

MINUTES OF THE HOUSE INSURANCE COMMITTEE

The meeting was called to order by Chairperson Patricia Barbieri-Lightner at 3:30 p.m. on February 10, 2004 in Room 527-S of the Capitol.

All members were present except:

Representative David Huff- excused

Committee staff present:

Bill Wolff Legislative Research Department

Ken Wilke, Revisor of Statutes

Renae Hansen, Secretary

Conferees appearing before the committee:

Jerry Wells, Kansas Insurance Department

Pam Scott, Kansas Funeral Directors and Embalmers Association

Jarrod Forbes, Kansas Insurance Department

Others attending:

Twenty, including but not limited to attached list.

Hearing on:

HB2597: Insurance; elimination of required errors and omissions coverage for insurance agents.

Jerry Wells, Kansas Insurance Department, (Attachment #1), **HB 2597** would eliminate errors and omissions coverage for all agents selling insurance in the state of Kansas. The requirement has out lived its purpose since the passage of Gramm-Leach-Bliley Act, which does no longer allows states to impose their errors and omissions coverage requirements on non-resident agents. Still requiring this coverage for its own agents puts Kansas agents at a disadvantage.

Questions were posed by: Representatives Scott Schwab, Ray Cox, Stephanie Sharp, Jan Scoggins-Waite, and Patricia Barbieri-Lightner.

Pam Scott, Executive Director, KFDA, (Attachment #2), in 2001 a similar bill was introduced which would have eliminated the errors and omissions and did not pass out of both houses at that time. This bill pertains to all insurance agents not just a select group.

Representative Ralph Ostmeier, Kansas State Representative, District #118, (Attachment #3), presented written testimony in support of **HB2597**.

Fiscal note for **HB 2597**, was presented.

Revisor Ken Wilke explained the current law and why current law is not fair to Kansas insurance agents.

Hearing closed on **HB 2597**.

Hearing on:

HB 2566: Insurance; exemption from errors and omissions coverage.

No one appeared as a proponent or opponent.

Fiscal note for **HB 2566** was presented .

The difference between **HB 2566** and **HB 2597** was explained by Revisor Ken Wilke. The exclusion for errors and omission in this bill applies to people selling only federal crop insurance and nothing else.

CONTINUATION SHEET

MINUTES OF THE HOUSE INSURANCE COMMITTEE at 3:30 p.m. on February 10, 2004 in Room 527-S of the Capitol.

Hearing closed on **HB 2566.**

Hearing on:

HB 2547: Kansas uninsurable health insurance act; eligible individuals for federal trade adjustment assistance.

Jarrold Forbes, Kansas Insurance Department, (Attachment #4), presented comments explaining this bill would amend Kansas Health Insurance claim statutes simply to allow certain laid off workers to have 65% of their premiums paid by the federal government. These workers must be laid off due to the effects of international trade agreements and individuals who receive pensions from the Pension Benefit Guaranty Corporation. This bill is attempting to use the Kansas High Risk Pool as a vehicle to identify potential beneficiaries. As of mid-January the Insurance Departments count of Kansas individuals that could take advantage of this funding pool is about 1,700 individuals. Money has been granted to the state for us to do this but legislation is needed to distribute it.

Questions were posed by: Representatives Nancy Kirk, Ray Cox, Nile Dillmore, Bob Grant, and Jan Scoggins-Waite.

It was discussed that the initial figure that Kansas would receive would be about a \$12.4 million allotment for the first year. The federal legislation is fairly narrow in its definition who would qualify, only covering manufacturing jobs lost to overseas. Immediate impact would be about 700-1700 individuals affected. This bill needs to be fast tracked for the immediate impact to the qualifying employees. The money is already in our possession we just need the legislation to disburse it. Primarily the people who would benefit are in the Kansas City and Wichita metro areas. It would be helpful if this bill would be made affective upon publication of the register via an amendment that is yet to be drafted.

Dr. Wolff commented that the people that are covered here in this bill are declared eligible because they are federally defined eligible through their FTAA eligibility, and they must be able to pay the rest of the premium.

Hearing closed on **HB 2547.**

Representative Nile Dillmore moved to recommend **HB2545** favorable for passage, seconded by Representative Scott Schwabb. Passed unanimously.

Representative Jan Scoggins-Waite will carry the bill to the floor.

Representative Scott Schwab moved to pass **HB 2597** favorable for passage, seconded by Representative Cindy Neighbor. Passed unanimously.

Representative Ray Cox will carry the bill to the floor.

Meeting adjourned.

HOUSE INSURANCE COMMITTEE GUEST LIST

DATE: February 10, 2004

NAME	REPRESENTING
Heather Grace	Damron & Associates
Pam Scott	Ks Funeral Directors Assn
Natalie Haag	Security Benefit
Becky Ross	SRS
Christina Gieson	Federico Consulting
Catherine Rankin	State Farm
Steve Montgomery	United Healthcare
Jamie Ann Power	KAMP
Bill Sneed	KFDA
David Hanson	Ks Insur Assn



Kansas Insurance Department

Sandy Praeger COMMISSIONER OF INSURANCE

COMMENTS
ON
HB 2597—EXEMPTION FROM ERRORS AND OMISSIONS COVERAGE
HOUSE COMMITTEE ON INSURANCE
February 10, 2004

Madam Chair and Members of the Committee:

Thank you for the opportunity to visit with you on behalf of the Kansas Insurance Department. House Bill 2597 would eliminate errors and omissions coverage for all agents selling insurance within the State of Kansas.

The requirement of errors and omissions from a state regulation standpoint has outlived its purpose since the passage of the Gramm-Leach-Bliley Act (GLBA). That federal legislation no longer allows states to impose their errors and omissions coverage requirements on non-resident agents. Currently, Kansas and Kentucky are the only two states requiring such coverage.

By still requiring this coverage, Kansas is placing its own agents at a financial disadvantage when competing with agents in neighboring states. However, it is very important to remember that nothing in this bill changes the ability for a company to require errors and omissions from its agents as part of their employment contracts.

In this post GLBA world of insurance, the department is comfortable with doing away with the regulatory requirement of errors and omissions coverage. We believe it should be a decision made by each company and not a mandate to receive and maintain a license in Kansas.

With that madam chair, I would be happy to stand for any questions the committee may have.

Jerry Wells
Director of Government Affairs

House Insurance
Date: 2/10/04
Attachment # 1



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EXECUTIVE DIRECTOR

PAM SCOTT
Topeka

February 3, 2004

To: House Insurance Committee

From: Pam Scott
KFDA Executive Director

Re: House Bill No. 2597

Madam Chair and members of the Committee, thank you for the opportunity to appear before you today on behalf of the Kansas Funeral Directors and Embalmers Association (KFDA) in support of House Bill No. 2597. The KFDA represents over 300 funeral homes across the state of Kansas.

The KFDA requested the introduction of this bill, which would amend Kansas statutes to eliminate the requirement that Kansas insurance agents maintain errors and omissions insurance coverage as a condition of licensure in the state of Kansas.

In 2001, the KFDA introduced a similar bill which would have eliminated the errors and omissions insurance requirements for life insurance agents holding an insurance license for the sole purpose of selling life insurance and annuities to fund prearranged funeral agreements. Kansas law recognizes the limited nature of such a license in that agents holding this limited license are only required to have two hours of continuing education every two years. That bill passed the Senate but did not receive a hearing in the House. Objections were raised that insurance agents holding such a limited license should not be singled out and treated differently than other agents. As a result, this year we asked for the introduction of this legislation which would eliminates the requirement for all insurance agents.

It is our understanding that Kansas is one out of only two states nationwide that require their resident agents to maintain errors & omissions coverage. The other state is Kentucky. While Kansas resident insurance agents are required to maintain the coverage, non-resident agents doing business in Kansas have no such requirement. This puts Kansas agents at a competitive disadvantage. Insurance agents from Missouri and other surrounding states can come into the state of Kansas and compete without having to abide by the same errors & omissions insurance requirements.

I might point out that many insurers will likely continue to require agents selling for their companies to continue to maintain errors and omissions coverage. Consumers may

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also choose to purchase coverage only from agents maintaining such coverage. Nothing in this bill would prevent that.

Funeral directors in Kansas have found that errors and omissions insurance coverage is very difficult to obtain at a reasonable rate. This is especially true if you take into consideration the limited risk involved in the type of business they write. Most funeral directors who hold such a limited insurance license do so only as an ancillary part of their business. Many may only sell a few insurance policies a year. The policies sold are usually single pay with little or no underwriting involved. The value of the policy is small, because the average funeral price is just over \$5000, excluding cemetery expenses.

The policies are generally irrevocably assigned to the funeral home. If there were a problem with the policy, funeral homes would in most cases still provide the funeral services contracted for in the prearranged funeral agreement. The funeral home is the party that would be injured if a mistake is made because they would not be paid for their services.

We would appreciate your support of this bill eliminating the errors and omissions requirements for all agents. If you cannot support the bill as written, we would ask that you consider the alternate attached amendment that would eliminate the requirement only for agents holding a license for the sole purpose of selling life insurance and annuities to fund prearranged funeral agreements. In the alternative, you could include an exemption for these agents in House Bill 2566 which provides an exemption from the errors and omissions requirements for agents selling crop hail insurance.

Thank you for your consideration of this legislation. I would be happy to address any questions you may have.

40-241

Chapter 40.--INSURANCE

Article 2.--GENERAL PROVISIONS

40-241. Examination of individual applicants for agents' licenses; fee; classes of insurance; issuance of license, when; record of licenses issued and companies agents certified to represent; auto rental agency insurance license; errors and omissions insurance requirements for insurance agents. Any applicant or prospective applicant for an agent's license, if an individual, shall be given an examination by the commissioner or the commissioner's designee to determine whether such applicant possesses the competence and knowledge of the kinds of insurance and transactions under the license applied for, or to be applied for, of the duties and responsibilities of such a license and of the pertinent provisions of the laws of this state. The applicant shall be tested on each class or subclassification of insurance which may be written. An examination fee prescribed in rules and regulations adopted by the commissioner shall be paid by the applicant and shall be required for each class of insurance for each attempt to pass the examination. Such examination fee shall be in addition to the certification fee required under K.S.A. 40-252, and amendments thereto. There shall be four classes of insurance for the purposes of this act:

- (1) Life;
- (2) accident and health;
- (3) casualty and allied lines; and
- (4) property and allied lines.

An insurance license may be issued as a subclassification of casualty and allied lines to any auto rental agency. An auto rental agency may offer or sell insurance only in connection with and incidental to the rental of motor vehicles, whether at the rental office, at the point of delivery of a vehicle, or by preselection of coverage in a master, corporate or group rental agreement, in any of the following general categories: (1) Personal accident insurance covering risks of travel, (2) motor vehicle liability insurance, (3) personal effects insurance providing coverage to renters and other occupants of the motor vehicle, (4) roadside assistance and emergency sickness protection programs, and (5) any other travel or auto-related coverage an auto rental company may offer in connection with and incidental to rental of motor vehicles. No insurance may be issued by an auto rental agency unless the rental period of the rental agreement does not exceed 90 consecutive days and brochures and other written material clearly and correctly explaining insurance coverages offered by the agency are available for prospective renters and clear and complete disclosures are provided to prospective renters that such coverage may be duplicative of other insurance owned by the renter, that purchase of insurance coverage is not a condition for renting a motor vehicle and describing the process for filing a claim.

Auto rental agencies employing representatives shall conduct a training program for each representative, providing instruction on the kinds of insurance coverage offered by the agency.

No auto rental agency shall offer or solicit any insurance other than the coverages described in this section without an insurance license. No auto rental employee or auto rental agency shall advertise or otherwise hold themselves out as licensed insurers, insurance agents or insurance brokers.

The commissioner of insurance shall adopt rules and regulations with respect to the scope, subclassification, type and conduct of such examination. Examinations shall be given to applicants at least twice a month in Topeka, Kansas, and at least quarterly in other convenient locations in the state of Kansas. The commissioner shall publish or arrange for the publication of information and material which applicants can use to prepare for such examination. One or more rating organizations, advisory organizations or other associations may be designated by the commissioner to assist in, or assume responsibility for, distribution of the study manuals to applicants and other interested parties. Persons purchasing the study manual shall be charged a reasonable fee established or approved by the commissioner. In the event the publication and distribution of the study material or the development and conduct of examinations is delegated to private firms, organizations or associations and the state incurs no expense or obligation, the provisions of K.S.A. 75-3738 to 75-3744, inclusive, and amendments thereto, shall not apply. If the commissioner of insurance finds that the individual applicant is trustworthy, competent and has satisfactorily completed the examination, the commissioner shall forthwith issue to the applicant a license as an insurance agent but the issuance of such license shall confer no authority to transact business in this state until the agent has been certified by a company pursuant to K.S.A. 40-241i, and amendments thereto and submitted proof that the agent is covered by an errors and omissions policy required by this section. If such applicant fails to satisfactorily complete the examination, the examination may be retaken following a waiting period of not less than seven days from the date of the last attempt. If the applicant again fails to satisfactorily complete the examination, it may be retaken following another waiting period of not less than seven days from the date of the most recent attempt. Thereafter, the examination may be retaken following a waiting period of not less than six months from the date of the most recent attempt, except that following a waiting period of two years from the date of the applicant's last examination attempt an applicant will be treated as a new applicant and new examination and waiting periods shall apply. While licensed every agent shall be covered by an errors and omissions policy covering the individual agent in an amount of not less than \$100,000 total liability limit per occurrence, subject to not less than \$100,000 annual aggregate for all claims made during the policy period; or, covering the agent under blanket liability policy or policies, which policy or policies can include other coverage on an excess basis over \$100,000 primary, insuring other insurance agents or brokers in an amount of not less than \$500,000 total liability limit per occurrence subject to not less than \$500,000 annual aggregate for all claims made during the policy period. Such policy shall be issued by an authorized insurance company or as authorized by K.S.A. 40-246b or 40-246c, and amendments thereto, for errors and omissions of the agent. Self-retention shall be permitted on liability policies covering the agent. The errors and omissions policy requirements contained in this section shall not be applicable to a licensed insurance agent holding a license for the sole purpose of selling life insurance or annuity products used to fund a prearranged funeral program.

STATE OF KANSAS



TOPEKA

HOUSE OF
REPRESENTATIVES

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MEMBER: AGRICULTURE
EDUCATION
FEDERAL AND STATE AFFAIRS

February 10, 2004

Thank you, Madame Chairman and fellow committee members.

Thank you for reading my testimony supporting HB2597.

Congress passed the Financial Services Modernization Act on November 12, 1999 and went into effect November 12, 2002.

I have a problem with one aspect of the Act and it has to do with Errors and Omissions coverage for insurance agents and brokers.

I would like to share a letter from Mark Campbell, one of many small insurance agents in my district supporting this bill.

Banks wanted to enter the business of insurance, but didn't want to endure the time and expense of having to get separate certificates of authority or producer licenses in multiple states. As a national business regulated by a single federal agency with a single national charter, banks wanted their insurance business to be regulated in the same efficient manner.

The banking industry had hoped the new (Gramm-Leach-Bliley Act) federal law would preempt state insurance regulation, however this effort was not successful. Instead, banks settled for a provision that would establish a National Association of Registered Agents and Brokers (NARAB) in three years if at least 29 states did not implement a uniform national licensing system for producers. This would allow an individual to apply electronically (with 1 uniform application) for licensure in as few as one, or as many as 50 states.

More than 29 states have passed a uniform national licensing system for producers thereby avoiding (NARAB). Kansas is one of them. Kansas passed the Uniform Insurance Agents Licensing Act [K.S.A. 40-4901 to 4918] effective July 1, 2001. [To obtain a non resident insurance license from the state of Kansas a producer must be in good standing in their state, pay

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Attachment # 3

the application fee, make proper request by application, and the producer's resident state must have homestate reciprocity with Kansas regarding continuing education requirements.]

Here's the problem. Kansas is 1 of 3 states that require (by statute) Errors & Omissions coverage for insurance agents and brokers. Rhode Island & Kentucky are the other two. Requiring Errors & Omissions coverage is a violation of the Gramm-Leach-Bliley Act and cannot be a requirement under the uniformity of licensing of non resident agents. Kansas waived the Errors & Omissions requirement for non resident agents to comply with this Act.

Since Errors & Omissions is required by statute in Kansas [K.S.A. 40-241], Kansas resident agents are still required to carry Errors & Omissions coverage! Do you see the imbalance here? A Kansas resident agent has to carry Errors & Omissions coverage to market insurance in this state but a non resident agent from Burlington, Colorado marketing insurance in Goodland, Kansas isn't required to carry Errors & Omissions coverage!

Additionally, E&O is hard to obtain for agents who don't underwrite much business.

Thank you,

A handwritten signature in cursive script that reads "Ralph Ostmeyer".

Ralph Ostmeyer
Kansas State Representative
118th District



Kansas Insurance Department

Sandy Praeger COMMISSIONER OF INSURANCE

COMMENTS
ON
HB 2547—KANSAS UNINSURABLE HEALTH INSURANCE ACT
HOUSE COMMITTEE ON INSURANCE
February 10, 2004

Madam Chair and Members of the Committee:

Thank you for the opportunity to visit with you on behalf of the Kansas Insurance Department. House Bill 2547 would amend the Kansas Health Insurance Plan statutes allowing certain enrollees in the Kansas High Risk Pool to have 65% of their premiums paid by the federal government.

These enrollees include workers who lose their jobs due to the effects of international trade agreements and individuals who receive pensions from the Pension Benefit Guaranty Corporation. In order to receive a federal premium payment an enrollee must be covered by a qualified health plan registered by the state with the federal government. The amendments to the Kansas High Risk Pool Act would accommodate the registration process to receive federal premium payments.

Put simply, this bill will allow laid off workers who qualify to continue their coverage with the aid of federal dollars. The Kansas Insurance Department believes this is a good bill helping to relieve one of many pressures these individuals are experiencing as a result of losing their job.

I would be happy to stand for any questions the committee may have.

Jarrold Forbes
Legislative Liaison

House Insurance
Date: 2/10/04
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