

MINUTES OF THE HOUSE COMMITTEE ON INSURANCE.

The meeting was called to order by Chairman Representative Robert Tomlinson at 3:30 pm on March 26, 2002 in Room 527-S of the Capitol.

All members were present except: Representative Gene O'Brien  
Representative Bonnie Sharp  
Representative Carlos Mayans

Committee staff present: Bill Wolff, Legislative Research  
Ken Wilke, Legislative Revisor  
Mary Best, Administrative Assistant

Conferees appearing before the committee: Mr. Steve Rarrick, Kansas Attorney General  
Office

Others attending: See Attached Guest List

**SB 459: Kansas Discount Card Act supplemental to Consumer Protection Act.**

For the purpose of introducing the balloon amendment to the committee, Chairman Tomlinson recognized Mr. Steve Rarrick, Kansas Attorney General Office. A copy of the balloon is (Attachment # 1) attached hereto and incorporated into the Minutes by reference.

The balloon reinserts language on page 1, section 1, line 40-43; page 2 deleted 1-3, 6-28, and inserted new language. On page 2 they also reinserted lines 30 & 31.

The Chairman spoke to Mr. Bill Sneed regarding whether or not all of the conferees were in agreement with the changes. Mr. Sneed confirmed most of the conferees were and that he and Phizer were in agreement, but reserved the right to disagree in the future.

The bill then went to the committee. Representative Grant made the motion to adopt the balloon. Representative Vickery seconded the motion. Discussion was on the reinforcement. The matter was satisfied and a vote was taken. Motion passed.

The bill returned to the committee. Representative Phelps made the motion to pass the bill out marked favorable as amended. The motion was seconded by Representative Dreher. There was no discussion. The vote was taken and the motion passed.

**HB 2934 - Title insurance companies; time period for certain payments.**

Ms. Linda DeCoursey, Kansas Insurance Department, came before the committee to give Proponent Testimony . A copy of the testimony is (Attachment # 2) attached hereto and incorporated into the Minutes. Ms. DeCoursey brought the information requested by the Chairman at a previous meeting concerning "title insurance."

Ms. DeCoursey had been requested by the Chairman to look into a matter concerning the title insurance and a matter brought to the committee by another conferee. Ms. DeCoursey discussed K.S.A. 40-1137 and what this law requires. She then stood for questions. A brief discussion ensued between Ms. DeCoursey and Chairman Tomlinson.

The committee turned the attention to **HB 2934**. The motion was made by Representative McCreary to table the bill. The motion was seconded by Representative Dreher. There was no discussion and the vote was unanimous.

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With no further business, the meeting was adjourned. The time was 3:50 p.m.

Further meetings will be on call of the Chair.

# HOUSE INSURANCE COMMITTEE GUEST LIST

DATE: March 26, 2002

NAME	REPRESENTING
<i>[Signature]</i>	Humana
Bill Sneed	CHA
Robert Choromanski	KTLA
Stacy Jeffress	AG
Steve Larrick	AG.
Katrina Rice	AG
Lee Wright	Farmers
Bob Adesed	Ks. Pharmacists Assoc.
Linda McCausey	Ks Ins Dept
Marty Hazen	Ks Ins. Dept
Chris Gilpin	KMS
Bob Williams	Ks. Pharmacists Assoc
Taylor Gill	Ks Pharmacists Assoc
Rebecca Grueny	Federico Consulting
Bred Smoot	Pfizer
Anne Spiess	<del>CRAR</del> CRAR - t.c. Re... t.c. Re...
Mike Reecht	Ks Govt Consulting
James Ann Power	KATHP

**BALLOON  
AMENDMENTS**

*As Amended by Senate Committee*

*Session of 2002*

**SENATE BILL No. 459**

By Committee on Financial Institutions and Insurance

1-28

AN ACT concerning health related discount cards; amending K.S.A. 2001 Supp. 50-1,100, 50-1,101, 50-1,103 and 50-1,105 and repealing the existing sections; also repealing K.S.A. 2001 Supp. 50-1,102.

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

Section 1. K.S.A. 2001 Supp. 50-1,100 is hereby amended to read as follows: 50-1,100. As used in this act:

(a) "Discount card" means a card or any other purchasing mechanism or device, which is not insurance, that purports to offer discounts or access to discounts in health-related purchases from health care providers.

(b) "Health care provider" means any person licensed to practice any branch of the healing arts by the state board of healing arts, any person who holds a temporary permit to practice any branch of the healing arts issued by the state board of healing arts, a medical care facility licensed by the department of health and environment, a podiatrist licensed by the state board of healing arts, an optometrist licensed by the board of examiners in optometry, a pharmacist licensed by the state board of pharmacy, a pharmacy registered with the state board of pharmacy, a dentist licensed by the Kansas dental board, a respiratory therapist, a professional corporation organized pursuant to the professional corporation law of Kansas by persons who are authorized by such law to form such a corporation and who are health care providers as defined by this subsection, a Kansas limited liability company organized for the purpose of rendering professional services by its members who are health care providers as defined by this subsection and who are legally authorized to render the professional services for which the limited liability company is organized, a partnership of persons who are health care providers under this subsection, a Kansas not-for-profit corporation organized for the purpose of rendering professional services by persons who are health care providers as defined by this subsection.

(c) "Person" means an individual, corporation, business trust, estate, trust, partnership, association, joint venture, limited liability company, government, government subdivision or agency or any other legal, governmental or commercial entity *"Network of health care providers"*

— "Network of health care providers" means two or more separate health care providers who have specifically authorized the network to enter into a discount card program and who are contractually obligated to honor the discount card contract entered into by the network of health care providers.

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ATTACHMENT *4*

1 ~~means two or more separate health care providers who are contractually~~  
 2 ~~obligated to honor discount card contracts entered into by the network of~~  
 3 ~~health care providers.~~

4 Sec. 2. K.S.A. 2001 Supp. 50-1,101 is hereby amended to read as  
 5 follows: 50-1,101. It shall be unlawful for any person to sell, market,  
 6 promote, advertise or otherwise distribute any discount card where:

7 ~~(a) The discount card does not expressly state in bold and prominent~~  
 8 ~~type that such discount is not insurance,~~

9 ~~(b) any discount offered by such discount card is not specifically au-~~  
 10 ~~thorized by a separate contract with each health care provider listed in~~  
 11 ~~conjunction with the discount card, or~~

12 ~~(c) the discount or range of discounts offered by such discount card~~  
 13 ~~or the access to any range of discounts offered by such discount card are~~  
 14 ~~misleading, deceptive or fraudulent, regardless of the literal wording used~~  
 15 ~~on such discount card~~

16 ~~[Any supplier who sells, markets, promotes, advertises or otherwise dis-~~  
 17 ~~tributes any discount card in Kansas shall.~~

18 ~~(a) State in bold and prominent type that such discount is not insur-~~  
 19 ~~ance on all advertisements and on all discount cards,~~

20 ~~(b) have a separate contract with each health care provider or net-~~  
 21 ~~work of health care providers listed in conjunction with the discount card,~~

22 ~~(c) not make misleading, deceptive or fraudulent representations re-~~  
 23 ~~garding the discount or range of discounts offered by such discount card~~  
 24 ~~or the access to any range of discounts offered by such discount card, and~~

25 ~~(d) prior to selling the discount card and on an annual basis there-~~  
 26 ~~after, provide and disclose to all consumers in writing, the name, address~~  
 27 ~~and phone number of all health care providers in the state of Kansas~~  
 28 ~~that are contractually obligated to honor the card.]~~

29 Sec. 3. K.S.A. 2001 Supp. 50-1,103 is hereby amended to read as  
 30 follows: 50-1,103. Any person supplier who sells, markets, promotes,  
 31 advertises or otherwise distributes any discount card in Kansas shall des-  
 32 ignate a resident agent, who is a resident of Kansas, for service of process  
 33 and such resident agent shall register with the secretary of state pursuant  
 34 to K.S.A. 60-306 and amendments thereto.

35 Sec. 4. K.S.A. 2001 Supp. 50-1,105 is hereby amended to read as  
 36 follows: 50-1,105. (a) K.S.A. 2001 Supp. 50-1,100 through 50-1,105  
 37 shall be known as the Kansas discount card deceptive practice act.

38 (b) This act shall be part of and supplemental to the Kansas consumer  
 39 protection act.

40 (c) Any violation of this act shall constitute an unconscionable act and  
 41 practice under the Kansas consumer protection act and amendments  
 42 thereto and shall be subject to any and all of the remedies and enforcement  
 43 provisions of the Kansas consumer protection act.

— [delete]

(a) Any supplier who markets, promotes, advertises or otherwise distributes any discount card in Kansas shall not make misleading, deceptive or fraudulent representations regarding the discount or range of discounts offered by such discount card or the access to any range of discounts offered by such discount card.

(b) Any supplier who sells any discount card in Kansas shall:

(1) State in bold and prominent type that such discount is not insurance on all advertisements and on all discount cards;

(2) have a separate contract with each health care provider or network of health care providers listed in conjunction with the discount card;

(3) not make misleading, deceptive or fraudulent representations regarding the discount or range of discounts offered by such discount card or the access to any range of discounts offered by such discount card; and  
 (4) prior to selling the discount card and on an annual basis thereafter, provide and disclose to all consumers in writing, the name, address and phone number of all health care providers in the state of Kansas that are contractually obligated to honor the card. The written disclosure required prior to selling the discount card may be made on the supplier's Internet web page when the transaction is concluded via the Internet. The written disclosure required on an annual basis thereafter may be made by electronic mail message if authorized by the consumer.

markets, promotes, advertises, or otherwise distributes



1     *(d) Any person alleging a violation of this act may bring a private*  
2 *action to seek relief pursuant to K.S.A. 50-634, 50-636 and this act, and*  
3 *amendments thereto, and such person shall be considered a consumer*  
4 *pursuant to K.S.A. 50-624, and amendments thereto, for the purposes of*  
5 *such private action.*

6     Sec. 5. K.S.A. 2001 Supp. 50-1,100, 50-1,101, 50-1,102, 50-1,103 and  
7 50-1,105 are hereby repealed.

8     Sec. 6. This act shall take effect and be in force from and after its  
9 publication in the statute book.

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**Kathleen Sebelius**  
Commissioner of Insurance  
**Kansas Insurance Department**

March 22, 2002

TO: House Committee on Insurance

FROM: Linda De Coursey, Director of Government Affairs *LDC*

RE: Title insurance companies – Specifically, K.S.A. 40-1137.

Mr. Chairman and members of the committee:

K.S.A. 40-1137 discusses how title agents may operate escrow, settlement or closing accounts.

The law requires:

- escrow funds to be deposited in a qualified bank account no later than the close of the next business day after receipt by the title insurance agent.
- funds cannot be combined with any personal funds of the title insurance agent
- funds cannot be used to pay for any expenses other than specified in the escrow agreement.
- Requirements are set out such as:
  - agent records that show funds identified on an individual basis;
  - funds be applied only in the terms which the funds were accepted; and
  - the agent cannot retain any interest on the money held in an interest bearing account without written consent of all parties to the transactions.
- Funds held in escrow account shall be disbursed only pursuant to:
  - written authorization of buyer and seller;
  - court order, or
  - when a transaction is closed according to the agreement of the parties.
- Sets out what types of “good funds” that a title insurance agent may accept during a real estate closing, including closings involving refinances of existing mortgage loans (exceeding \$2,500).
- Establishes periodic audits by the title insurance agents of their business, and a copy to be provided to the Insurance Commissioner.
- Includes a tiered audit schedule.
- Includes a tiered bond or irrevocable letter of credit provision.

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 **Consumer Assistance Hotline**  
1 800 432-2488 **HOUSE INSURANCE**

DATE: *March 24, 2002*

ATTACHMENT # *2*

The law discusses the time line in which funds need to be deposited. The law does not include how quickly such funds need to be disbursed, which is the essence of HB 2934, which establishes a 20 calendar day "prompt pay" provision. The proposed law also adds a section for penalties, reasonable attorney's fees, plus any additional damages warranted by the case, and civil action. Any remedy is in addition any penalties assess by the commissioner pursuant to K.S.A. 40-1141 then refers to 40-2406 et. seq., which is part of the unfair trade practice act (K.S.A. 40-2404).

Mr. Chairman, the Kansas Insurance Department (KID) staff received a call from Rep. DiVita on October 16, 2001 (12:15 p.m.). In the course of that conversation, she was informed that there was no mandate regarding how quickly funds are to be disbursed, thus KID would have no regulation over such transaction. However, she was told that staff would gladly contact the named agency on her behalf. Rep. DiVita was asked to submit a written complaint, and she indicated she would do so. However, to date, we have not received any written information from her.

In checking our records, we find no written complaints concerning untimely disbursement of funds in a refinance situation.

Mr. Chairman, I hope this clarifies some of the issues raised at the March 21, 2002 committee meeting.