

Approved: _____

Date March 20, 2000

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 16, 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: Kathy Greenlee, Kansas Insurance Department
Dave Hanson, Kansas Association of Property and Casualty
Insurance Companies
Doug Lawrence, Federated Rural Electric Insurance
Joyce M. Jordan, Armed Forces Insurance Exchange
David Wine, Mutual Aid Association of Abilene
David Brant, Kansas Securities Commissioner

Others attending: (See Attached)

Senator Praeger moved to have the existing language deleted from **HB 2005** and the language contained in **SB 440 - Insurance; risk based capital requirements, SB 441-Health insurance; removing sunset on 1997 amendments required by HIPAA, SB 443-Insurance; codification of standard accounting procedures, and SB 444-Insurance; mortgage guaranty insurance companies; concerning authorized real estate security and a substitute bill be established. Motion was seconded by Senator Feleciano. Motion carried.**

The Committee suggested contacting the Speaker of the House explaining their action regarding **HB 2005**. The HIPPA bill must be passed or the alternative is the federal government will have jurisdiction over the Kansas Insurance Department's oversight of portability of individual health insurance coverage.

Hearing on SB 651-Insurance; Reciprocal insurance companies

Kathy Greenlee, General Counsel for Kansas Insurance Department, explained that a reciprocal is the mutual exchange of contracts between subscribers of the reciprocal (Attachment 1). The entity that essentially manages and coordinates the activities of the reciprocal is the attorney-in-fact. She explained the antiquity of the current laws and the need for simple updates which include:

- Language will better reflect that a reciprocal is actually just another type of insurance company.
- Changes the way the insurance department issues certificates of authority.
- Provides additional protections for the subscribers of a reciprocal by outlining the procedures for modifying the subscribers agreement and appointing or removing the attorney-in-fact.
- Clarifies the requirements unique to a domestic reciprocal as compared to foreign reciprocals.

Ms. Greenlee also requested "cleanup and technical" amendments as shown in the attachment.

Doug Lawrence, Federated Rural Electric Insurance, described the cooperative effort they have had with the Insurance Department in bringing the statutes up to date (Attachment 2).

David A. Hanson, Kansas Association of Property and Casualty Insurance Companies, expressed support for the bill (Attachment 3).

Joyce M. Jordan, CPCU, Armed Forces Insurance Exchange, explained that their company was a member owned, preferred risk, reciprocal insurance exchange originating in 1887 (Attachment 4). It now insures not

CONTINUATION SHEET

only currently serving, retired, or former officers but enlisted personnel who are listed as nonmembers. Automobiles are not insured by this reciprocal.

David Wine, Mutual Aid Association of Abilene, said their company was founded in 1885 by a religious group called "The Brethren" to insure church property and were considered exempt from most insurance statutes. They are planning on aligning with 15 other companies and forming a reciprocal in Kansas, thus moving jobs and personnel to the state. With this formation, the company will no longer be exempt from the statutes and be subject to premium tax.

Senator Clark moved to report the bill favorably with the amendments suggested by the Kansas Insurance Department. Motion was seconded by Senator Feleciano. Motion carried.

Hearing on HB 2997—Securities; the regulation of

David Brant, Kansas Securities Commissioner, explained the proposed changes which would amend the Kansas Securities Act (Attachment 5):

- Amends definitions of "Commissioner" and "Person."
- Deletes "savings and loan department" as it no longer exists; authorizes Commissioner to issue rules and regulations re filing requirements for securities offered by nonprofit entities including church bonds.
- Deletes specific references to "Moody's" as the name will soon change.
- Deletion of obsolete sections.

Senator Praeger moved that the bill be reported favorably and placed on the Consent Calendar. Motion was seconded by Senator Corbin. Motion carried.

Senator Becker moved that the Minutes of March 14 be approved as presented. Motion was seconded by Senator Corbin. Motion carried.

The meeting was adjourned at 10:00 a.m. The next meeting is scheduled for March 20, 2000.

SENATE FINANCIAL INSTITUTIONS AND INSURANCE COMMITTEE

GUEST LIST

DATE: 3-16-00

NAME	REPRESENTING
Bill Sneed	Adventors
David Hanson	Ks Insur Assns
David Wine	Mutual Aid Assoc; Mill
JOYCE M. JORDAN	ARMED FORCES INSURANCE
Doug Lawrence	Federated Rural Electric Ins
Jon K Miles	Kansas ELECTRIC COOPERATIVES
Tom Burgess	Federated Rural Electric Ins.
Linda J. DeCoursey	KS Ins. Dept
David Brant	Securities Commissioner
Kenny Davis	Am. Family Ins.
Robert E. Wilson	Farmers Alliance
Kathy Sweeney	KS Insurance Dept.
Larrie Ann Lower	KATTP
Anne Spiess	Peterson Public Affairs Group



Kathleen Sebelius
Commissioner of Insurance
Kansas Insurance Department

TESTIMONY

TO: Senate Financial Institutions and Insurance Committee
FROM: Kathy Greenlee, General Counsel
RE: Senate Bill 651
DATE: March 16, 2000

I am here today to ask that you pass Senate Bill 651 which deals with reciprocal insurers. A reciprocal insurer is a unique and somewhat unknown type of insurance company. The nature of a reciprocal is the mutual exchange of contracts between subscribers of the reciprocal. The entity that essentially manages and coordinates the activities of the reciprocal is the attorney-in-fact. We have two domestic reciprocals and fifteen foreign reciprocals licensed to do business in the Kansas. For the most part, reciprocals pose no real regulatory burdens for the Kansas Insurance Department and I am not here today because of any significant problems.

The major reason we are proposing this bill is that our laws dealing with reciprocals are very old. Most of Article 16 of the insurance code was first adopted in 1927. The legislature has made a few changes over the years but the main body of the law is 70 years old.

Senate Bill 651 accomplishes four simple goals:

1. The bill updates the language to better reflect that a reciprocal is actually just another type of insurance company.

2. The bill will change the way the insurance department issues certificates of authority. Currently, the department issues the certificate of authority to the attorney-in-fact of the reciprocal rather than to the reciprocal itself. Under this new law, our department would issue certificates of authority to the reciprocal directly.

3. The bill provides additional protections for the subscribers of a reciprocal by outlining the procedures for modifying the subscribers agreement and appointing or removing the attorney-in-fact.

4. The bill also clarifies the requirements unique to a domestic reciprocal as compared to foreign reciprocals.

We have made every attempt to coordinate our efforts with reciprocal insurers who will be affected by this legislation. In reviewing this legislation with industry, we collectively agreed to some additional technical changes. I have attached to my testimony these proposed amendments.

In summary, we have sought to avoid significant public policy shifts or issues in redrafting Kansas reciprocal law. In a straightforward manner, we simply want to update laws that work but are completely outdated. We encourage your adoption of this bill.

SENATE BILL No. 651

By Committee on Federal and State Affairs

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9 AN ACT concerning insurance; relating to reciprocal insurance compa-
10 nies; amending K.S.A. 40-1601, 40-1602, 40-1603, 40-1604, 40-1605,
11 40-1606, 40-1607, 40-1608, 40-1610, 40-1611, 40-1612 and 40-1613
12 and K.S.A. 1999 Supp. 40-1620 and 40-1622 and repealing the existing
13 sections; also repealing K.S.A. 40-1614.

14

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

16 New Section 1. As used in this act:

17 (a) "Attorney-in-fact" means the person designated and authorized by
18 subscribers as having authority to obligate them on reciprocal insurance
19 contracts.

20 (b) "Commissioner" means the commissioner of insurance.

21 (c) "Person" means any association, aggregate of individuals, busi-
22 ness, company, corporation, individual, joint-stock company, Lloyds-type
23 of organization, organization, cooperative, partnership, receiver, ~~recip-~~
24 ~~rocal or interinsurance exchange~~, trustee or society, with power to enter
25 into contractual undertakings within or without the state.

26 (d) "Reciprocal" means an aggregation of subscribers under a com-
27 mon name.

28 (e) "Reciprocal insurance" means insurance resulting from the mu-
29 tual exchange of insurance contracts among persons in an unincorporated
30 association under a common name through an attorney-in-fact having
31 authority to obligate each person both as insured and insurer.

32 (f) "Subscriber" means a person obligated under a reciprocal insur-
33 ance agreement.

34 New Sec. 2. Every reciprocal shall have and use a business name that
35 includes the word "reciprocal," "interinsurer," "interinsurance,"
36 "exchange," "underwriters" or "underwriting." The name of the recip-
37 rocal shall not be so similar to any other name or title previously adopted
38 by a similar organization, or by any other insurance company or associa-
39 tion, as in the opinion of the commissioner of insurance is calculated to
40 result in confusion or deception.

41 New Sec. 3. The board of directors exercising the subscribers' rights
42 in a domestic reciprocal shall be selected under rules adopted by the
43 subscribers. At least $\frac{3}{4}$ of the board of directors of a domestic reciprocal

Delete 4 words

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1 shall be composed of subscribers or representatives of subscribers, other
2 than the attorney-in-fact or any person employed by, representing or hav-
3 ing a financial interest in the attorney-in-fact. An individual shall not be
4 considered to be employed by, representing or having a financial interest
5 in the attorney-in-fact if such individual is a subscriber or a representative
6 of a subscriber of the reciprocal. The board of directors shall supervise
7 the finances of the reciprocal and the reciprocal's operations to the extent
8 required to assure their conformity with the subscriber's agreement and
9 power of attorney and shall exercise any other powers conferred on it by
10 the subscriber's agreement. The board of directors may also be referred
11 to as a subscribers advisory committee, board of trustees or by such other
12 name as the board chooses.

13 New Sec. 4. (a) Every subscriber of a domestic reciprocal may exe-
14 cute a subscriber's agreement and power of attorney setting forth the
15 rights, privileges and obligations of the subscriber as an underwriter and
16 as a policyholder, and the powers and duties of the attorney-in-fact. If a
17 domestic reciprocal does not require execution of a subscriber's agree-
18 ment and power of attorney, the reciprocal shall include on its policies a
19 statement that the subscriber shall be bound by the terms and conditions
20 of the then current subscriber's agreement and power of attorney on file
21 with the attorney-in-fact and the commissioner of insurance, and each
22 subscriber shall by operation of law be bound by such subscriber's agree-
23 ment and power of attorney as if individually executed. Without additional
24 execution, notice or acceptance, every subscriber of a reciprocal agrees
25 to be bound by any modification of the terms of the power of attorney
26 and subscriber's agreement which is jointly made by the attorney-in-fact
27 and the board of directors pursuant to K.S.A. 40-1616, and amendments
28 thereto, and which shall be on file with the attorney-in-fact and the com-
29 missioner of insurance. The subscriber's agreement and power of attorney
30 shall contain in substance the following provisions:

31 (1) A designation and appointment of the attorney-in-fact to act for
32 and bind the subscriber in all transactions relating to or arising out of the
33 operations of the reciprocal;

34 (2) a provision empowering the attorney-in-fact:

35 (A) To accept service of process on behalf of the reciprocal; and

36 (B) to appoint the commissioner as an agent of the reciprocal upon
37 whom may be served all lawful process against or notice to the reciprocal;
38 and

39 (3) the maximum amount to be deducted from advance premiums or
40 deposits to be paid the attorney-in-fact, and the items of expense, in
41 addition to losses, to be paid by the reciprocal.

42 (b) The subscriber's agreement may:

43 (1) Provide for the right of substitution of the attorney-in-fact and

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1 revocation of the power of attorney;

2 (2) impose any restrictions upon the exercise of the power agreed
3 upon by the subscribers;

4 (3) provide for the exercise of any right reserved to the subscribers
5 directly or through the board of directors; or

6 (4) contain other lawful provisions deemed to be advisable.

7 New Sec. 5. Any modification of the terms of the power of attorney
8 and subscriber's agreement of a domestic reciprocal shall be made jointly
9 by the attorney-in-fact and the board of directors. Any such modification
10 shall be filed with the attorney-in-fact and the commissioner of insurance.
11 By operation of law any such filing shall bind all subscribers the same as
12 if each subscriber individually had adopted and executed the modified,
13 altered or amended subscriber's agreement and power of attorney. No
14 modification shall be effective retroactively, nor shall such modification
15 affect any insurance contract issued prior to the date of such modification.

16 New Sec. 6. A reciprocal may return to its subscribers any savings or
17 credit which accrues to such subscriber's accounts.

18 New Sec. 7. Upon the liquidation of a domestic reciprocal, the assets
19 remaining after discharge of its indebtedness and policy obligations, the
20 return of any contributions of the attorney-in-fact or any other person
21 made as provided in K.S.A. 40-1606, and amendments thereto, and the
22 return of any unused deposits, savings or credits, shall be distributed. The
23 distribution shall be made to the persons who were its subscribers within
24 the 12 months prior to the final termination of such reciprocal's license
25 in accordance with a formula approved by the commissioner of insurance
26 or the court.

27 New Sec. 8. No reciprocal shall issue any assessable insurance policies.
28 The subscribers of a reciprocal shall not be personally liable for the pay-
29 ment of the reciprocal's debts or obligations. Any judgment against a
30 reciprocal shall be binding only upon the reciprocal and not upon each
31 of the reciprocal's subscribers.

32 Sec. 9. K.S.A. 40-1601 is hereby amended to read as follows: 40-
33 1601. ~~Individuals, partnerships and corporations~~ *Persons* of this state,
34 hereby designated subscribers, are hereby authorized to exchange recip-
35 rocal or interinsurance contracts with each other, or with ~~individuals,~~
36 ~~partnerships and corporations~~ *persons* of other states and countries, pro-
37 viding indemnity among themselves from any loss which may be the sub-
38 ject of legal insurance, excepting life insurance.

39 Sec. 10. K.S.A. 40-1602 is hereby amended to read as follows: 40-
40 1602. ~~Such Reciprocal insurance~~ contracts may be executed by an ~~attor-~~
41 ~~ney in fact, herein designated attorney~~ *attorney-in-fact*, duly authorized
42 and acting for ~~such the~~ subscribers of a reciprocal, and such ~~attorney~~
43 ~~attorney-in-fact~~ may be a corporation. The office or offices of such ~~attor-~~

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1 ~~ney attorney-in-fact~~ may be maintained at such place or places as may be
2 designated by the subscribers in the power of attorney. ~~Such contracts~~
3 ~~and the exchange thereof and such subscribers, their attorneys and rep-~~
4 ~~resentatives shall be regulated by this article and by no other law relating~~
5 ~~to insurance unless such law is referred to in this article, and no law~~
6 ~~hereafter enacted shall apply to them unless they be expressly designated~~
7 ~~therein.~~

8 Sec. 11. K.S.A. 40-1603 is hereby amended to read as follows: 40-
9 1603. ~~Such attorney (a) The attorney-in-fact of a domestic reciprocal~~
10 shall file with the commissioner of insurance ~~of this state~~ a declaration
11 verified by the oath of such ~~attorney attorney-in-fact~~, or when such ~~at-~~
12 ~~torney attorney-in-fact~~ is a corporation by the oath of a chief officer
13 thereof, setting forth:

14 (a) (1) The name of the ~~attorney attorney-in-fact~~, and the name ~~or~~
15 title of the office under which such contracts are to be issued. Said name
16 or title shall not be so similar to any other name or title previously adopted
17 by a similar organization, or by any insurance company or association, as
18 in the opinion of the commissioner of insurance is calculated to result in
19 confusion or deception. The office or offices through which such indemnity
20 contracts shall be exchanged shall be classified as reciprocal or inter-
21 insurance exchanges ~~of the domestic reciprocal.~~

22 (b) (2) The kind or kinds of insurance to be effected or exchanged.

23 (c) ~~A copy of the form of policy contract or agreement under or by~~
24 ~~which such insurance is to be effected or exchanged and which comprises~~
25 ~~the standard provisions, as provided in the law of this state. Such contract~~
26 ~~or agreement shall, in lieu of complying with the language and form pre-~~
27 ~~scribed, be held to conform thereto in substance if such contract or agree-~~
28 ~~ment includes a provision or endorsement reciting that the policy shall~~
29 ~~be construed as if in the language and form prescribed by law. The at-~~
30 ~~torney may insert in the policy prescribed by the laws of this state any~~
31 ~~provision or condition which is required by the plan of reciprocal or~~
32 ~~interinsurance.~~

33 (d) (3) A copy of the form of power of attorney ~~and subscriber's agree-~~
34 ~~ment~~ or other authority of such ~~attorney attorney-in-fact~~ under which
35 such insurance is to be effected or exchanged.

36 (e) (4) The location of the office or offices from which such contracts
37 or agreements are to be issued.

38 (f) (5) That except as to the kinds of insurance hereinafter specifically
39 mentioned in this subdivision, applications shall have been made for in-
40 demnity upon at least ~~one hundred~~ 100 separate risks aggregating not
41 less than ~~one and one-half million dollars~~ \$1,500,000, represented by
42 executed contracts or bona fide applications to become concurrently ef-
43 fective. In the case of employers' liability or ~~workmen's workers~~ compen-

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1 sation insurance, applications shall have been made for indemnity upon
 2 at least ~~one hundred~~ 100 separate risks, covering a total annual payroll of
 3 not less than ~~two and one-half million dollars~~ \$2,500,000, as represented
 4 by executed contracts or bona fide applications to become concurrently
 5 effective. ~~In the case of automobile insurance, applications shall have~~
 6 ~~been made for indemnity upon at least one thousand 1,000 motor vehi-~~
 7 ~~cles, represented by executed contracts or bona fide applications to be-~~
 8 ~~come concurrently effective on any or all classes of automobile insurance~~
 9 ~~effected by such subscribers through said attorney such attorney in fact.~~

10 ~~(g)~~ (6) That there is in the possession of such ~~attorney~~ attorney-in-
 11 ~~fact~~, and available for the payment of losses, assets conforming to the
 12 requirements of ~~section 40-1605~~ hereof K.S.A. 40-1605 and amendments
 13 thereto.

14 ~~(h)~~ (7) A financial statement in form prescribed for the annual
 15 statement.

16 ~~(i)~~ (8) An instrument authorizing service of process as provided in
 17 this article.

18 (b) *No declaration shall be required under this section for any recip-*
 19 *rocal organized in this state as a result of a conversion under the provi-*
 20 *sions of K.S.A. 40-1620 and amendments thereto.*

21 Sec. 12. K.S.A. 40-1604 is hereby amended to read as follows: 40-
 22 1604. There shall be filed with the commissioner of insurance ~~of this state~~
 23 a statement under oath by the ~~attorney~~ attorney-in-fact giving the maxi-
 24 mum amount of indemnity upon any single risk, and such ~~attorney shall~~
 25 ~~attorney-in-fact~~, whenever and as often as ~~he~~ such attorney-in-fact shall
 26 be required, shall file with the commissioner of insurance a statement
 27 verified by ~~his~~ such attorney-in-fact's oath, to the effect that the ~~exchange~~
 28 ~~reciprocal~~ has not assumed on any one risk an amount greater than ~~ten~~
 29 ~~(10) percentum~~ 10% of its surplus, unless the excess shall be reinsured
 30 (1) in some other insurance company duly authorized to transact similar
 31 business in this state or as otherwise provided in the insurance code; or
 32 (2) as provided by the laws of the state in which the principal office of
 33 the ~~attorney~~ reciprocal is located.

34 Sec. 13. K.S.A. 40-1605 is hereby amended to read as follows: 40-
 35 1605. ~~There shall be maintained at all times, unearned premiums or (a)~~
 36 *At all times, each reciprocal shall maintain the same unearned premium*
 37 *and loss or claim reserves, in cash or securities authorized by the laws of*
 38 *the state in which the principal office of the attorney is located, for the*
 39 *investment of similar funds of insurance companies doing the same kind*
 40 *of business, in an amount equal to a pro rata amount of the premium or*
 41 *deposits collected from subscribers on all unexpired risks. In addition to*
 42 *the assets previously provided in this section there shall also be main-*
 43 *tained as a claim or loss reserve, cash or such securities sufficient to*

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 Delete sentence

1 ~~discharge all liability on all outstanding losses arising under policies is-~~
2 ~~sued, the same to be calculated in accordance with the laws of the state~~
3 ~~relating to similar reserves for companies insuring similar risks. Any re-~~
4 ~~ciprocal exchange the reciprocal is domiciled, as required for domestic~~
5 ~~stock and mutual companies writing the same classes of insurance.~~

6 (b) ~~No reciprocal shall be licensed to transact the business of insur-~~
7 ~~ance in this state unless such reciprocal shall have and maintain a surplus~~
8 ~~equal to the capital and surplus required of a domestic stock insurance~~
9 ~~company transacting the same kinds of insurance and may provide for the~~
10 ~~issuance of a nonassessable policy. Any reciprocal exchange issuing non-~~
11 ~~assessable policies~~

12 (c) ~~Each reciprocal shall have lawful securities on deposit, for the~~
13 ~~protection of all subscribers or creditors, or both, of the exchange recip-~~
14 ~~rocal, with the department of insurance of this or any other state in the~~
15 ~~United States in an amount equal to the minimum capital stock required~~
16 ~~of a domestic stock insurance company transacting the same kinds of~~
17 ~~insurance. Until May 1, 1980, companies which were authorized to do~~
18 ~~business in Kansas after January 1, 1960, but before January 1, 1984, shall~~
19 ~~be required to have surplus and deposit equal to that which was required~~
20 ~~by this section prior to the passage of this act. After May 1, 1980, such~~
21 ~~companies shall comply with the paid-up capital stock, surplus and deposit~~
22 ~~requirements provided by this act.~~

23 ~~—Until May 1, 1980, companies doing business in this state on January~~
24 ~~1, 1960, shall be required to have a surplus and deposit equal to that~~
25 ~~required of such companies prior to the passage of this act. On and after~~
26 ~~May 1, 1980, companies doing business in this state on January 1, 1960,~~
27 ~~shall be required to have a surplus and deposit equal to that required of~~
28 ~~all other companies to whom this section applies immediately prior to the~~
29 ~~passage of this act.~~

30 ~~—On and after May 1, 1994, companies doing business in this state on~~
31 ~~January 1, 1960, shall comply with the surplus and deposit requirements~~
32 ~~provided by this act.~~

33 ~~—No reciprocal exchange shall issue any assessable insurance policies.~~

34 Sec. 14. K.S.A. 40-1606 is hereby amended to read as follows: 40-
35 1606. If at any time it appears that the amount of funds required in section
36 ~~40-1605 K.S.A. 40-1605, and amendments thereto,~~ has not been accu-
37 ~~mulated or maintained,~~ then the subscribers or their attorney for them
38 ~~shall immediately advance such sums as are needed to comply with the~~
39 ~~provisions of this section, and the attorney-in-fact or any other interested~~
40 ~~party may advance to a reciprocal any funds required in such reciprocal's~~
41 ~~operations. The funds so advanced shall not be treated as a liability at the~~
42 ~~exchange, and shall not be withdrawn of the reciprocal and interest shall~~
43 ~~not be paid or funds repaid~~ except with the approval of the supervising

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1 insurance official of the state wherein the exchange is domiciled, and such
2 advances in which the reciprocal is domiciled. Any such advance and
3 interest shall be repaid only out of the surplus funds of the exchange
4 reciprocal.

5 Sec. 15. K.S.A. 40-1607 is hereby amended to read as follows: 40-
6 1607. Concurrently with the filing of the declaration provided for by the
7 terms of K.S.A. 40-1603 and any amendments thereto, the attorney at-
8 torney-in-fact shall file with the commissioner of insurance an instrument
9 in writing, executed by him such attorney-in-fact for the subscribers re-
10 ciprocal conditioned that upon the issuance of the certificate of authority
11 provided for in K.S.A. 40-1610, and amendments thereto, service of pro-
12 cess may be had upon the commissioner of insurance in all suits in this
13 state arising out of such policies, contracts or agreements, which service
14 shall be valid and binding upon all subscribers exchanging at any time
15 reciprocal or interinsurance contracts through such attorney. Three cop-
16 ies of such process shall be served, accompanied by a fee of three dollars,
17 and shall require the defendant to answer by a certain day, not less than
18 forty days from its date, and the commissioner of insurance shall file one
19 copy, forward one copy to the said attorney, and return one copy with his
20 admission of service. Subscribers of any reciprocal or interinsurance
21 exchange the reciprocal. Such service of process shall be executed in ac-
22 cordance with the provisions of K.S.A. 40-218 and amendments thereto.
23 Any reciprocal operating under the laws of this state may sue or be sued
24 in the declared name of such exchange the reciprocal.

25 Sec. 16. K.S.A. 40-1608 is hereby amended to read as follows: 40-
26 1608. The attorney in fact attorney-in-fact of a domestic reciprocal, or
27 any employee having the care and handling of the funds and securities of
28 any reciprocal exchange a domestic reciprocal, shall give a good and suf-
29 ficient bond running to the governing committee board of directors of
30 the reciprocal conditioned for the faithful accounting and disbursement
31 of all money that may come into his such attorney-in-fact's or employee's
32 hands; such bond may be executed by a surety company or may be a
33 personal bond approved by the commissioner of insurance of the state
34 where such exchange is domiciled, and such bond to. Such bond shall be
35 in an amount fixed in an amount and to be approved by the advisory
36 committee board of directors or other governing body of such exchange
37 reciprocal. In lieu of filing the bond, the attorney-in-fact may maintain
38 on deposit with the commissioner an equivalent amount in approved se-
39 curities which are subject to the same conditions as the bond.

40 Sec. 17. K.S.A. 40-1610 is hereby amended to read as follows: 40-
41 1610. Each attorney by whom or through whom are issued any policies
42 of or contracts for indemnity of the character specified in this article
43 reciprocal shall procure from the commissioner of insurance annually a

delete reference to "domestic"
delete reference to "domestic"
delete word "give", insert
Word "maintain"

1 certificate of authority; stating that all of the requirements of this article
 2 have been complied with, ~~and upon~~. Upon such compliance and the pay-
 3 ment of the fees required by this article, the commissioner of insurance
 4 shall issue such certificate of authority. The commissioner of insurance
 5 may revoke or suspend any certificate of authority issued hereunder in
 6 case of breach of any of the conditions imposed by this article after rea-
 7 sonable notice has been given ~~said attorney~~, to the reciprocal in writing,
 8 so that ~~he~~ such reciprocal may appear and show cause why such action
 9 should not be taken. ~~Any attorney who may have procured a certificate~~
 10 ~~of authority hereunder may renew such certificate annually thereafter.~~
 11 ~~Provided, however, That any~~ The certificate of authority shall continue in
 12 full force and effect until such certificate is suspended or revoked or the
 13 a new certificate of authority ~~be~~ is issued or specifically refused.

14 Sec. 18. K.S.A. 40-1611 is hereby amended to read as follows: 40-
 15 1611. ~~Such attorney~~ Each reciprocal shall pay to the commissioner of
 16 insurance levies and taxes in the amount and as specified in K.S.A. 40-
 17 252, 40-1703, 40-1704 and 75-1508, and amendments thereto. ~~The pre-~~
 18 ~~mium taxes which are set out in subsection 3, of subsection B, paragraph~~
 19 ~~(3), of subsection (D) of K.S.A. 40-252 and amendments thereto, for mu-~~
 20 ~~tual insurance companies organized under the laws of any other state,~~
 21 ~~territory or country writing similar lines of insurance, shall be applicable~~
 22 ~~to such attorney in fact of a reciprocal or interinsurance exchange any~~
 23 ~~reciprocal doing business or seeking authority to do business in this state.~~
 24 All such levies and taxes on premiums shall be applicable to premiums
 25 received on or after January 1, 1957. The above fees, levies and taxes shall
 26 be in lieu of all license fees and taxes of whatever character in this state
 27 and ~~such attorney in fact~~ in calculating all such levies and taxes such re-
 28 ciprocal shall be permitted to deduct therefrom premiums returned on
 29 account of cancellations, all premiums received for reinsurance from any
 30 other company authorized to do business in this state, and savings paid
 31 or credited to subscriber policyholders.

32 Sec. 19. K.S.A. 40-1612 is hereby amended to read as follows: 40-
 33 1612. In addition to the laws hereinbefore referred to in provisions of
 34 this article, the requirements and provisions set out forth in the following
 35 sections of articles 2 and 20 of the Kansas Statutes Annotated, or any and
 36 amendments thereto, which govern other types of insurance companies
 37 shall apply to ~~reciprocal or interinsurance exchanges~~ reciprocals to the
 38 extent that such provisions do not conflict with the provisions of this
 39 article: Sections 40-208, 40-209, 40-214, 40-215, 40-216, 40-218, 40-220,
 40 ~~40-221~~ 40-221a, 40-222, 40-223, 40-224, 40-225, ~~40-226, 40-227, 40-228,~~
 41 40-229, 40-229a, 40-231, 40-233, 40-234, 40-234a, 40-235, 40-236, 40-
 42 237, 40-238, 40-239, 40-240, 40-241, 40-242, ~~40-243,~~ 40-244, 40-245, 40-
 43 246 except as to contracts written through traveling salaried representa-

01-1

Technical clean-up

Delete sentence

1 tives to whom no commissions are paid, 40-246a, 40-247, 40-248, 40-249,
2 40-250, 40-251, 40-253, 40-254, ~~40-256, 40-281, 40-2,125, 40-2,126, 40-~~
3 ~~2,127, 40-2,128, 40-2,156, 40-2,156a, 40-2,157, 40-2,159, 40-952, 40-~~
4 ~~2001, 40-2002, 40-2003, 40-2004, 40-2005 and 40-2006.~~ All of the
5 requirements, provisions and regulations set out in the foregoing sections
6 of articles 2 and 20 and which apply to insurance companies are hereby
7 made to apply to reciprocal or interinsurance exchanges and such recip-
8 rocal or interinsurance exchanges shall comply with and be governed and
9 regulated by the provisions of such foregoing sections, 40-2006 and 40-
10 2404 and article 2a of the Kansas statutes annotated, and amendments
11 thereto, and any other provision of law pertaining to insurance which
12 specifically refers to reciprocals.

13 Sec. 20. K.S.A. 40-1613 is hereby amended to read as follows: 40-
14 1613. ~~Reciprocal or interinsurance exchanges may, pursuant to~~ Under
15 authority given by the commissioner of insurance, a reciprocal may en-
16 gage in the business of writing fidelity and surety bonds but only upon
17 the condition that such reciprocal ~~or interinsurance exchange~~ shall have
18 and maintain ~~a~~ an amount of surplus equal to the total of capital and
19 surplus required of domestic stock insurance companies transacting the
20 same kind of business and any such reciprocal ~~or interinsurance exchange~~
21 shall be deemed a stock insurance company for the purposes of sections
22 K.S.A. 40-214, 40-239 to 40-247, ~~both sections~~ inclusive, 40-252, 40-1107
23 and 40-1108 of the Kansas Statutes Annotated ~~or any~~ and amendments
24 thereto. No fidelity or surety bond shall be issued by any such reciprocal
25 ~~or interinsurance exchange~~ until the form thereof of such bond shall have
26 been submitted to and accepted by the commissioner of insurance. Any
27 fidelity or surety bonds executed pursuant to this act shall be received
28 and accepted as company, corporation or corporate bonds.

29 Sec. 21. K.S.A. 1999 Supp. 40-1620 is hereby amended to read as
30 follows: 40-1620. (a) Any insurance company may convert to a Kansas
31 insurance reciprocal in accordance with a plan for the conversion of the
32 insurance company into an insurance reciprocal filed with and approved
33 by the commissioner.

34 (b) The commissioner may establish reasonable requirements and
35 procedures for the submission and approval of a conversion plan author-
36 ized by subsection (a).

37 (c) No conversion plan shall be approved under this section unless
38 such conversion plan includes:

39 (1) A provision for the conversion of existing stockholder or policy-
40 holder interests in the insurance company into reciprocal or exchange
41 subscriber interests in the insurance reciprocal so that each subscriber's
42 interest in the resulting Kansas insurance reciprocal shall be fairly pro-
43 portionate to such subscriber's interest in the insurance company;

1-12

1 (2) a provision for the amendment of the insurance company's exist-
2 ing articles of incorporation or other chartering document to a sub-
3 scriber's agreement which complies with the provisions of K.S.A. 40-1602
4 and ~~40-1603~~, 40-1603 and section 4 and amendments thereto;

5 (3) a copy of the proposed subscriber's agreement;

6 (4) proof of the approval or adoption of the conversion plan by not
7 less than ~~75%~~ 2/3 of the shares or policyholders entitled to vote, repre-
8 sented either in person or by proxy, at a duly called regular or special
9 meeting of the stockholders or policyholders of the insurance company
10 at which a quorum, as determined by the bylaws or other chartering
11 documents of the insurance company, is present;

12 (5) a transition plan for the change of governance of the insurance
13 company from the board of directors and officer structure of the insur-
14 ance company to the insurance reciprocal which shall be governed by
15 article 16 of chapter 40 of the Kansas Statutes Annotated and amend-
16 ments thereto; and

17 (6) any other information required by the commissioner.

18 (d) The commissioner shall approve the conversion plan if the com-
19 missioner finds that the proposed conversion will:

20 (1) Not be detrimental to the interests of the stockholders or poli-
21 cyholders of the insurance company;

22 (2) not be detrimental to the interests of the state of Kansas; and

23 (3) not render the insurer incapable of fulfilling the insurer's con-
24 tractual obligations.

25 (e) Upon approval of a conversion plan under this section, the com-
26 missioner shall issue a new or amended certificate of authority, which
27 shall be deemed to be the final act of conversion at which time the in-
28 surance company shall concurrently become an insurance reciprocal. The
29 insurance reciprocal shall be deemed to be a continuation of the insurance
30 company and deemed to have been organized at the time the converted
31 insurance company was organized.

32 (f) Each insurance reciprocal created pursuant to this section shall
33 comply with all provisions of K.S.A. 40-1612, and amendments thereto.

34 (g) Any conversion of an insurance company to a reciprocal shall not
35 be subject to the provisions of K.S.A. 40-3304, and amendments thereto.

36 (h) For the purposes of this section:

37 ~~(1) "Commissioner" means the commissioner of insurance.~~

38 ~~(2) "insurance company" means a stock or mutual insurance company.~~

39 ~~(3) "Insurance reciprocal" means a reciprocal or interinsurance~~
40 ~~exchange established to exchange reciprocal or interinsurance contracts~~
41 ~~with subscribers to provide indemnity among themselves.~~

42 Sec. 22. K.S.A. 1999 Supp. 40-1622 is hereby amended to read as
43 follows: 40-1622. The provisions of K.S.A. 1999 Supp. 40-1620 and 40-

1 1621, and sections 1, 2, 3, 4, 5, 6, 7 and 8 and amendments thereto, shall
2 be supplemental to article 16 of chapter 40 of the Kansas Statutes An-
3 notated and amendments thereto.

4 Sec. 23. K.S.A. 40-1601, 40-1602, 40-1603, 40-1604, 40-1605, 40-
5 1606, 40-1607, 40-1608, 40-1610, 40-1611, 40-1612, 40-1613 and 40-1614
6 and K.S.A. 1999 Supp. 40-1620 and 40-1622 are hereby repealed.

7 Sec. 24. This act shall take effect and be in force from and after its
8 publication in the statute book.

1-13

March 16, 2000
Testimony
On SB 651

On Behalf of Federated Rural Electric Insurance

My name is Doug Lawrence. I am a consultant for Federated Rural Electric Insurance on legislative issues.

First, let me express Federated's appreciation for your assistance last year with the legislation, which allowed Federated to convert to a domestic reciprocal. That conversion and domestication is complete.

As a part of our discussions last year with the Insurance Commissioner's Office regarding that legislation, it became clear that there was a need to update current state law regarding Reciprocal Insurance Exchanges. Last year, Federated made a commitment to work with the department in bringing the Kansas Statutes up to date. That process began immediately following the last session, with first draft language complete in September 1999.

Since that first draft, there have been numerous discussions involving all of the major parties that have an interest in reciprocal insurance regulation. SB 651 is the product of cooperative effort of all of those diverse interests. Federated supports both the bill as printed, and the proposed package of amendments presented by the Insurance Commissioner's staff.

Kansas Association of Property and Casualty Insurance Companies

David A. Hanson, Legislative Counsel
900 Mercantile Bank Tower
800 S.W. Jackson
Topeka, KS 66612-1259

Phone 785-232-0545
Fax 785-232-0005

Senate Financial Institutions and Insurance Committee Testimony on Senate Bill 651 Presented by David A. Hanson March 16, 2000

Mr. Chairman and Members of the Committee:

Thank you for this opportunity to present information on behalf of the Kansas Association of Property and Casualty Insurance Companies, whose members are domestic insurance companies in Kansas.

We appreciate your consideration of this bill and we commend the Commissioner and her staff for undertaking the difficult task of updating and clarifying Kansas Law regulating reciprocal insurance. Many hours have been spent in analyzing the various provisions and considering input from industry. Consideration has been given not only to maintaining reasonable regulatory authority, but also to maintaining reasonable flexibility in order to attract and encourage the growth of reciprocal insurance in Kansas. Armed Forces Insurance Exchange in Leavenworth, one of our members, has been operating as a reciprocal for many years and is doing business in all 50 states. These provisions are therefore very important to them. Joyce Jordan is here today to present information for Armed Forces Insurance. Also present today is David Wine, president of Mutual Aid Association of the Church of the Brethren in Abilene, another member of our Association. David is working with a group that is considering establishing a new reciprocal, hopefully here in Kansas, and he has therefore been very interested in the work on this Bill.

We appreciate all of the work that has gone into this Bill and, with the additional amendments that have been discussed, we would encourage your favorable consideration of the Bill. Thank you.

Respectfully,



DAVID A. HANSON

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MEMBER COMPANIES

Armed Forces Insurance Exchange, Ft. Leavenworth
Bremen Farmers Mutual Insurance Co., Bremen
Columbia Mutual Insurance Group, Salina
Farm Bureau Mutual Insurance Company, Manhattan
Farmers Alliance Mutual Insurance Company, McPherson

Fan Senate Financial Institutions & Insurance
Date 3/16/00
Mary: Mutual Aid
Attachment 5

ARMED FORCES INSURANCE EXCHANGE

550 EISENHOWER ROAD
LEAVENWORTH, KANSAS 66048-4864



March 15, 2000

Honorable Senator Don Steffes
Chairman, Senate Financial Institutions and Insurance Committee
State House
Topeka, KS

Dear Mr. Chairman and Members of the Committee:

My name is Joyce Jordan. I am the Vice-President, Administration and Compliance, at Armed Forces Insurance Exchange.

I would like to thank the Committee for inviting me to this hearing and allowing me to speak to you on behalf of my company. Armed Forces Insurance Exchange is a property and casualty company formed as a reciprocal. We are domiciled here in Kansas, with offices in Leavenworth and Ft. Leavenworth.

Armed Forces Insurance Exchange (also known as AFI) is a member owned, preferred risk, reciprocal insurance exchange. Originally named Army Cooperative Fire Association, the company was founded in 1887 by a group of US Army officers at Fort Leavenworth, Kansas, to provide fire insurance for military professionals serving on the frontier. Over the years, AFI has recognized the requirement to protect all uniformed services and expanded its eligibility. AFI is solely dedicated to uniformed service members and their families.

Armed Forces Insurance Exchange was licensed in Kansas on August 1, 1982 and since then we have been licensed in the remaining 49 states and in the District of Columbia. As a company that operates nationally, we have been very interested in the proposed changes to the Kansas Reciprocal Statutes. We have reviewed the new provisions carefully, comparing them with our by-laws, with statutes and regulations in other states and with the NAIC model laws, to insure that there will be no conflicts that would hinder our ability to operate in other states or require changes in the way we do business today. I thank the Kansas Insurance Department for providing background information and draft copies of the statutes. Working with Mr. David Hanson, I feel confident that the revisions being considered will be beneficial.

In closing, I want to express my appreciation to this Committee for your work on Senate Bill 651 and also for the consideration that you have extended to AFIE in considering our needs as you drafted the legislation. We have always enjoyed an excellent relationship with the Kansas Insurance Department and with the Legislature. We look forward to continuing to work together.

Sincerely,

JOYCE M. JORDAN, CPCU
Vice President, Administration
and Compliance

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World Wide
www.af

Senate Financial Institutions & Insurance

Date 3/16/00

Attachment

4



KANSAS

Bill Graves
Governor

OFFICE OF THE SECURITIES COMMISSIONER

David Brant
Commissioner

TESTIMONY IN SUPPORT OF HOUSE BILL No. 2997
Amendments to the Kansas Securities Act
Senate Financial Institutions and Insurance Committee

DAVID BRANT
Kansas Securities Commissioner
March 16, 2000

Mr. Chairman and members of the committee, thank you for this opportunity to testify in support of House Bill No. 2997 which proposes a number of amendments to the Kansas Securities Act.

The bill proposes the following amendments which can be considered as "housekeeping" in nature:

Section 1 amends the definition of "Commissioner" in order to change a statute reference and amends the definition of "Person" to also include a limited liability company.

Section 2, beginning on page 4, amends the "Exempt Securities" statute, K.S.A. 17-1261, to delete "savings and loan department" from subsection (c) because that agency is now part of the banking department, and to authorize the Commissioner to issue rules and regulations to set forth the filing requirements for securities offered by non-profit entities including church bonds under subsection (h).

Section 3, beginning on page 7, amends K.S.A. 17-1262 to delete specific references to Moody's and other manuals and to authorize the Commissioner to recognize certain manuals by rule and regulations. (The name of the Moody's manual is expected to change soon due to a change in ownership.)

And finally, Section 4, beginning on page 10, amends K.S.A. 17-1270a to delete paragraph (f) which is now obsolete since the provisions expired last year.

Thank you for your consideration.

Senate Financial Institutions & Insurance

Date 3/16/00

Attachment 5