

Approved:  
Date: 3-26-02

MINUTES OF THE SENATE COMMITTEE ON FINANCIAL INSTITUTIONS AND INSURANCE.

The meeting was called to order by Chairperson Sandy Praeger at 9:30 a.m. on March 20, 2002 in Room 234 N of the Capitol.

All members were present except:

Committee staff present: Dr. Bill Wolff, Kansas Legislative Research Department  
Ken Wilke, Office of the Revisor of Statutes  
JoAnn Bunten, Committee Secretary

Conferees appearing before the committee:

Martha Smith, Kansas Manufactured Housing  
Bill Henry, Kansas Credit Union Association  
Matthew Moser, Titles and Registration, Department of Revenue  
Chuck Stones, Kansas Bankers Association

Others attending: See attached list.

**Hearing on HB 2723 - Manufactured homes and mobile homes; certification of titles**

Martha Smith, Kansas Manufactured Housing, testified before the Committee in support of **HB 2723** which would allow the owner of a manufactured home that is placed on a permanent foundation to apply to the Division of Vehicles and eliminate the certificate of title on the home. (Attachment 1)

Ms. Smith also provided the Committee with written testimony in support of the bill from Paul Davis, Kansas Bar Association, (Attachment 2); Hayden B. St. John, Lawyers Title of Topeka, Inc., (Attachment 3); and Bill Yanek, Kansas Association of Realtors, (Attachment 4).

Bill Henry, Kansas Credit Union Association, expressed his support to the Committee for **HB 2723** and noted that several states have similar legislation now in effect. The Credit Union Association's 117 members believe this process would eliminate certain title questions that create problems in obtaining title insurance for manufactured housing. (Attachment 5)

Matthew Moser, Titles and Registration, Department of Revenue, testified as neutral on **HB 2723**. He noted that the department sees the passage of the bill as a means to streamline the process for customers as well as to establish uniformity for counties as they process customers' purchases and sales. (Attachment 6)

Chuck Stones, Kansas Bankers Association, stated he is supportive of the bill only as amended by the House Committee of the Whole in which New Section 2 was deleted pertaining to language that allowed reversing the process. Mr. Stones stated that such reversal process would become confusing. He felt that once the owner of a manufactured home decides to convert the house to real property and all of the conversion paperwork completed, they should not reconvert at will. The possibility exists that a secured lender would be left without notice and unable to file the necessary paperwork in order for them to be properly secured as noted in his written testimony. (Attachment 7)

The Chair closed the hearing on **HB 2723**.

**Action on HB 2639 - Mortgage Guaranty insurance companies; authorizing real estate security**

The Chair asked for consideration of **HB 2639**.

Senator Teichman made a motion the Committee recommend **HB 2639** favorable for passage, seconded by Senator Steineger. The motion carried.

CONTINUATION SHEET

**Discussion on HB 2247 - Kansas business health partnership act; removal of sunset**

The Chair briefed the Committee on a balloon of **HB 2247** showing amendments recommended by the Kansas Business Health Policy Committee. The bill removes the sunset provision thereby making the Kansas Business Health Partnership a permanent program for improving health care availability and affordability for low-income workers of small employers. (Attachment 8)

Dennis Call, owner and President of Benefit Management, Inc., a company in Great Bend, Kansas, that entered into a contractual relationship with the Kansas Business Health Partnership, spoke briefly to the Committee regarding his background and involvement with the Partnership.

Following Committee discussion on the balloon of the bill, the Chair suggested the Committee review the proposed amendments and the two policy questions ..eligibility for subsidy and how to address that issue, and choice of carriers in the state before the bill is worked.

**Adjournment**

The meeting was adjourned at 10:30 a.m. The next meeting is scheduled for March 21, 2002.





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## TESTIMONY BEFORE THE SENATE COMMITTEE ON FINANCIAL INSTITUTIONS and INSURANCE

TO: Senator Sandy Praeger, Chairwoman and  
Members of the Committee

FROM: Martha Neu Smith, Executive Director

DATE: March 20, 2002

RE: HB 2723 – Manufactured Home Title Elimination/Re-issuance

Chairwoman Praeger and Members of the Committee, my name is Martha Neu Smith and I am the Executive Director of Kansas Manufactured Housing Association (KMHA) and I appreciate the opportunity to comment. KMHA is a statewide trade association representing all facets of the manufactured housing industry (i.e. manufacturers, retailers, community owners, suppliers, finance, insurance and transport companies).

Over the past summer KMHA was notified of a problem with obtaining title insurance for manufactured homes placed on permanent foundations. After investigation, what we learned is, as of July 1, 2001, approximately half of the title insurance underwriters KMHA members had been using for their land/home projects were no longer issuing policies. The rationale we were told for their refusal to write was that Kansas law did not allow manufactured homes to surrender or eliminate their certificates of title when they are placed on permanent foundations. Consequently, since the home still had a certificate of title the title insurance underwriters considered them personal property. Title insurance insures the transfer of ownership of real estate not personal property.

To resolve this problem we worked with representatives from the title insurance industry, the Kansas Bankers Association, Kansas BAR Association and the Director of Vehicles. We based HB 2723 on existing laws from Colorado and Washington. HB 2723 provides a process for manufactured homes that are placed on permanent foundations to surrender their title to the state for elimination. The section of the bill that was eliminated, established a process for

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re-issuance of the certificate of title if the home was moved and became personal property.

First, the elimination process starts on page one of the bill, line 28. After the homeowner completes an application for elimination they must provide an affidavit to the Division of Vehicles signed by all owners of the home along with all parties having a mortgage, lien or other security interest in the home. The affidavit must contain the following information (starts on pg. 1, line 38) date; name of all owners of the home; legal description of the real property the home is to be located on; description of the home; names of all parties holding a security interest or otherwise entitled to a lien or encumbrance; a statement that the owner or one of the owners of the home owns the real property; name and address of the lending agency to which the approved application may be delivered; certificate of title (if already titled) or manufacturer's statement of origin (if the home is new); a release of each secured party's security interest; and proof of payment of all taxes and fees.

When all requirements are met the Division approves the application for elimination and the approved application is then recorded at the register of deeds in the county in which the home is affixed to the real property. The manufactured home is now considered real property.

Second, the ~~deleted~~ New Section Two (pg. 2, line 31) would have provided a procedure for the owner of a manufactured home who has had the title eliminated to have the title re-issued if the home is to become personal property. Procedure: The owner must make application to the County Treasurer, provide an affidavit signed by all the owners of the real property and signed by all parties having a mortgage, lien or other security interest in the real property; proof of payment of all taxes and fees; certification by a title insurance agency listing the owners and all parties having a mortgage, lien or other security interest in the real property which has an effective date of no more than 30 days before the date of the application for the new title. Then, if all of the requirements are met, the Division approves the application and it is then recorded with the register of deeds in the county where the real property is located from which the home is to be removed. After that point, the manufactured home is no longer considered to be an improvement to the real estate and is now considered personal property. Concurrently the division issues a new certificate of title.

We were aware of the concern with New Section Two; however, regardless of whether New Section Two is in the bill or out of the bill there will be situations where the homeowner will request that the title be re-issued. For example, the homeowner that sells the home that has had the title eliminated and the purchaser of that home places it in a manufactured home community. In the community, the home will not be on a permanent foundation and will not be on real estate owned by the homeowner. That home is now personal property and that is why the industry included New Section Two.



We feel the number of requests for re-issuance would be minimal, while I cannot give you an exact number, I can tell you that the State of Washington who has had this law in place since 1989 had approximately 12 re-issued certificates of title last year. We feel the number in Kansas will also be minimal and if there is a process in place there will be less confusion for all parties.

In closing, whether the Committee feels New Section Two should be in or out, the passage of New Section One is critical to the future of the manufactured housing industry in Kansas. With that I thank you for the opportunity to comment and will try to answer any questions you might have.

# ADAMS & JONES

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November 13, 2001

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Paul T. Davis  
Legislative Counsel, Kansas Bar Association  
1520 Stratford Road  
Lawrence, KS 66044

Re: **Manufactured Home as Real Estate**

Dear Mr. Davis:

This letter is prompted by Item 5 in the report of the Title Standards Committee published on page 37 of the October 2001 Journal of the Kansas Bar Association. Manufactured homes are not treated as improvement to real estate for title insurance purposes, which creates a marketplace problem for Kansas consumers. Legislation is needed to correct the problem.

We represent an institutional lender that makes a large volume of construction loans on "land/home" transactions. The loans enable the spread of quality affordable housing. Current Kansas law is curtailing the availability of this financing.

In the industry, a land/home construction loan finances all three components of a Kansan's new residence:

1. Purchase or refinance of the real estate that will be the borrower's home site,
2. Construction of foundation, driveway, utilities and perhaps other improvements, such as a fence, garage or shed, and
3. Purchase of a manufactured home, including its delivery to and installation on the foundation at the borrower's home site.

Once the home is set on the foundation, final assembly and connection of utilities is completed, the land/home construction loan is paid off by a permanent residential mortgage loan. The permanent loan is sold to Fannie Mae, Freddie Mac, or other secondary market entity.

The land/home construction loan is evidenced by a promissory note with a fairly short maturity, typical of construction loans. The lender's collateral is the land, the infrastructure improvements to the land, and the manufactured home. The lender records its mortgage to perfect its lien in the real estate and procures title insurance to verify that the lien has first priority. Because the residence is a "manufactured home" as defined in the Kansas Manufactured

Housing Act<sup>1</sup> and in Revised Article 9 of the Uniform Commercial Code<sup>2</sup>, the lender perfects its security interest in the manufactured home by compliance with K.S.A. 58-4204. Well-advised lenders file the notice of security interest authorized under K.S.A. 58-4204(e), which perfects the security interest. When issued, the certificate of title lists the lender as the lienholder. This statutory procedure is parallel to that used for motor vehicles under K.S.A. 8-135. When the land/home construction lender's documentation is completed, it has a first lien on the real estate and a first priority security interest in the home. \*

➔ However, there is a problem. Title insurers take exception to the manufactured home. Apparently their reasoning is that they insure title to real estate, not title to personal property. With some justification, they take the position that the manufactured home is personalty, not an improvement to realty. One consequence of this is that the permanent lender cannot obtain title insurance for the full amount of the loan. If the permanent lender cannot obtain this title insurance coverage, it will not make a permanent loan. The result is that the construction lender cannot be paid off by the long-term loan. The construction lender then must hold the short-term construction loan over a long-term payout period. The unfortunate consequence to the consumer is that the construction lender's loan money cannot be recycled into a new construction loan for another homeowner. If the manufactured home cannot be covered by title insurance, then the secondary market dries up. If the secondary market dries up, then credit dries up for new purchasers of this type of housing.

The land/home transaction of today is always for at least a double-wide manufactured home. It is delivered to the homesite in two or more components. The tongues and axles are removed. Each component is then set in place on a permanent foundation. The components are assembled together. Utilities are hooked up. The result is not two units, but one home. In theory, the home can be disassembled, tongues and axles can be attached to each component and the separate parts could be drawn upon the highway. The same could be said of a conventional house. The reality of manufactured housing today is that a double-wide, once set in place, never moves again.

The certificate of title/notice of security interest procedure in K.S.A. 58-4204 contemplated a single-wide, moveable unit. However, in most instances, with double-wide homes, the marketplace has outpaced this 1991 statute.

We do not advocate repeal of any of the Kansas Manufactured Housing Act. We do advocate that it be supplemented by a statutory procedure whereby a manufactured home may become real estate for ownership and security interest purposes. Since in fact manufactured

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<sup>1</sup>K.S.A. 58-4202(a).

<sup>2</sup>9-102(a)(53).



homes are permanently attached to real estate in much the same way as a modular home<sup>3</sup> is attached, it ought to be regarded as real estate.

We advocate a statutory procedure that recognizes the physical fact of permanent attachment or affixation of the unit to the real estate and provides documentation to evidence that fact. Colorado has a simple procedure for that on both new and previously-owned homes. A permanently affixed new manufactured home "shall become real property;" no certificate of title is issued<sup>4</sup>. The owner of a titled manufactured home that becomes permanently affixed purges title, and the home thereupon becomes real property.<sup>5</sup> Arizona also has a simple concept of a recorded affidavit of affixture and surrender of the certificate of title.<sup>6</sup>

The key to solving the problem is to define a permanently attached manufactured home as real estate and to adopt a simple procedure to evidence the fact. The recording of an affidavit of affixture with the Register of Deeds of the county where the homesite is located, combined with cancellation of the certificate of title by the division of vehicles, would remove any jeopardy to the title insurance issuer from insuring the full value of the real estate and home as one entity. A recorded mortgage on the land would then encumber the manufactured home as it does any other improvement.

Taxation of both types of homes is the same.<sup>7</sup> Homestead law protection is extended to manufactured homes.<sup>8</sup> Only the mechanism for lien perfection lags behind.

Adopting this change will not have adverse financial impact on any interest segment of our business community. Solving the title insurance problem will once again enable the sale of these loans in the secondary market and provide a flow of funds for Kansas homeowners to acquire this high-quality, affordable housing. It will bring Kansas into line with other states that recognize the reality of today's factory-built homes.

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<sup>3</sup>K.S.A. 58-4202(c).

<sup>4</sup>C.R.S. 38-29-114(2); copy enclosed.

<sup>5</sup>C.R.S. 38-29-112(1.5); copy enclosed.

<sup>6</sup>A.R.S. § 42-15201.2, A.R.S. § 42-15203.A and C, and A.R.S. § 28-2063.A.3; copies enclosed.

<sup>7</sup> K.S.A. 79-340; K.S.A. 79-1439(b)(1)(A); K.S.A. 79-1439(b)(2)(A).

<sup>8</sup> K.S.A. 60-2301.

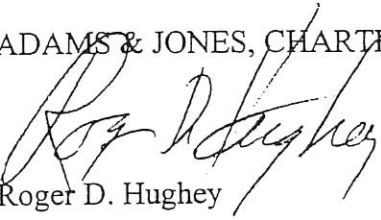
Paul Davis  
November 13, 2001  
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Please submit this proposal to the KBA Legislative Committee so that the Bar can work with other industry groups in the interest of Kansas consumers.

Very truly yours,

ADAMS & JONES, CHARTERED



Roger D. Hughey

/kc

cc: Jeffrey J. Amrein  
Hayden B. St. John  
Bill Zimmerman  
John V. (Jack) Black



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**LEGISLATIVE TESTIMONY**

March 20, 2002

TO: MEMBERS OF THE SENATE FINANCIAL  
INSTITUTIONS AND INSURANCE COMMITTEE

FROM: PAUL DAVIS, KBA LEGISLATIVE COUNSEL

RE: HOUSE BILL 2723

Chairwoman Praeger and Members of the Committee:

The Kansas Bar Association appears today as a supporter of House Bill 2723. Members of the KBA Real Estate, Probate & Trust Law Section have reviewed this issue and believe that this bill addresses a serious marketplace problem for Kansas consumers.

Under current law, manufactured homes are not treated as an improvement to real estate for title insurance purposes. The result of this is a curtailing in the availability of many individuals to obtain financing of construction loans on "land/home" transactions. The land/home construction loan is evidenced by a promissory note with a fairly short maturity, typical of construction loans. The lender's collateral is the land, the infrastructure improvements to the land, and the manufactured home. The lender records its mortgage to perfect its lien in the real estate and procures title insurance to verify that the lien has first priority. Because the residence is a "manufactured home", the lender perfects its security interest by compliance with K.S.A. 58-4204. Well-advised lenders file the notice of security interest authorized under K.S.A. 58-4204(e), which perfects the security interest. When issued, the certificate of title lists the lender as the lienholder.

However, there is a problem. Title insurers take exception to the manufactured home. Apparently, their reasoning is that they insure title to real estate, not title to personal property. With some justification, they take the position that the manufactured home is personalty, not an improvement to real estate. One consequence of this is that the permanent lender cannot obtain title insurance for the full amount of the loan. If the permanent lender cannot obtain this title insurance coverage, it will not make a permanent loan. The result is that the construction lender cannot be paid off by the long-term loan.

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This bill remedies this difficult situation by adding a statutory procedure whereby a manufactured home may become real estate for ownership and security interest purposes. Since in fact manufactured homes are permanently attached to real estate in much the same way as a modular home is attached, it ought to be regarded as real estate.

Therefore, we urge your favorable consideration of House Bill 2723.

# Lawyers Title of Topeka Inc.

*Title Insurance And Real Estate Closing*

Hayden B. St. John  
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March 19, 2002

Members of the Senate Financial  
Institutions and Insurance Committee  
State of Kansas  
Capitol Building  
Topeka, Kansas 66612

Re: House Bill No. 2723  
An act relating to manufactured homes and  
mobile homes, amending and supplementing  
the Kansas manufactured housing act;  
amending K.S.A. 58-4204

Dear Committee Members:

I am writing this letter in support of House Bill 2723. The purpose of the bill is to allow a method of conversion of manufactured homes and mobile homes from the status of personal property to the status of real estate or real property. This is necessary in order for a real estate mortgage to be placed on the real estate including the manufactured or mobile home which has been affixed to the real estate on a permanent foundation and is no longer personal property.

Under current law, the only way a lien can be placed on a manufactured or mobile home is on the Certificate of Title which is similar to a car title. Title Insurance which insures title to real estate can insure only real estate and not personal property. The proposed legislation allows the transformation of said personal property to real estate, and therefore allows title insurance companies to insure the mortgages placed on them as liens on real estate.

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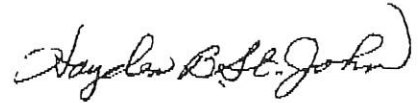


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Members of the Senate Financial  
Institutions and Insurance Committee

Banks placing mortgages on real estate which include manufactured or mobile homes which have converted to real estate want title insurance on both the land and the cost of the manufactured or mobile home. Without the proposed legislation this cannot be done.

Therefore, I strongly recommend passage of House Bill 2723. Thank you for your consideration.

Sincerely,



Hayden B. St. John  
President

HBS:ss



TO: SENATE FINANCIAL INSTITUTIONS AND INSURANCE COMMITTEE  
FROM: BILL YANEK, KAR DIRECTOR OF GOVERNMENTAL RELATIONS  
DATE: MARCH 20, 2002  
SUBJECT: HB 2723 MANUFACTURED HOMES AND MOBILE HOMES;  
CERTIFICATION OF TITLES

Thank you for the opportunity to present written testimony regarding HB 2723. The Kansas Association of REALTORS® supports the concepts in this proposal. We believe that the State of Kansas needs a process that allows manufactured or mobile homes permanently affixed to real property to eliminate certificates of title issued pursuant to K.S.A. 58-4204.

Once a mobile or manufactured home becomes permanently affixed to real property, that home becomes real estate. However, in Kansas the real estate owner still must title the real property pursuant to K.S.A. 58-4204, which is a title evidencing the ownership of a manufactured or mobile home.

Title companies are reluctant, and in some cases adamantly against issuing a title insurance policy on real estate subject to a manufactured or mobile home certificate of title. Without a title insurance policy, selling or buying the property via any type of financing is problematic.

KAR believes that the steps outlined in sections (b) (1) (A) – (G) eliminates the manufactured or mobile home title in a comprehensive and complete way, and eliminates any risk that a title or financing company may incur by dealing with the property as real estate rather than a manufactured or mobile home titled pursuant to K.S.A. 58-4204.

We respectfully request your favorable consideration of this legislation.



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Attachment No. 4

TESTIMONY ON HB 2723 FOR THE SENATE COMMITTEE ON FINANCIAL  
INSTITUTIONS AND INSURANCE, MARCH 20,2002

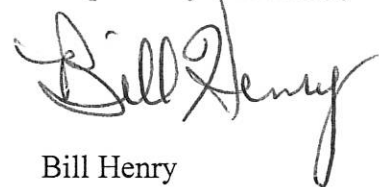
Madam Chairman, members of the committee, I am Bill Henry, Director of Governmental & Regulatory Affairs for the Kansas Credit Union Association, and I appear before you today in support of HB 2723.

HB 2723 establishes a clarification process whereby a mobile or manufactured home that is placed on real property owned by the mobile home owner can be classified as real property.

Several states have similar legislation now in effect and the Credit Union Association's 117 members believe the process that will be carried out by the Department of Revenue will eliminate certain title questions that create problems in obtaining title insurance for owners of these types of housing.

I would be pleased to respond to any questions the committee may have.

Respectfully Submitted,

A handwritten signature in cursive script that reads "Bill Henry". The signature is written in black ink and is positioned above the printed name.

Bill Henry

Sheila J. Walker, Director  
Division of Vehicles  
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Division of Vehicles

TESTIMONY

**TO:** Senator Sandy Praeger, Chair  
Members of the Senate Financial Institutions & Insurance Committee

**FROM:** Matthew H. Moser, Manager *Matthew H. Moser*  
Titles & Registrations

**DATE:** March 20, 2002

**SUBJECT:** House Bill 2723 – Manufactured and Mobile Homes

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Madame Chairperson, members of the Committee, I am Matt Moser, Manager of Titles & Registrations in the Kansas Division of Vehicles. Thank you for the opportunity to provide testimony regarding House Bill 2723.

If passed, House Bill 2723 will class manufactured and mobile homes, permanently affixed to real property, as real property instead of personal property. The bill allows for the elimination of a certificate of title on a manufactured or mobile home if the home is permanently affixed to real property.

Currently, all manufactured or mobile homes are considered personal property and are taxed and titled as such, even if the home is affixed to real property such as a basement. The customer is required to hold a title for the home and a deed for the land. Should the customer want to sell his property, he must provide both documents even though the home may be affixed to the land.

The department sees the adoption of HB 2723 as a means to streamline the process for customers, as well as to establish uniformity for counties as they process customers' purchases and sales.

The department processes approximately 1,300 such titles per year. Implementation of HB 2723 would require a minimal amount of new forms, procedures and training.

Thank you again for allowing me to testify on this bill.

Senate Financial Inst. & Insurance  
Date: 3-20-02  
Attachment No. 6



The Kansas Bankers Association

TO: Senate Financial Institutions and Insurance Committee  
FROM: Chuck Stones, Senior Vice President

RE: HB 2723

Madam Chair and Members of the Committee,

The Kansas Bankers Association appreciates the opportunity to appear before you today concerning HB 2723. While we are not opposed to the majority of the bill, the lenders we have spoken with wonder if the whole bill isn't fixing a problem that does not exist. Banks involved in lending to the manufactured housing market like the current statutes and procedures. They are very easy, efficient, and most important clear. The proposed legislation appears to insert a level uncertainty that seems unnecessary.

That being said, we will only officially oppose New Section 2 of the bill. We concede the possibility that the availability of title insurance would be beneficial in the event of using the secondary market for manufactured housing loans. However, New Section 2 adds a new wrinkle to the process. After being permanently affixed to a foundation, surrendering the title and becoming real property, the manufactured housing industry wants the ability to reverse the process and re-issue the title and become personal property again. This would appear to be having their cake and eating it too.

We believe this has the potential to become confusing and the possibility exists for a secured lender to be left without notice and unable to properly file the necessary paperwork to continue to be properly secured. In addition to that confusion is the confusion and possible problems with disclosures. Consumer credit and real estate lending each have their own rules, regulations and disclosure requirements. Banks will rightly ask, "Which rules are we responsible for complying with?" I'm afraid the answer might be, "both", since the loan is made as a consumer transaction and then converted to real estate.

We firmly believe that once the owner of a manufactured home decides to convert the house to real property and all the conversion paperwork has been completed, they should not be able to re-convert at will. They simply need to make up their mind. We have been told that this re-conversion process happens very infrequently, which would indicate that the process is unnecessary. Combined with the potential for a lender to lose its security, we urge you not to re-instate New Section 2 to the bill.

Senate Financial Inst. & Insurance

Date: 3-20-02

Attachment No. 7



**HOUSE BILL No. 2247**

By Committee on Insurance

2-1

and making other clarifications of  
the act

40-4701, 40-4702, 47-4704, 40-4706 and

sections

9 AN ACT concerning the Kansas business health partnership act; relating  
10 to the removal of the sunset provision; amending K.S.A. 40-4707 and  
11 repealing the existing section

12  
13 *Be it enacted by the Legislature of the State of Kansas:*

14 Section 1. K.S.A. 40-4707 is hereby amended to read as follows: 40-  
15 4707. (a) K.S.A. 40-4701 through 40-4707 and amendments thereto shall  
16 be known as the Kansas business health partnership act.

17 (b) ~~The provisions of the Kansas business health partnership act shall~~  
18 ~~expire on July 1, 2002.~~

**40-4701. Kansas business health partnership act; definitions.** As used in K.S.A. 40-4 through 40-4707 and amendments thereto:

(a) "Carrier" means any insurance company, nonprofit medical and hospital service corporation, nonprofit optometric, dental, or pharmacy service corporation, municipal group-funded pool, fraternal benefit society or health maintenance organization, as these terms are defined by chapter 40 of the Kansas Statutes Annotated, and amendments thereto, that offers health benefit plans covering eligible employees of one or more small employers in the state.

(b) "Health committee" means the Kansas business health policy committee as specified in K.S.A. 40-4702, and amendments thereto.

(c) "Dependent" means the spouse or any child of an eligible employee.

(d) "Eligible employee" shall have the meaning ascribed to it in K.S.A. 40-2209d and amendments thereto.

(e) "Health benefit plan" means any hospital or medical expense policy, health, hospital or medical services corporation contract, and a plan provided by a municipal group-funded pool, or a health maintenance organization contract offered by any employer or any certificate issued under any such policy, contract or plan.

(f) "Kansas business health partnership" or "health partnership" means a nonrisk bearing nonprofit corporation that has responded to a request for a proposal by the health committee and has been selected by the health committee to provide health insurance through multiple unaffiliated participating carriers to small employers and their employees.

[ eligible

(g) "Low wage or modest wage employee" means any employee whose family income does not exceed 200% of the poverty level.

[ eligible

(h) "Small employer" shall have the meaning ascribed to it in K.S.A. 40-2209d and amendments thereto.

**History:** L. 2000, ch. 147, § 47; July 1.

**40-4702. Same; Kansas business health**

**committee; membership; organization; powers and duties.** (a) The governor of the state of Kansas shall appoint a cabinet level committee which shall be known as the Kansas business health policy committee.

(b) The Kansas business health policy committee, hereinafter referred to as the health committee, shall consist of:

- (1) The secretary of the department of commerce and housing or the secretary's designee;
- (2) the secretary of the department of social and rehabilitation services or the secretary's designee;
- (3) the commissioner of insurance or the commissioner's designee;
- (4) one member appointed by the president of the senate;
- (5) one member appointed by the speaker of the house of representatives;
- (6) one member appointed by the minority leader of the senate;
- (7) one member appointed by the minority leader of the house of representatives; and
- (8) three members at large from the private sector appointed by the governor.

The secretary of each state agency represented on this committee shall provide such staff and other resources as the health committee may require.

(c) (1) The initial meeting of the health committee shall be convened within 60 days after the effective date of this act by the governor at a time and place designated by the governor.

(2) Meetings of the health committee subsequent to its initial meeting shall be held and conducted in accordance with policies and procedures established by the health committee.

(3) Commencing at the time of the initial meeting of the health committee, the powers, authorities, duties and responsibilities conferred and imposed upon the health committee by this act shall be operative and effective.

(d) The health committee shall develop and approve a request for proposals for a qualified entity to serve as the Kansas business health partnership, hereinafter referred to as health partnership, which shall provide a mechanism to combine federal and state subsidies with contributions

from employers and employees to purchase health insurance in accordance with guidelines developed by the health committee.

small *employers*  
eligible *employees*

(e) The health committee shall evaluate responses to the request for proposals and select the qualified entity to serve as the health partnership.

(f) The health committee shall:  
(1) Develop and approve subsidy eligibility criteria provided that:

(A) Low wage and modest wage employees of small employers shall be eligible for subsidies if:

(1) The small employer has not previously offered health insurance coverage; or

(2) the small employer has previously offered health insurance coverage and a majority of such small employer's employees are low wage or modest wage employees as defined in K.S.A. 40-4701;

eligible  
are paid an hourly wage which does not exceed an amount specified by the health committee

(B) any small employer's employee with a child who is eligible for coverage under the state children's health insurance program established by K.S.A. 38-2001 et seq., and amendments thereto, or in the state medical assistance program shall be eligible automatically for a subsidy and shall be included in the determination of eligibility for the small employer and its low-and-modest wage employees; and

eligible

(C) at least 70% of the small employer's employees are insured through the partnership; and

eligible

(2) determine and arrange for eligibility determination for subsidies of low wage or modest wage employees; and

without health insurance coverage from another source

(3) develop subsidy schedules based upon employee wage levels.

eligible

(g) The health committee shall oversee and monitor the ongoing operation of any subsidy program and the financial accountability of all subsidy funds.

If, in the judgment of the health committee, the entity selected to serve as the health partnership fails to perform as intended, the health committee may terminate its selection and designation of that entity as the health partnership and may issue a new request for proposal and select a different qualified entity to serve as the health partnership

(h) The health committee is hereby authorized to accept funds from the federal government, or its agencies, or any other source whatsoever for research studies, investigation, planning and other purposes related to implementation of the objectives of this act. Any funds so received shall be deposited in the state treasury and shall be credited to a special revenue fund which is hereby created and shall be known as the health committee insurance fund and used in accordance with or direction of the contributing federal agencies. Expenditures from such fund may be made for any

purpose in keeping with the responsibilities, functions and authority of the department. Warrants on such fund shall be drawn in the same manner as required of other state agencies upon vouchers designed by the secretary of the department of social and rehabilitation services upon receiving prior approval of the health committee.

(i) The health committee is authorized to develop policies, for the use of additional federal or private funds to subsidize health insurance coverage for low-and-modest wage employees of pre-dominantly low-wage small employers.

for the administration of the subsidy program and

(j) The health committee is hereby authorized to organize, or cause to be organized, one or more advisory committees. No member of any advisory committee established under this subsection shall receive any payment or other compensation from the health partnership. The membership of each advisory committee established under this subsection shall contain at least one representative who is a small employer and one representative who is an eligible employee as defined in K.S.A. 40-4701 and one representative of the insurance industry.

The health committee also may revise the subsidy eligibility criteria and subsidy eligibility criteria and subsidy schedules developed pursuant to subsection (f) from time to time

have previously received or currently

History: L. 2000, ch. 147, § 48; July 1.



**40-4704. Same; health partnership; duties.** The health partnership shall develop and offer two or more health benefit plans to small employers. In any health benefit plan developed under this act, any carrier may contract for coverage within the scope of this act notwithstanding any mandated coverages otherwise required by state law. Except for preventative and health screening services, the provisions of K.S.A. 40-100 to 40-2,105, inclusive, 40-2114 and subsection (i) of 40-2209 and 40-2229 and 40-2230, and 40-2,163, 40-2,164, 40-2,165 and 40-2,166, and amendments thereto, shall not be mandatory with respect to any health benefit plan developed under this act. In performing these duties, the health partnership shall:

(a) Develop and offer two or more lower-cost health benefit plans such that:

(1) Each health benefit plan is consistent with any criteria established by the health partnership;

(2) each health benefit plan shall be offered by all participating carriers except that no participating carrier shall be required to offer any health benefit plan, or portion thereof, which such participating carrier is not licensed or authorized to offer in this state;

(3) no participating carrier shall offer any health benefit plan developed under this act to any small employer unless such small employer is covered through the health partnership.

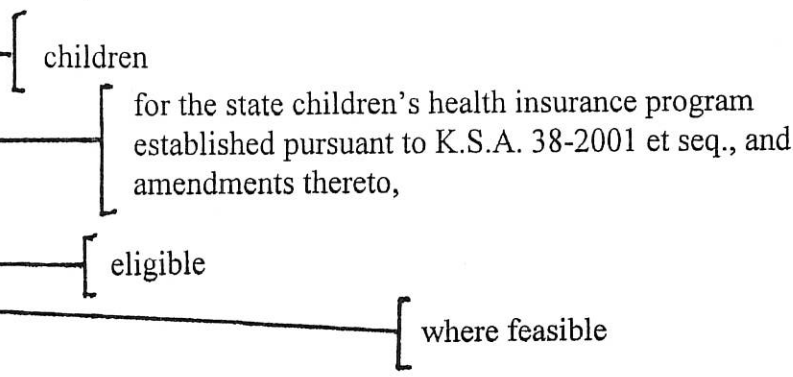
(b) Develop and make available one or more supplemental health benefit plans or one or more other benefit options so that the total package of health benefits available to all eligible children who do not receive health benefits through the health partnership meets, at a minimum, standards established by the federal health insurance program.

(c) Offer coverage to any qualifying small employer.

(d) Offer employees of participating small employers a choice of participating carriers. *(plans)*

(e) (1) Include centralized and consolidated enrollment, billing and customer service functions;

(2) use one standard enrollment form for all participating carriers; and  
 (3) submit one consolidated bill to the small employer.



(f) Issue or cause to be issued a request for proposals and contract with a qualified vendor for administrative or other service not performed by the health committee or provided to the health committee under subsection (b) of K.S.A. 40-4702.

(g) Issue a request for proposals and selectively contract with carriers.

(h) Establish conditions of participation for small employers that conform with K.S.A. 40-2209b *et seq.*, and amendments thereto, and the health insurance portability and accountability act of 1996 (Public Law 104-191).

(i) Enroll small employers and their eligible employees and dependents in health benefit plans developed under this act.

(j) Bill and collect premiums from participating small employers including any share of the premium paid by such small employer's enrolled employees.

(k) Remit funds collected under subsection (h) to the appropriate contracted carriers.

(l) Provide that each ~~eligible~~ low-or-modest wage employee shall be permitted to enroll in such employee's choice of participating carrier.

where available

(m) Develop premium rating policies for small employers.

(1) In consultation with the health committee, the health partnership shall ensure, to the maximum extent possible, that the combined effect of the premium rating and subsidy policies is that subsidized ~~workers~~ and the dependents of such subsidized ~~workers~~ can afford coverage.

eligible employees

eligible employees

(2) Any rating policy developed under this subsection may vary with respect to subsidy status of ~~workers~~ and the dependents of such ~~workers~~.

eligible employees

(n) Be authorized to contract for additional group vision, dental and life insurance plans, and other limited insurance products.

eligible employees

(o) Take whatever action is necessary to assure that any ~~adult or child~~ who receives health benefit coverage through the health ~~benefit~~ partnership and who is eligible for the state medical assistance program shall remain eligible to participate in the state health insurance premium payment program.

eligible employee or dependent of such eligible employee

(p) Coordinate with the department of social and rehabilitation services to assure that any funds available for the coverage of infants and pregnant

women under the state medical assistance program are also available for the benefit of eligible infants and pregnant women who receive health benefit coverage through the health partnership.

as an eligible employee or dependent of such eligible employee

History: L. 2000, ch. 147, § 50; July 1.

**40-4706.** Same; department of social and rehabilitation services; duties. The department of social and rehabilitation services shall investigate and pursue all possible policy options to bring into this partnership title XIX and the title XXI eligible families of any employees employed by a small employer. Further, the department of social and rehabilitation services shall develop and seek federal approval of any appropriate variance or state plan amendment for the state children's health insurance program established by K.S.A. 88-2001 *et seq.*, and amendments thereto, and the state medical assistance program required to accomplish the purposes of this act.

eligible

History: L. 2000, ch. 147, § 52; July 1.

40-4701, 40-4702, 47-4704, 40-4706  
and 40-4707 are

19 Sec. 2. K.S.A. [40-4707 is] hereby repealed.  
20 Sec. 3. This act shall take effect and be in force from and after its  
21 publication in the statute book.