkansas all allow x-dating by non licensed individuals.

If this legislation passes, it would benefit our agency force, particularly new agents, by allowing them to concentrate more on selling and less on prospecting for customers.

We would respectfully ask the committee to find SB 218 favorable for passage.

That concludes my remarks and I would be happy to answer questions.



Testimony regarding Senate Bill 218

Presented by Patrick J. Morris

Executive Vice President of the Kansas Association of Insurance Agents
(February 13, 1996 - Senate Financial Institutions and Insurance Committee)

Thank you Mr. Chairman and members of this committee for the opportunity to appear at the hearing today on Senate Bill 218. I am Pat Morris, the Executive Vice President of the Kansas Association of Insurance Agents, an association that represents over 600 independent agency members across Kansas who employ nearly 3,500 people, most of whom are licensed agents.

While I know from being here most every morning at 9:00 a.m. that this committee is busy with a great many large and technical issues, one of the debates that you were probably not looking forward to was a debate between the independent agents and our direct writer friends. And I sincerely mean friends, because we agree on many, many issues that come before this committee and other legislative committees. However, we do (agreeably) disagree on this issue and my Board of Directors has voted to oppose this proposal for two reasons - it will create a group of telephone solicitors who will be largely unregulated, and it will be very difficult for those solicitors to stay away from the very thin line that separates asking for a policy expiration date and offering insurance advice.

The Kansas statutes are very clear on the authority of the Commissioner of Insurance to regulate the "business of insurance" in this state. To achieve that requirement, there are specific requirements on the insurance department regarding the licensing and monitoring of the behavior and representations of both licensed insurance agents and companies. We

*Senate Filed
Attachment 3
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believe that the proposed amended language to K.S.A. 40-214 will dilute the authority of the Insurance Commissioner to regulate how insurance is represented and sold in this state. This measure would allow unlicensed representatives of those who wish to sell insurance (and according to the language in this measure, would not even need to be representatives of an insurance company) to call consumers and at best, request only the expiration date and carrier of insurance, but at worst, offer insurance advice outside of the scope of their responsibilities. What are the chances that consumers will offer only those two pieces of information without asking about premiums, coverages, limitations of coverage, and other technical insurance questions? How will these telephone solicitors respond to requests for information? How will the Insurance Department ensure that those who are unlicensed do not unintentionally practice insurance without a license? We believe that there will be no way for the Department to protect consumers if this is passed, except for responding to complaints about egregious behavior. And, when responding to complaints, what authority will the Department have to stop these practices under this proposed language? What about those who solicit from New York or California or Florida? We believe that the Department has a large regulatory stake in ensuring that consumers are protected, and that protection is at least controllable under the current system of licensed agents.

Under the current law, you must be a licensed agent to ask for these expiration dates; and we believe that this is a fair and measured approach to protect consumers. This approach ensures that those who ask for insurance information from the insuring public have passed an agent examination, have been contracted with an insurance carrier, and must meet continuing education requirements. Consider the implications of a telephone solicitor responding to a

caller who asks “whether they might have insurance coverage if their old policy expires in nine days?” If the solicitor offers advice either way, they are in fact “transacting the business of insurance” and their answer and the potential for unbound or expired coverage between the old and new carriers has tremendous implications for the Insurance Department, the insurance companies involved, and the consumer who is led to believe that they might have coverage.

The language, as proposed, will create a new, unregulated group of insurance solicitors and we do not believe this is in the best interests of the consumer, the insurance industry, or the Insurance Department. Licensing and continuing education assures a level of proficiency and competency and regulation which we would hate to see diminished.

Finally, let me add that the proposal is silent as to the procedures for these types of calls (e.g. how will solicitors avoid giving insurance advice?), who is allowed to do this type of soliciting (only insurance companies?), and how these solicitations will be regulated. As I stated earlier, we are in agreement with the other conferees on many issues, but on this matter, we strongly disagree. We believe that this proposal will open an “insurance issues Pandora’s Box” - in an area that is already highly technical and confusing to consumers. We do not believe it is in the best interest of the insurance consumers of Kansas to accept this change, and we would urge that you not pass SB 218.

Thank you, and I will attempt to answer any questions that you may have.