

Approved: March 7, 2000
Date

MINUTES OF THE SENATE COMMITTEE ON FINANCIAL INSTITUTIONS AND INSURANCE.

The meeting was called to order by Chairperson Senator Don Steffes at 9:00 a.m. on March 6, 2000 in Room 234-N of the Capitol.

All members were present except:

Committee staff present: Dr. William Wolff, Legislative Research
Ken Wilke, Office of Revisor of Statutes
Nikki Feuerborn, Committee Secretary

Conferees appearing before the committee: Brad Smoot, American Insurance Association
Patrick Morris, Kansas Association of Insurance Agents
Linda DeCoursey, Kansas Insurance Department

Others attending: (See Attached)

Hearing on SB 548—Insurance, rate filing requirements

Brad Smoot, legislative counsel for the American Insurance Association, spoke in support of the bill which would bring deregulation of forms and help in the creation of a competitive insurance marketplace (Attachment 1). This bill would authorize the Commissioner of Insurance to define "large risks" and to remove form filing requirements when the Department determines that such filings are no longer necessary. Large companies need the flexibility to use whatever forms are appropriate for the situation. When they are in negotiations and agreement is reached, it is important that the policy in place as soon as possible. The trend in the insurance industry is for the adoption of deregulation.

Written testimony supporting the proposed legislation was received from Richard C. Heydinger, Government Affairs Representative for the Greater Kansas City Area Chapter of the Risk and Insurance Management Society (Attachment 2).

Patrick Morris, Kansas Association of Insurance Agents, explained their opposition to the bill because it offers too much latitude to the Insurance Commissioner in determining and defining "large risks" (Attachment 3). Their preliminary findings are that the deregulation of form filings is neither a widely accepted nor implemented policy across the nation. Mr. Morris spoke against allowing rules and regulations authority to determine what is "large risk." He urged the Committee to refrain from action on the bill until the full impact of the Federal Financial Modernization Act is realized. The current bill is the product of one trade group that represents large, national insurance companies rather than the average insurance company.

Rick Friedstrom, Kansas Association of Insurance and Financial Advisors, said they opposed the bill for the following reasons (Attachment 4):

- Potential liability associated with an agent error and omission policy caused by unforeseen complications and variations in potential coverage by moving form filings away from a prior approval system.
- Allowing "large risks" from being exempt from any rate filing with the Kansas Insurance Department.

Written testimony in opposition to the bill was received from Rick Wilborn, Vice-president of Government Affairs for the Alliance Insurance Companies (Attachment 5).

Linda DeCoursey, Kansas Insurance Department, explained that the Insurance Commissioners of all states will be asked to sign a Statement of Intent at the March meeting of the NAIC (Attachment 6). This is due to the recent passage of the Federal Financial Modernization Act. Part of the Statement of Intent deals with the deregulation of rates and forms and the development of forms based on minimum standards for products issued on a multi state basis.

Major points of contention appear to be the setting of the threshold for "high risk" and whether it should be regulatory or set by the Legislature.

Senator Becker moved for the approval of the March 1 and 2 Minutes. The motion was seconded by Senator Feleciano. Motion carried.

SENATE FINANCIAL INSTITUTIONS AND INSURANCE COMMITTEE

GUEST LIST

DATE: March 6, 2000

NAME	REPRESENTING
BRAD Samsot	AIA
Pat Morris	KAIA
Jan Sellers	KAIA
Diana L. Rose	KAIA
Kevin Davis	Am. Family Ins.
Bill Speed	State Farm
Larrie Ann Lower	KATP
John Reimer	Health Care Stabilization Fund
Rick Frindstrom	KARFA
Anne Spiess	Peterson Public Affairs Group
Kevin Barone	Hem/Wear Chrt'd.
Ginda McLowery	KF Insurance Dept.

BRAD SMOOT

ATTORNEY AT LAW

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**Statement of Brad Smoot
Legislative Counsel
American Insurance Association
Senate Financial Institutions & Insurance Committee
Regarding 2000 Senate Bill 548
February 22, 2000**

Mr. Chairman and members of the committee, I am Brad Smoot, legislative counsel for the American Insurance Association. AIA is a trade association representing more than 300 property and casualty insurers and providing workers compensation, auto, homeowners and business liability insurance in Kansas. We are pleased to comment in support of SB 548.

Kansas began the modernization of its insurance laws in 1997 with commercial lines reforms and continued in 1999 with the enactment of SB 121. Included in the 1999 rate filing reforms were: A change from prior approval to a file and use system for commercial lines, business and farm owners; a change for personal lines from prior approval to a 30-day waiting period; and an exemption for large commercial and unique risks.

As originally introduced, the 1999 insurance deregulation proposal included the elimination of form filings for large commercial risks. As part of the compromise worked out by this committee, the form changes were postponed. Instead, a study of deregulation, including forms, was to be conducted by the Kansas Insurance Department and reported to the 2000 Legislature. We understand that the report is complete and will be forthcoming.

Although the reforms of 1999 have been in place only a few months, we believe that they will create a more competitive property and casualty insurance market and bring Kansas' insurance regulation up to par with our surrounding states. A map of the regulatory environment is attached to our statement.

We are pleased that the Insurance Commissioner took the initiative to introduce HB 2650, exempting large risks from form filings. "Large risks" are defined in that bill the same as they were in the 1999 rate reforms: \$5 million in property value; \$10 million in annual gross revenues; \$50,000 in property or general liability premium or \$100,000 for multiple lines policies. Based on a review of our member company books and a similar analysis in Oklahoma, AIA would estimate that this large risk exemption would benefit only 3% of the commercial insureds in Kansas. And while most insureds would be unaffected, those who could take advantage of such deregulation are eager to do so.

Unfortunately, HB 2650 will not receive a hearing in the House. SB 548 was requested by AIA to bring the issue of deregulation of forms to the attention of this committee which has steadfastly endorsed the move to a competitive insurance marketplace. SB 548 would authorize the Commissioner of Insurance to define "large risks" and to remove form filing

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Attachment
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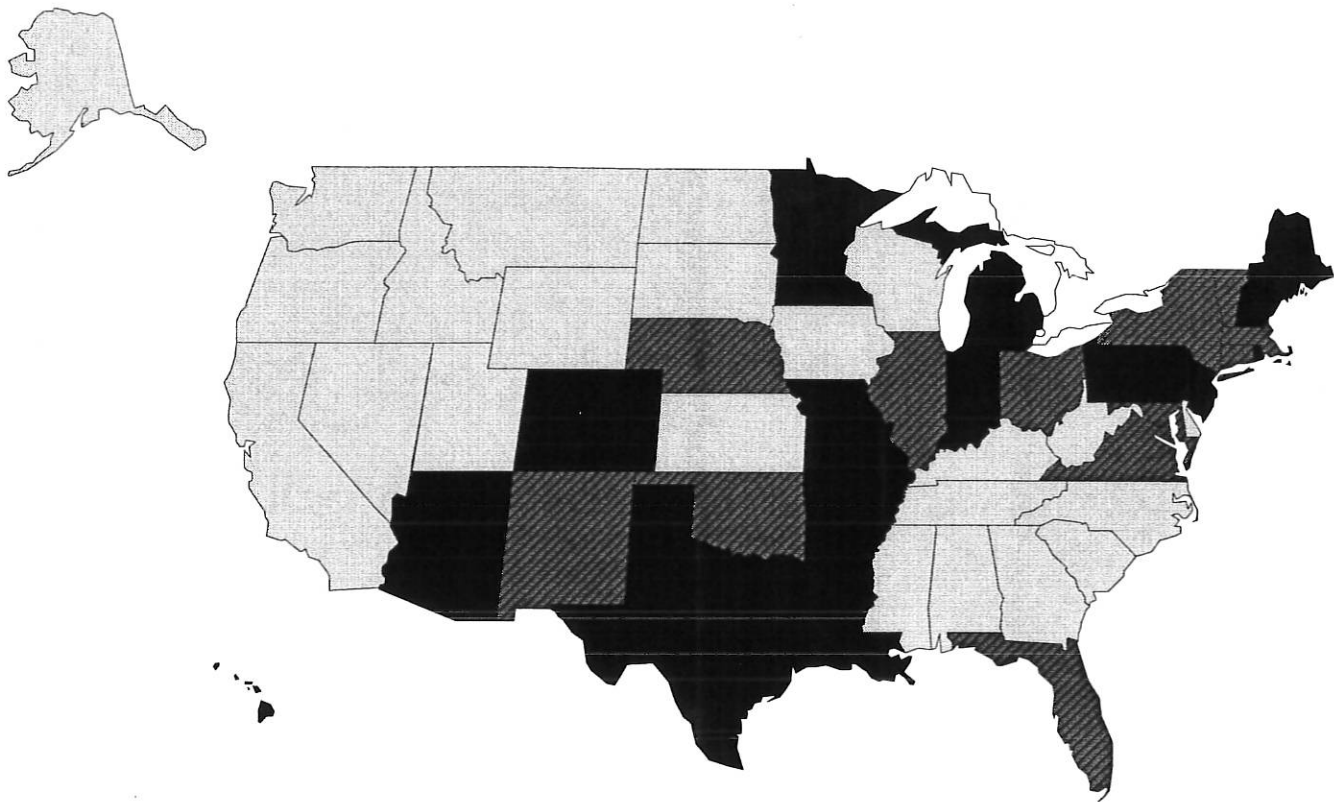
requirements when the Department determines that such filings are no longer necessary. Various safeguards are built into this proposal including a requirement that the marketplace is and remains competitive; that agents and customers have input; a listing of the factors to be considered in defining large risks and a requirement that the Commissioner's decisions are made through the lengthy and public rules and regulations process.

AIA views SB 548 as a modest proposal that relies on the expertise of the Kansas Insurance Department to respond to the marketplace while providing new opportunities for those few large commercial risks who want and need more flexibility. AIA members and our customers support SB 548. We ask that this Committee continue to review and support further insurance deregulation.

Thank you for consideration of this proposal and I would be pleased to respond to questions.

Attachment

Status of Commercial Forms Deregulation In The United States



Dark Solid = States With Large Commercial Form Exemption or
No Form Filing Requirement

Diagonal Stripes = Deregulation Under Consideration During
2000

Light Solid = No Deregulation Activity Anticipated During 2000

Prepared January 2000

**Commercial Forms Deregulation:
State Listing**

States with Large Commercial Form Exemptions or No Form Filing Requirement:

Arizona, Arkansas, Colorado, Hawaii, Indiana, Louisiana, Maine, Michigan,
Minnesota, Missouri, New Jersey, Pennsylvania, Rhode Island, Texas

States in which Commercial Forms Deregulation is under Consideration during 2000:

Connecticut, D.C., Florida, Illinois, Maryland, Massachusetts, Nebraska, New
Mexico, New York, Ohio, Oklahoma, Vermont, Virginia

States in which No Forms Deregulation Activity is Anticipated during 2000:

Alabama, Alaska, California, Delaware, Georgia, Idaho, Iowa, Kansas, Kentucky,
Mississippi, Montana, Nevada, North Carolina, North Dakota, Oregon, South
Carolina, South Dakota, Tennessee, Utah, Washington, West Virginia, Wisconsin,
Wyoming

February 21, 2000

The Honorable Don Steffes
Chairperson
Senate Financial Institutions & Insurance Committee
State Capitol
Topeka, Kansas 66612

Re: Senate Bill No. 548 Form Filing Deregulation

Dear Chairperson Steffes:

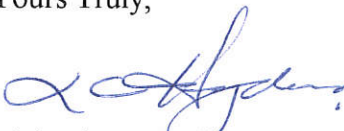
I serve as the Government Affairs Representative for the Greater Kansas City Area Chapter of the Risk and Insurance Management Society (RIMS), and I am employed by Hallmark Cards as its Director of Risk Management Services. The Kansas City Chapter of RIMS has more than 65 members, who are responsible for purchasing the commercial insurance protection required by their employers. Kansas members of RIMS include: Applebee's International, Black & Veatch, Butler Manufacturing, Farmland Industries, Health Midwest, Seaboard Corporation, Sprint, Western Resources and Yellow Freight System

Our Kansas City Chapter and the North American organization of RIMS (with more than 4,000 corporate members) have been strong advocates of rate and form deregulation for large consumers of commercial insurance. We support and urge the Kansas Legislature to pass SB 548, which permits the Insurance Commissioner to establish rules and regulations recognizing that rate and form regulations are most effective and competitive when they are customized to meet the varying needs of Kansas consumers.

RIMS members have significant technical insurance expertise on staff, and we employ professional brokers, agents and consultants to assist us in our insurance arrangements. Many of our businesses are multistate and global in scope. Our business risks are becoming more complex and decision-making processes move with greater speed. Large commercial insurance consumers are in need of modern insurance regulations that support our dynamic operations. Statutes and regulations enacted to protect less sophisticated personal lines and small business consumers are often detrimental to our needs and desires. The added form filing deregulation provided by SB 548 is an important part of that modernization.

We appreciate your past support for rate deregulation. We encourage your support of Senate Bill No. 548 for continued flexibility in customizing insurance protection for large consumers, while maintaining existing regulatory protection for most other consumers. Thank you.

Yours Truly,


Richard C. Heydinger

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Date 3/6/00

Attachment

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Testimony on Senate Bill 548

Presented by Patrick J. Morris

Kansas Association of Insurance Agents

March 6, 2000 - Senate Financial Institutions & Insurance Committee

Thank you Mister Chairman and members of the committee for the opportunity to appear in opposition to Senate Bill 548 at today's hearing. I am Pat Morris, the Executive Vice President of the Kansas Association of Insurance Agents. Our association represents over 500 independent agency members across Kansas whose agencies employ nearly 3,000 people, most of whom are licensed agents.

Mister Chairman, this of course is not the first time that we have had this debate on exemptions for filings on insurance forms. Our organization was in strong support of the majority of last year's divisive Senate Bill 121, which was adopted with our help after some arduous processes directed by you in the old Steffes inferno on the 5th floor. The sticking point in that bill, which I do not believe has been resolved yet, was the process of exempting forms from filing requirements.

The current language in the law is very clear, and has been reiterated a number of times by this committee and the House committee in the five sessions that I have worked at the KAIA. K.S.A. 40-955 specifically states the following:

Policy forms shall require approval by the commissioner before use by insurers in this state, consistent with the requirements of K.S.A. 40-216 and amendments thereto. As soon as reasonably possible after such filing has been made, the commissioner shall in writing approve or disapprove the same, except that any filing shall be deemed approved unless disapproved within 30 days of receipt of the filing.

Rather than rushing into this important issue and changing that carefully crafted legislative language, your committee left 40-955 alone concerning form filings and adopted the following compromise language when debating Senate Bill 121 last year:

(b) Prior to the 2000 legislative session, the Kansas insurance department shall conduct a study and report to the Kansas legislature on the laws of other states governing rate filings and policy or contract forms for personal and commercial, including large commercial risks. The study shall also identify recent trends in regulation and the potential impact on consumers, carriers and agents.

We have conducted a preliminary review of the Department's study, and it appears that the area of "file and use" for form filings is neither a widely accepted nor widely implemented policy across the nation. Specifically, only 7 of the 42 states surveyed by the Insurance Department have adopted any kind of file and use mechanism for form filings.

We should also discuss the specific language in Senate Bill 548. Instead of the debate and compromise that was so carefully fostered by last year's bill, this measure would do an end-run around the legislative debate and approval process and allow the Commissioner of Insurance to designate what the acceptable thresholds are for defined "large risks" through the rule and regulation process; and once so defined they would be exempt from the statutory form filing requirements. And what is the criterion in this bill? The "large risk" would only have to meet one of the following in order to be acceptable: aggregate insurance premium, net worth, annual net revenues or sales; number of employees, minimum annual budget, or municipal population. Given the vast array of potential risks in the insurance marketplace and sensitive negotiations that have occurred across the nation concerning all of these thresholds, it is asking a great deal of you as the responsible legislative body to abdicate these decisions to rule and regulation authority.

Mr. Chairman, we are opposed to this particular measure for its potential consequences, and feel that we may be headed down the wrong path that has not yet been fully explored or explained. While proponents of this bill may argue that the future holds just such deregulation, my association, and I believe that this is an area

where it would be wise to observe and consider the consequences of deregulating such a vulnerable area.

Proponents of this sort of regulation may argue that changes are in store due to the passage by Congress of the Federal Financial Modernization Act. However, as I stated in an article in the National Underwriter, I believe that this issue is too new and the possible consequences too serious to rush into the passage of this sort of deregulation without further research and the observance of its effects in other states. In fact, representatives of the Insurance Department have stated in public forums that companies have been slow and reluctant to use the rate deregulation measures that you passed last year.

In our view, we see no huge groundswell of support for a measure of this type and no clamoring for immediate action -- with the exception of one trade group that represents large, national insurance companies. Instead, since last year's debate, we have seen the Independent Insurance Agents of America (IIAA) adopt a commercial lines rate and form modernization policy that closely mirrors our position, and you can see by the list of opponents to this bill that we are also supported by agents who specialize in life products and our domestic company partner.

In summary, until there is substantial debate and guarantees that measures of this type will not place undue liability upon the insurance agent who is responsible for insurance consumers, the Kansas Association of Insurance Agents and the Independent Insurance Agents of America will continue to vigorously oppose its passage.

Thank you very much for your time, and I will now attempt to answer any questions that you may have.

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Testimony regarding
Senate Bill 548
Presented by
Richard K. Friedstrom
Kansas Association of Insurance and Financial Advisors
March 6, 2000
Senate Financial Institutions and Insurance Committee

Mr. Chairman, members of the Committee, Thank you for the opportunity to speak with you today regarding Senate Bill 548. I am Rick Friedstrom. I represent the 1,500 members of the Kansas Association of Insurance and Financial Advisors as Chairman of the KAIFA State Legislative Committee.

I appear before you today representing our Association to oppose passage of this Bill. Our Legislative Committee and our Board of Directors have reviewed this proposed legislative. We have several issues we feel warrant further discussion before we could support this proposed legislation. These issues include:

1. The potential liability associated with an agent error and omission policy caused by unforeseen complications and variations in potential coverage by moving form filings away from a prior approval system. And
2. Allowing "large risks" from being exempt from any rate filing with the Kansas Insurance Department.

Thank you for your consideration of our concerns regarding Senate Bill 548.

Rick Friedstrom
2916 West 20th
Topeka, Kansas 66604
1.785.235-6739

Senate Financial Institutions & Insurance

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Attachment

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March 6, 2000

SENATE BILL 548

Mr. Chairman and Members of the Committee, I am Rick Wilborn, Vice President of Government Affairs for the Alliance Insurance Companies. The Alliance Insurance Companies are Kansas domestic companies. We operate regionally in ten states. We write automobile, homeowners, farmowners and business insurance coverages. Our company is represented by over 300 independent agents in the state of Kansas.

In 1997, Kansas began the deregulation process. More changes were made, in 1999. We commend the Insurance Commissioner, the legislature and others who worked hard to make this happen. We do believe it will contribute to a more competitive market place.

However, to further deregulate the forms at this time, we do not feel would be in the best interest of the market place. There is ample time to carefully review the impact of what has been accomplished to date.

We support the position the Kansas Insurance Agents have in opposing the proposed changes in the deregulation of forms.

Thank you for your consideration.

1122 N. Main, P.O. Box 1401 • McPherson, KS 67460 • 316.241.2200

Farmers Alliance Mutual Insurance Company • Alliance Administrator:
Alliance Insurance Company, Inc. • Blakely Crop Hail, Inc. • Nor

Senate Financial Institutions & Insurance
Date 3/6/00
Attachment 5



Kathleen Sebelius
Commissioner of Insurance
Kansas Insurance Department

TO: Senate Committee on Financial Institutions and Insurance

FROM: Linda J. De Coursey, Director of Government Affairs

RE: Rate and Form Filings

DATE: March 6, 2000

Mr. Chairman and members of the Committee:

At the National Association of Insurance Commissioners first quarter meeting in the year 2000 (March 11-15), the Commissioners of all states will be asked to sign a Statement of Intent. Commissioners are acknowledging the rapid change in the world financial markets, and the rapid change fostered by enhanced technology. Their primary goal is to protect the nation's insurance consumers in a highly competitive world economic environment. Some of the Statement of Intent is charted by the implementation of Gramm-Leach-Bliley Financial Services Modernization Act.

One section of the second portion of the Statement of Intent is the very issue we are discussing today in this committee---deregulation of rates and forms. Commissioners are asked support the development of state-based, uniform standards for policy form and rate filing and improve speed to market for appropriate product lines (commercial lines, for instance). This will include the development and implementation of a system for domiciliary deference using one-stop filing based on minimum standards that we will develop through the NIAC for products issued on a multi-state basis. This will be supported by an e-repository for filings and tracking data and include a voluntary certification process.

In addition, the Commissioners will take steps in 2001/2002 to shift the focus of states to a file and use system, which means greater attention to product disclosure, consumer education, compliance monitoring and enforcement.

Through assessing the needs of consumers and the industry the Commissioners regulate, this statement charts a course for regulation as they begin the 21st Century.

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