

Approved: 3-10-98
Date

MINUTES OF THE HOUSE COMMITTEE ON INSURANCE.

The meeting was called to order by Chairperson Dennis Wilson at 1:30 p.m. on February 10, 1998 in Room 527-S of the State Capitol.

All members were present except:

Committee staff present: Bill Wolff, Legislative Research Department
Robert Nugent, Revisor of Statutes
Beth James, Committee Secretary

Conferees appearing before the committee: Robert L Kennedy, Jr., Kansas Insurance Department
Jerry W. Cole, Cole Consultants, and a member of the Agents
Advisory Council
R. David Wentz, Kansas Association Of Life Underwriters
Pat Morris, KAIA

Others attending: See attached list

The meeting was called to order at 1:30 p.m. by Chairperson Wilson. The Chairperson opened the hearing on **HB2741.**

HB2741: Revised licensing requirements for insurance agents and brokers.

The Chairperson called Robert (Bob) Kennedy to the podium to speak, as he is the author of the bill. Mr. Kennedy introduced Leroy Brungardt, from the Agents and Brokers Advisory Council, who is available to answer questions of a technical nature. (Attachment #1). The Agents and Brokers Advisory Council is comprised of 20 agents, who are very diverse both in geographical location around the state, and the kinds of insurance they do. They meet three times a year with the department. This group came up with a "laundry list" of things that they would like to see changed about all of our licensing laws with the continuing education laws. These changes are being brought to you in this bill.

Mr. Kennedy touched on just a few items. One of the things they are trying to do is to get a uniform licensing structure. Another change would be in regard to surplus lines: "(1) makes our surplus lines insurance process less punitive and cumbersome, and (2) creates authority for an export list." Another change in regard to surplus lines would be the reduction of "the current surplus lines tax of 6% to 4% and makes the reporting and collection of those taxes track with our premium tax reporting and collection system." Mr. Kennedy went over other items and then offered several amendments to the bill.

Mr. Kennedy then had Jerry Cole come to the podium. Mr. Cole verified the information Mr. Kennedy provided regarding the Agents and Brokers Advisory Council and also added that the members are selected by the Insurance Commissioner. These agents represent different areas of the insurance business; life, property, casualty and health. These agents come from both urban and rural backgrounds. The recommendations that are presented to the committee today represent compromise, and are supported unanimously by the council.

A lengthy question and answer period followed. It was stated that the bill does need renumbering. Mr. Nugent, the revisor, is aware of this.

Representative Empson asked how long these laws have been on the books. Mr. Kennedy said there have been agent licensing laws since the inception of the Insurance Department. She also asked if the hour requirements for continuing education would be increased. Mr. Cole said yes. He explained the current requirements and what the changes would be and what he thought they should be. Mr. Cole said that he deals with most of the states and that to his knowledge, Kansas is the only state that the continuing education due date is different than the license renewal date. One of the purposes of this bill is to get those two things to happen on the same date.

CONTINUATION SHEET
HOUSE COMMITTEE ON INSURANCE, FEBRUARY 10, 1998
ROOM 527 AT 1:30 P.M.

Representative Kirk asked if all the agents would have the same "Uniform Producer/Agent License?" Mr. Kennedy said yes, but, there would be subcategories under the license. The agents would only have to take tests for what they sell. There would still be limited licenses under this bill, also.

Representative Burroughs asked Mr. Kennedy what some of the safeguards are that he referred to in his testimony, in regard to the insurance consultant license. Mr. Kennedy said that they provide a written contract to the customer outlining what you are doing and what you are charging for. The contract should specify what your services are. The contract should have a built in disclosure. Representative Kirk asked when the disclosure should take place. Karen France, with the Kansas Association of Realtors said that if the disclosure has not taken place before the title policy is written that is when the violation kicks in. The title agent should not write the policy until they see that the disclosure is signed by the client. The disclosure simply says that the real estate broker owns the title company. Representative Kirk asked if the disclosure said that there were other options out there. Karen France said that it does not say that, but, they have offered that in the past and would put that in if that is what the committee wanted.

The next speaker was R. David Wentz. (Attachment #2). The people he represents are in support of the amendments found in Section 10, pages 8-11, dealing with the rights of insurance agents. Details are in his testimony. However, they have concerns about the provisions defining activities which do not require an insurance license under New Section 62, Paragraphs (b) and (c) found on pages 59-60. The reasons for their concerns is in his testimony.

Pat Morris was then called to the podium. (Attachment #3). Although Mr. Morris would have liked to touch on all 77 sections time constraints limited him to cross section of positions and concerns and questions. The association supports Section 10 and though they are satisfied with the current language in K.S.A.40-2, 107, dealing with contracts that have been in effect for more than one year, they recognize the inherent tension, confusion, and cost that can result from an agency-company termination. They liked the clarification in reciprocity language, and the computer interactive component that is being discussed regarding continuing education. Please see Mr. Morris' attached testimony for a lengthy list of concerns and questions.

In conclusion, Mr. Morris requests that the committee not consider HB2741 favorably. A short question and answer period followed.

The meeting was adjourned at 2:35 p.m. The next meeting will be February 11, 1998.

HOUSE INSURANCE COMMITTEE GUEST LIST

DATE: 2-10-98

NAME	REPRESENTING
Bob Kennedy	KID
Jerry W Cole	Cob Consultants & Adv. Comm. KID
Robert Richey	Para financial Group & Adv. Comm. KID
Iel Wright	Farmers Ins Group
Michael M. Sullivan	Farmers Ins. Group
Kenneth A. Fain	Farmers Ins. Group
Kenneth J. Fain	Farmers Ins. Group
Robert W. Reckley	Farm Bureau Ins
Tommy Shepard	State Farm
R. David Wentz	Kansas Assn of Life Underwriters
Pat Morris	KAIA
GREG S. PENN	KAIA
ED ROLING	DELTA DENTAL / KS Assoc. Health Units
H. J. LAVIENE	WILLIS CORSON CORP.
KEVIN DAVIS	Am. Family
DAVID THOMPSON	STATE FARM INS AGEN
Teresa Sittman	State Farm
Bill Sneed	State Farm
Jim Bowen	Amn Family



Kathleen Sebelius
Commissioner of Insurance

Kansas Insurance Department

Robert L. Kennedy, Jr.
Assistant Commissioner of Insurance

Testimony on H.B. 2741

House Insurance Committee
February 10, 1998

H.B. 2741 is a complete rewrite of our insurance agents' licensing statutes and is the result of a year-long study by the Insurance Commissioner's Agents and Brokers' Advisory Council. The Agents and Brokers' Advisory Council consists of 20 agents and brokers from different geographical areas of the state. They range from independent property and casualty insurance agents, to commercial brokers, to life insurance agents to accident and health consultants. They meet three times a year and provide input or make recommendations to the Commissioner on matters of particular interest to them as working agents.

Last Fall, the Council came up with a list of recommendations after studying our licensing and continuing education statutes. These recommendations became H.B. 2741. I have attached to this testimony an executive summary of the bill, setting out in concise form the proposed changes to our current law. However, I would highlight the following major changes to our law:

A uniform, reciprocal license. Agents and companies have long complained that licensing in the various states is too diverse and expensive. As modern economic conditions create more opportunity to do business across state lines, various state requirements for agent licensing have become roadblocks to doing business and, more importantly, cannot be justified by any rational basis, such as a desire to protect citizens. H.B. 2741 responds to these complaints in two ways by: (1) creating a uniform producer licensing scheme and (2) making licensing for non-resident agents fully reciprocal. We looked at several states and selected Illinois as the model for a uniform licensing scheme, as it seems very straightforward and has been in place for many years. Most of the provisions you see in this bill are translated directly from the Illinois law, retaining only those aspects of Kansas law we believe most Kansas agents support. An example is the number of hours of continuing education required. Illinois requires 15 hours of CE annually. We believe there is a consensus the current Kansas requirement of 12 CE hours in a biennium may be too low, but there is probably not consensus among agents to increase the biennial requirement to 30. Many of our

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neighboring states are at or above current Kansas requirements [Colorado, 24 biennially; Nebraska, 12 biennially; Iowa, 60 triennially; Missouri, 10 biennially, Oklahoma, 16 biennially]. We are suggesting the hours be increased to 15 per biennium.

The Commissioner proposes to make our state fully reciprocal for non-resident agents. There is legislation pending in the U.S. Congress which would impose federal standards or licensing if states do not move to make their laws reciprocal. Our bill would do this. Under our bill a non-resident insurance agent need only present us with a certificate from his or her home state insurance department certifying the agent is in full compliance with that state's licensing and continuing education requirements and we will issue the license.

We have received a number of calls from insurance agents who are troubled by the fact they would find themselves called "producers" under this new law, rather than "insurance agents." We use the term producer in this law because that is what agents are called in Illinois and many other states. However, it is not a critical item to the Commissioner what terminology is used to referred to licensees. We would certainly not object if the committee wishes to change the term in our bill.

Surplus lines. Increasingly we are told regulation of insurance should be modified to fit a modern electronic market place; that insurance regulation developed in the 50s does not cope well with modern economic business practices. Studies by the National Association of Insurance Commissioners agree some deregulation of commercial insurance is warranted. H.B. 2741 responds in two ways: (1) makes our surplus lines insurance process less punitive and cumbersome, and (2) creates authority for an export list.

H.B. 2741 reduces the current surplus lines tax of 6% to 4% and makes the reporting and collection of those taxes track with our premium tax reporting and collection system. The amount we "tax" surplus lines business is somewhat punitive in amount and does not follow other taxing schemes in our insurance code. For example, we have provisions that impose a penalty of double the premium tax for companies who write business in Kansas without an authority or with unlicensed agents. Therefore, it seems to us a tax of 4% is more appropriate.

Finally, an NAIC "white paper" on deregulation, among other findings, recommended use of an "Export List" in surplus lines. Under current law, a producer must obtain two declinations of insurance from insurance companies operating in the standard market before they may place business with a surplus lines insurer. Where it is obvious nobody can obtain insurance on the standard market, this exercise is at a minimum an inconvenience. Under an "export list" process, the Commissioner can declare on a regular basis the lack of availability in certain lines of insurance. For those lines, a producer would not be required to go through the exercise of getting declinations from insurers.

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Insurance consultant license. Increasingly, Kansas insurance agents are exploring the ability to charge fees for insurance consulting, risk management or other services beyond those for which they are now compensated by insurance companies through a commission. Agents would like to do so within clearly defined standards that establish parameters for all agents and provide protection for their customers. We found an insurance consultant licensing act in Nebraska that we believe provides an excellent framework for licensing in this area. Under the Nebraska law agents may contract for fees separate from their insurance commissions, they have a written contract with their customer to do so and certain customer safeguards must be followed.

Expanding agent protections. Under current law only independent property and casualty insurance agents have any protection from cancellation of their agency contracts with an insurance company. Under that law a company may cancel that agency contract only by mutual agreement or after a 180 day notice, to give the agent time to place the business elsewhere. The protection only exists for agents who have contracted with the company for at least one year and is not available for obvious scenarios, e.g. when an agent is defrauding the company. In light of more and more aggressive actions on the part of companies to cancel agency contracts in very arbitrary ways, insurance agents want these protections expanded.

In H.B. 2741, the existing protections for independent insurance agents are expanded to cover exclusive agents for property and casualty companies, i.e. agents who have contracted to write for only one company or group of companies.

In addition, agents would like an additional layer of protection from cancellation of their contracts by truly arbitrary action on the part of a company. In seeking some counterpart in other states, we found an agent protection measure that seems to provide the narrow protection sought by many Kansas agents. Under the Minnesota law, a company's ability to cancel an agent's contract is restricted in three very narrow situations, where the cancellation is based on: (1) only one year of losses, (2) solely on the geographical location of the agent, and (3) the agent's performance of an obligation required by Kansas law. In addition, before canceling the contract, the insurance company must make a good faith effort to rehabilitate the agent. There are exceptions to these restrictions, as in the current law, where the agent has defrauded the company or fails to remit moneys owed the company or gross misconduct of the agent or where the agent's licensed is revoked by the Commissioner.

The executive summary I attach to this testimony provides a more detailed explanation of each provision of the bill, and I would be very happy to answer any questions you might have about any of its provisions.

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Finally, we offer several amendments to the bill to address the following: (1) clarify an agent who is not licensed as a surplus lines agent can share a commission with a surplus lines agent, (2) change the fine for failure to file a surplus lines report from a mandatory double penalty tax to a fine of "up to" double the tax, (3) allow a fine for violating this law, in addition to the only remedy of suspending or revoking a license and (4) make clear the protection against cancelling a property and casualty agent's contract applies to all P&C agents.

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EXECUTIVE SUMMARY

LICENSING AND CONTINUING EDUCATION (CE) [SECS. 5-28, 43]

- Changes definition of “agent” to “producer” and “agency” to “registered firm” [Sec. 6]
- Makes our licensing and CE requirements fully reciprocal, i.e. a nonresident agent will only need to submit a certificate from Commissioner of Insurance in home state showing agent is in full compliance with home state’s licensing and CE requirements. Allows a non-resident agent who becomes a Kansas resident to switch to a Kansas resident license by taking only the Kansas law portion of insurance exams and pay fee vice taking full set of exams, complying with Kansas CE requirements in advance, if different than home state [Sec9g, 12a, 13b]
- Eliminates requirement applicant for producer license be a high school graduate [Sec. 9]
- Eliminates requirement producer be certified by at least one insurance company to maintain insurance producer license, allowing agent to solicit business for a company, so long as they enter into contract with company before receiving commission for business [sec. 20]
- Requires producer to have or be covered by an errors and omissions liability policy [Secs. 9, 11, 25]
- Limits re-taking exam for license after third failure, substituting requirement applicant petition Commissioner to subsequent exams [Sec. 9b]
- Increases basic CE requirement from 12 hours per biennium to 15 hours, and CE hours for limited license from 2-4 hours to 5 hours per biennium [Sec. 9c]
- Expands methods of completing CE hours to include computer interactive methods [Sec. 9c]
- Changes “penalty” for relicensing after license suspension for failure to comply with CE, by eliminating requirement he or she must retake exams, i.e. would only have prove CE has been completed and pay penalty fee. [Sec. 9d, 11a(3)]
- Added to “limited” license categories (currently crop, funeral pre-need, title and bail bond agents) limited insurance representative license for auto rental agents [Sec. 10]
- Converts current insurance agency licensing requirement (now optional) to a mandatory registration requirement [Sec. 14]
- Provides for waiver of CE and exam requirements for persons wishing to restore insurance agent’s license they were required to give up in order to accept employment in the Insurance Department [Sec. 19]
- Added renewal licensing fee for producers to cover cost of service, vice current requirements of no fee [Sec. 26]
- Converts fee payment process for companies filing names of agents currently contracted with to an annual filing requirement coinciding with their annual statement and premium tax filings vice numerous filings throughout course of the year [Sec. 26b]
- Clarifies exemptions from licensing law [Sec. 27]
- Provides authority to Commissioner to outsource other function of Insurance Department besides agent testing [Sec. 43]

SURPLUS LINES [SECS. 1-4]

- Changes name of surplus lines agents to surplus lines producers and requires surplus lines producer to report premium written in surplus lines market, vice current annual report requirement [Sec. 1]

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House Bill
Uniform Insurance Producers Bill

- Requires producer to report premium and remit premium taxes on all surplus lines business on a quarterly basis (matching comparable requirement on insurers), vice current annual requirement [Sec. 2]
- Reduces 6% surplus lines premium tax to 4% [Sec. 2]

INSURANCE CONSULTANT [SECS. 29-39]

Establishes new license for "insurance consultant" patterned on Nebraska law, with experience requirement, additional CE requirements, and separate testing requirement [Secs. 32-33, 35]
Allows three categories of consulting: P&C, Life and Health and Claims Adjusting [Sec. 36]
Allows producer to charge consultant fees, with guidelines, disclosure requirements, restrictions [Sec. 30, 38]

AGENT PROTECTIONS [SECS. 40-41]

Expands current limitations on canceling contracts of independent agents to include exclusive agents [Sec. 40]
Requires a property and casualty insurance company to attempt in good faith to rehabilitate producer, who has been their agent for at least three years, before allowed to terminate contract [Sec. 41c, i]
Restricts cancellation of insurance agency contracts if the sole reason is adverse loss experience for a single year, because of the geographic location of producer's agency or because producer did something Kansas law requires, e.g. reported violation of law committed by company. [Sec. 41]
Exempts terminations for cause, insolvency [Sec. 41m]
Creates an appeal process with Insurance Commissioner before proceeding to court [Sec. 41o, p]

REBATES [SEC. 42]

Creates narrow exception to rebating statutes for promotional or marketing gifts of nominal value, which are presumed to \$25 or less in value [Sec. 42]

MISCELLANEOUS

Portions of the bill that are substantially the same or identical to our existing law [e.g. temporary insurance agents licenses, provisions for people in military service, outsourcing of exams, enforcement provisions, grounds for suspension or revocation of licenses, fees etc.] have not been summarized.

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1. Amend Section 2, lines 25-26

A producer, who does not have a surplus lines license, may place the kind or kinds of business specified in this act for which such producer is licensed

2. Amend Section 3, lines 40-41

“ . . . The commissioner of insurance shall *may* collect *up to* double the amount of tax herein . . . ”

3. Amend Section 4, lines 4-5

“The commissioner may, in the manner prescribed by law, *impose a fine or* revoke or suspend the license of any ~~agent~~ producer

4. Amend Section 9(b) by striking last dependent clause:

(a) “Insurance company” means any property or casualty insurance company admitted to the state of Kansas, ~~except the term shall not include any company which requires membership in the company, as contained in the articles of incorporation or bylaws of such company, as a prerequisite to insuring that member.~~

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R. David Wentz, J.D., CLU
Legislation Committee Chairman
Kansas Association of Life Underwriters

Testimony Before The House Insurance Committee
House Bill 2741
February 10, 1998

Mr. Chairman and Committee Members:

I appreciate the opportunity to address you today on behalf of the many members of the Kansas Association of Life Underwriters.

Our membership consists of approximately 2000 Kansans located in all Kansas counties who are actively engaged as insurance agents and brokers.

We appreciate all of the time and hard work that the Commissioner of Insurance and the Kansas Insurance Department have put into this far reaching legislation. We are particularly supportive of the amendments found in Section 10, pages 8-11, dealing with the rights of insurance agents for the following six reasons:

- It protects consumers because independent insurance producers and exclusive insurance producers often have a long-standing personal relationship with their policyholders and clients which is protected by not permitting insurance companies to terminate the contract of an independent insurance producer or exclusive insurance producer or agency without an appropriate process.
- It protects the consumer by providing an appropriate rehabilitation process for the insurance company and producer to follow in matters of conflict.
- It protects the economic livelihood of the independent insurance producer, exclusive insurance producer or agency by providing an appropriate process to follow in matters of conflict.
- It seeks to recognize and provide an appropriate process to deal with a significant trend of conflict over insurance contract terminations which have already begun in other states and may include Kansas in the future.

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- It assists insurance companies by providing them with an appropriate process to handle contract termination conflicts with independent insurance producers, exclusive insurance producers and insurance agencies.
- These provisions do not result in the state writing a contract, but rather establish a structure to better the relationship between insurance producers and insurance companies.

However, we have concerns about the provisions defining activities which do not require an insurance license under New Section 62, Paragraphs (b) and (c) found on pages 59-60 for the following four reasons:

- Such activities should be conducted by licensed independent insurance producers or exclusive insurance producers themselves who are properly trained and regulated.
- In most instances it is unlikely that the permitted activities can be conducted without solicitation or insurance and annuity advice being given to secure or provide the information being requested.
- Separation of the “non-solicitation” or “non-advice” portions of contact with the consumer will be extremely difficult to enforce.
- If the general tenor of the Bill is to protect the consumer and increase the professionalism and education of the producer, then these Exceptions diminish those purposes.

In conclusion, we applaud the inclusion of New Section 60 found on page 58 which requires sufficient errors and omissions liability insurance coverage by insurance producers because it will help the consumer and is representative of good business practice by the producers.

Thank you for your time and attention.

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Testimony on House Bill 2741

Presented by Patrick J. Morris

Kansas Association of Insurance Agents

February 10, 1998 - House Insurance Committee

Thank you Mr. Chairman and members of this committee for the opportunity to testify at today's hearing on House Bill 2741. 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.

Our association's Government Affairs committee received an earlier copy of this bill and a briefing from the Insurance Department on this proposal in November, and we have been chewing on it and digesting it and trying to make sense of it ever since. It is a massive undertaking, a comprehensive rewrite of the Kansas licensing and agent statutes, and many of the laws that are to be amended or repealed in this bill go back to 1927. Let me say first that we applaud the Insurance Department's effort in undertaking such a monumental assignment. It is certainly a comprehensive piece of legislation --- 77 sections, 36 of them new, 39 amended sections, and 37 additional that are repealed altogether. When asked by Department representatives of our opinion of the proposal, I have responded that our committee's and Board of Directors position has been that there are parts they like, parts they hate, parts that they are ambivalent about, and many more parts that have prompted many more questions. It would take more time than you have today or for the next few meetings to completely critique this proposal, so I thought I would instead give you a cross section of our positions and concerns and questions.

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Our association, while we did not ask for this provision, supports Section 10 - the agency termination/rehabilitation provision. While we are satisfied with the current language in K.S.A. 40-2, 107 requiring that “contracts which have been effective for more than one year shall not be terminated or amended by the company except by mutual agreement or unless 180 days’ prior notice has been tendered to the agent,” we also recognize the inherent tension, confusion, and cost that can result from an agency-company termination. The proposed language in Section 10 will help ensure that the relationship remains fair, balanced, and gives all involved in this business relationship a chance to succeed. Our members also were pleased to see the clarification in reciprocity language, and the computer interactive component that is being discussed regarding continuing education.

Weighed against these positives, we have a laundry list of concerns and questions about various provisions in House Bill 2741. The first concerns the blanket name change in the statute from “agent” to “producer.” While some states such as Illinois have adopted this change in their law, our agent members proudly call themselves “agents,” and are universally opposed to this change in their name and perceived function. Our association began in 1920 as the Kansas Association of Insurance Agents, and our members have proudly worn the title of Independent Insurance Agent since our beginnings in Kansas, and for more than a century nationally. The “Big I” logo is known around the world, and we can neither support nor accept the statutory change proposed in Section 9 which amends K.S.A. 40-2, 106 to change the statutory definition of an “independent insurance agent” to an “independent insurance producer.” If we had been consulted when the bill was being drafted, we certainly would have

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let the Insurance Department know of the depth of resistance that they would encounter with this proposed change.

Another concern of our association is the placement of exemptions from the provisions of the act in New Section 62. The new language in 62(b), which does ^{not} come from the Illinois law, states that the provisions of the act do not apply to

“salaried employees of any property and casualty insurance producer or registered firm, who devote their full time to clerical and administrative services, including the soliciting of appointments with potential insureds for licensed producers, to include asking the potential insured for the expiration dates of their current insurance, and receipt of premiums in the office of their employer, as long as such employees do not solicit insurance, provide insurance advice to insureds, receive any commissions on such applications and their compensation is not varied by the volume of applications or premium taken or received. Soliciting of appointments on behalf of licensed insurance producers is not soliciting insurance or transacting the business of insurance.”

This language is remarkably similar to the language that was proposed last year in Senate Bill 218. Senate Bill 218 was last year introduced by one of our company friends (and I do mean friends) and would have amended K.S.A. 40-214, the section that deals with who is considered to be transacting the business of insurance and therefore regulated by Insurance Department. Their proposal stated that **“Personal telephone contact for the purpose of requesting the expiration date and insurer of a current contract or contracts of insurance shall not be considered an act toward transacting the business of insurance for purposes of this section.”** This measure was heard by the Senate Insurance Committee and has not progressed

past its first hearing, and the Insurance Department at that hearing stated that they were “neutral” on the bill. Remarkably, similar language has reappeared in House Bill 2741, language to which we would strenuously object. We object to the 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 believe that the proposed language 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 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 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. This is a debate that I am sure will be heard again by some committee in the Legislature, but I would stress our continued opposition and our surprise at the Insurance Department’s change of mind.

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A third large area of concern that we have with the bill as it is written is New Section 57, which we believe gives the Insurance Department new investigative rights that they do not presently possess. In examining Illinois' law from which most of the language of this bill was taken, this section contained the word "examine" --- not "investigate." The present Kansas law, which will be repealed by this bill is contained in K.S.A. 40-246a, titled "Penalties for violating 40-246: hearings" begins with this sentence: "The commissioner of insurance shall have the power to examine any agent, non-resident agent,..." New Section 57 (a) begins with this sentence, "The commissioner may investigate any applicant for or holder of an insurance producer license,..." Our members were curious as to the change of wording from "examine" to "investigate" and the broadening of the authority of the commissioner to investigate applicants who are not yet licensed as well as "their officers, directors..." etc. that are contained in the language in (b). Section (c) also grants "the commissioner or the commissioner's designee" the ability to "administer oaths and examine under oath any individual relative to the business of the person being investigated." This power, to our knowledge, is not presently granted in the current law.

Mr. Chairman, we have numerous additional objections and questions to provisions in House Bill 2741 which including the following:

- the new transfer of fees to the insurance agent in New Section 61 - with the new biennial registration fee of \$60 for renewal of agent licenses
- the financial impact of reduction of the surplus lines premium tax from 6% to 4%

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- the broad authority contained in New Section 75 for the commissioner to adopt rules and regulations to carry out the act – to include outsourcing agent licensing examinations, continuing education requirements, and licensing and administration of those functions.
- the large number of current law portions that are dropped from K.S.A. 40-240f (which will be repealed) and are not included in New Section 41. These include the tightening of the language concerning the biennial due date in subsection (a); the language concerning approved subjects and instructors for continuing education; and the change from 6 years to 4 years in the “inactive insurance producer” portion of subsection (d) to name just a few.
- the dropping of the requirement of a high school diploma to become an insurance agent that is now contained in K.S.A. 40-240.

As we have reviewed the bill, there are also a number of technical errors that need to be corrected. These include:

- the incorrect section reference on line 33 of page 2
- the deletion of the word “excess” on line 17 of page 5
- the incorrect section reference on line 22 of page 6
- the incorrect section reference on lines 27 and 28 on page 7

Mr. Chairman, I thank you and the committee for your indulgence as I have highlighted a few of our concerns with the bill as it is currently written. However, I have not mentioned one of

our biggest concerns which is not included in the bill. It concerns the 37 sections of the current law --- law that has been developed over the past 70 years by the Kansas Legislature -- - that will be repealed if you pass this bill. We do not feel that there has been a sufficient explanation to date as to where all of these repealed laws (and their inherent protections) are contained in the new sections that have been adapted from the Illinois and Nebraska and Minnesota statutes. We would like to see a "crosswalk" that shows where the repealed and amended Kansas language is replicated in this bill. Our association has spent considerable time trying to diagram how we get from the current law to the proposed, and it is a monumental task. As I understand it, this type of crosswalk does not yet exist. In our opinion, it will be imperative for this committee to be able to clearly see and compare the old law against the proposed; and until that happens, this bill will remain a Herculean task.

Finally, I would like to convey the general feeling that I have received from our membership on this proposal. They have asked, "What was so wrong or unworkable with the current law that we needed to abandon huge blocks of it and adopt the laws of Illinois and other states?" They do not feel that most of these changes are needed. While we appreciate the effort that was undertaken by the Insurance Department, and we do support portions of the bill, there remain huge problems with the proposed bill and a larger group of questions that have been left unanswered. It is our hope that the depth and breath of experience that our independent insurance agents have accumulated over the years might be called upon the next time that such a monumental task is undertaken, especially one that so directly affects their careers and

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livelihood. In its present form, we must regrettably oppose House Bill 2741 and ask that you not consider it favorably.

Thank you, and I would be happy to try and address any questions that you may have.