

MINUTES OF THE HOUSE INSURANCE COMMITTEE

The meeting was called to order by Chairman Clark Shultz at 3:30 P.M. on March 22, 2005 in Room 527-S of the Capitol.

All members were present except:

Representative Steve Brunk- excused

Committee staff present:

Melissa Calderwood, Kansas Legislative Research Department

Terri Weber, Kansas Legislative Research Department

Ken Wilke, Revisor of Statutes Office

Sue Fowler, Committee Secretary

Conferees appearing before the committee:

Sandy Praeger, Topeka, KS

Andrew Beal, Kansas City, MO

Jim Hall, Lenexa, KS

Larry Magill, Topeka, KS

Bill Sneed, Topeka, KS

Sandy Braden, Topeka, KS

Natalie Haag, Topeka, KS

Dave Hanson, Topeka, KS

Others attending:

See attached list.

Hearing on:

SB 268: Interstate Insurance Product Regulation Compact

Melissa Calderwood, Kansas Legislative Research Department, gave a brief overview for **SB 268**.

Proponents:

Sandy Praeger, Insurance Commissioner, Kansas Insurance Department, (Attachment #1), appeared before the committee in support of **SB 268**.

Andrew Beal, National Association of Insurance Commissioners, (Attachment #2), appeared before the committee in support of **SB 268**.

Jim Hall, American Council of Life Insurers, (Attachment #3), appeared before the committee in support of **SB 268**.

Larry Magill, Kansas Association of Insurance Agents, (Attachment #4), gave testimony in support of **SB 268**.

Bill Sneed, American Investors Life, (Attachment #5), gave testimony in support of **SB 268**.

Sandy Braden, Kansas Association Insurance & Financial Advisors, (Attachment #6), gave testimony in support of **SB 268**.

Natalie Haag, Security Benefit Life Insurance Company, (Attachment #7), gave testimony in support of **SB 268**.

Dave Hanson, Kansas Insurance Associations, (Attachment #8), gave testimony in support of **SB 268**.

Hearing was closed on **SB 268**.

Discussion and possible action:

CONTINUATION SHEET

MINUTES OF THE House Insurance Committee at 3:30 P.M. on March 22, 2005 in Room 527-S of the Capitol.

SB 268: Interstate Insurance Product Regulation Compact

Representative Cox made a motion to pass SB 268 favorably. Seconded by Representative B. Sharp. Motion passed.

SB 176: Insurance brokers; change of terminology to insurance producers

Representative Dillmore made a motion to pass SB 176 favorably. Seconded by Representative McLeland.

A discussion took place regarding adopting a balloon amendment (Attachment #9). The balloon amendment contains language from **SB 100, SB 102 and SB 140**.

Representative Carter made a motion to adopt the balloon amendment (Attachment #9).

Representative Carter made a substitute motion to amend SB 176 by adding all of the language from SB 100, SB 102 and SB 140 into SB 176 as shown on the balloon (Attachment #9). Seconded by Representative Schwab. Substitution motion adopted.

Representative Dillmore moved for a motion to pass SB 176 favorably as amended. Seconded by Representative Carter. Motion passed.

SB 175: Insurance companies; requirements on certain types of securities

Representative Dillmore made a motion to pass SB 175 favorably. Seconded by Representative Grant. Motion passed.

Sub. SB 103 Insurance; effect of military deployment on certain policies

Representative Dillmore made a motion to pass Sub. SB 103 favorably. Seconded by Representative Carter.

Representative Kirk made a substitution motion with amendment to include language from HB 2305 into Sub. SB 103. Seconded by Representative Dillmore. Motion withdrawn.

Representative Kirk made a motion to amend Sub. SB 103 to include HB 2305. Seconded by Representative Schwab. Motion passed.

Representative Kirk made a motion to pass Sub. SB 103 favorably as amended. Seconded by Representative Schwab. Motion passed.

SB 178: Home service contract act

Representative Dillmore made a motion to pass SB 178 favorably. Seconded by Representative McCreary.

Representative Schwab made a substitute motion to amend SB 178 with new proposed language as shown on the balloon (Attachment #10). Seconded by Representative Carter.

Representative Dillmore made a motion to table the bill. Seconded by Representative B. Sharp. Motion failed.

A division was requested; motion failed 5 to 7. Back on original motion.

Representative Schwab moved for a motion to pass SB 178 favorably as amended. Seconded by Representative Carter. Motion passed.

SB 207: Insurance department; fraud prevention program

CONTINUATION SHEET

MINUTES OF THE House Insurance Committee at 3:30 P.M. on March 22, 2005 in Room 527-S of the Capitol.

Representative Dillmore made a motion to pass SB 207 favorably . Seconded by Representative Kelsey.

Representative Schwab moved to table SB 207. Seconded by Representative Kirk. Motion passed.

Meeting was adjourned at 5:10 P.M.

**House Insurance Committee
Guest Sign Sheet
Tuesday, March 22, 2005**

Name	Representing
Bill Sneed	American Investors
Natalie Harig	Security Benefit
Jim Hall	American Council of Life Insurers
Alex Kotlyantz	P.I.A.
Lee Wright	Farmers Ins
LARRY MAGILL	KAIM
Kevin Barone	KTCA
Alex Gentry	Intern - Rep. McKinney
Marta Jean Smith	KMHIA
Patricia Lighter	HSBC
Shirley Braden	KAIFA
Norman Howler	KAHP



Kansas Insurance Department

Sandy Praeger COMMISSIONER OF INSURANCE

HOUSE COMMITTEE
ON
INSURANCE

Testimony In Support of
Senate Bill 268
By
Sandy Praeger
Commissioner of Insurance
March 22, 2005

Mr. Chairman and Members of the Committee:

Last session, the Legislature adopted 2004 HCR 5027. That Resolution directed me to continue participation in the effort to create a national system of state-based insurance regulation through an interstate compact. The result of that work has been the formulation by the National Association of Insurance Commissioners of the INTERSTATE INSURANCE PRODUCT REGULATION COMPACT.

This Compact will be an agreement among member states to create a streamlined system of regulation for life, long term care and disability insurance, as well as annuities. This new system would allow insurers to more quickly market certain types of insurance products nationally and reduce the number of variations of the same product.

The Compact will create a multi-state commission to receive, review and quickly make regulatory decisions on insurance product filings according to national uniform standards. The member states will create uniform product standards for products to be filed with the Compact. The entire cost of the Compact will be paid for with filing fees, no state funds will be needed.

The Compact will allow for the national regulation of certain insurance products, and yet control of that regulation will remain with the states. The Kansas Legislature will surrender none of its authority over insurance. It is important to note that at any time the Legislature and/or the Commissioner of Insurance may withdraw Kansas from the Compact or reject any standard adopted by the Compact Commission. The Kansas Department of Insurance will retain the authority it needs to protect consumers. In addition, the companies will retain the freedom to file new products under the Compact or continue to file products in individual states.

House Insurance
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Attachment # 1

There is a strong, organized effort in Congress to place the regulation of insurance under federal control. The costs to consumers would include less consumer protection. The costs to the State could include the loss of \$100 million per year in premium tax revenue. The Compact was designed to prevent these consequences.

To date, the Compact has been adopted by ten states. It is under active consideration by another twenty-two state legislatures. The Compact has been endorsed by the National Conference of State Legislatures (NCSL) and the National Conference of Insurance Legislators (NCOIL). The Compact will be in force when twenty-six states or states representing at least forty percent of the premium volume have joined. Until that time those states that have joined the Compact are meeting and discussing the potential bylaws and operating procedures. There is a distinct advantage to being one of those states and being a part of that discussion.

I urge the Committee to report Senate Bill 268 favorable for passage. This legislation is good for Kansas, its citizens, and Kansas insurance companies. Thank you for your consideration of this bill, and I would be happy to answer any questions.

Kansas Senate Bill 268

Written Testimony of Andrew J. Beal

General Counsel

National Association of Insurance Commissioners

March 22, 2005

Interstate Insurance Product Regulation Compact

Mr. Chair and Members of the Committee:

Introduction

As most of you are probably aware, an interstate compact is a contract between states that allows states to cooperate on multi-state or national issues while retaining state control. Although they historically have been used to address border disputes and water rights, the use of interstate compacts has expanded significantly in recent decades to cover tax issues, drivers' licensing and vehicle registration, environmental issues, emergency management and other issues. According to the Council of State Governments, there are approximately 200 interstate compacts in existence today, and every state belongs to at least 10 compacts.

The compact legislation before you is based on a model that was developed by the National Association of Insurance Commissioners (NAIC), with significant review and input from the National Conference of State Legislatures (NCSL) and the National Conference of Insurance Legislators (NCOIL).

The Compact actually came into existence in 2004 when two states, Colorado and Utah, enacted the compact model act. However, the Compact becomes operational only after 26 states or states representing 40 percent of the premium volume for life insurance, annuities, disability income and long-term care insurance join the Compact. As of March 21, 2005, a total of ten states, representing a combined nine percent of the premium volume, have enacted the Compact: Colorado, Hawaii, Iowa, Maine, Nebraska, New Hampshire, Rhode Island, Utah, Virginia, and West Virginia. In 2005, a total of 23 states are expected to introduce Compact legislation. The Compact is expected to become operational within the next two years.

What is the rationale behind the development of the Interstate Insurance Product Regulation Compact? There are a number of factors that have influenced the creation of this Compact. One of the significant factors is the increasing scrutiny by Congress. The enactment of the Gramm-Leach-Bliley Act in 1999 directly impacted certain areas of state insurance regulation, such as the affiliations between banks, securities and insurance entities, as well as the move toward uniformity/reciprocity in the licensing of insurance agents and brokers. There have also been numerous reports issued by the General Accounting Office, as well as Congressional hearings, covering a broad range of subject matter, focusing on areas where possible enhancements could be made in certain areas of state insurance regulation. Many in the insurance industry have argued the current state-based system of insurance regulation is no longer effective or efficient in an ever-changing financial services marketplace. They are calling for the creation of a federal insurance regulator. Some consumer groups also argue that state insurance regulation must make improvements in order to more effectively meet the needs of consumers.

Since the early 1990s state insurance regulators have recognized the need to identify and make improvements in many areas of state insurance regulation. State insurance regulators are committed to pursuing modernization of state insurance regulation. These modernization efforts include a "speed to market" initiative, which focuses on making more efficient the process by which insurance products are reviewed and approved by state insurance regulators.

For example, state insurance regulators recognize that many products sold by life insurers have evolved to become primarily investment products. These long-term, investment-oriented insurance policies—sometimes referred to as "asset-based" insurance—compete directly with other retirement and estate-planning instruments that are sold by banks and securities firms. Whereas insurers must currently seek approval of their products on a state-by-state basis, banks and securities firms can make use of a more streamlined product approval process. This amounts to a competitive advantage for banks and securities firms, thus creating an "un-level playing field" for insurers in the financial products marketplace. Consumers are also denied timely access to more competitive insurance products in the marketplace.

The Compact will address these issues by creating a means to (a) apply effective product standards for life insurance, annuities, disability income insurance and long-term care insurance products; (b) serve as a central point of filing for products, and (c) provide quality review of filings. This would all be accomplished while maintaining a high level of protection for insurance consumers.

Conclusion

The Interstate Insurance Product Regulation Compact represents a very important initiative that will benefit state insurance regulators, consumers and the insurance industry. It will make state insurance regulation more efficient and effective in an ever-changing marketplace. It will allow consumers to get access to more competitive insurance products more quickly. Finally, insurance companies will be able to make their

product filings at a central point, thus helping to level the playing field in the financial service market place by avoiding unnecessary regulatory duplication and overlap.

Interstate Insurance Product Regulation Compact Frequently Asked Questions

What is the Interstate Insurance Product Regulation Compact?

- The Compact is an agreement among member states to create an interstate commission that will streamline regulation for an identified group of insurance products.

What are the main reasons for developing this Compact?

- Many products sold by life insurers are better suited to uniformity. These products have evolved to become primarily investment products, which compete directly with other retirement and estate-planning instruments that are sold by banks and securities firms.
- Whereas insurers must currently seek approval of their products on a state-by-state basis, banks and securities firms can make use of a more streamlined product approval process, thus creating a competitive advantage for banks and securities firms.
- The Compact will allow insurers competing on a regional or national scale to file their products in one central filing place rather than requiring them to file in numerous individual states.

What type of insurance policies will the Compact cover?

- The Compact will cover four product lines:
 - life insurance,
 - annuities,
 - disability income insurance, and
 - long-term care insurance.

How will product standards be developed?

- State insurance regulators will develop the product standards. A standard must receive approval by two-thirds of the management committee and a two-thirds majority of the states participating in the Compact.

May a state opt-out of a product standard once it joins the Compact?

- Yes. A state can opt-out of uniform product standards in two ways.
 - First, it may enact legislation opting out of any uniform standard at any time.
 - Second, it may also opt-out by regulation, after a showing that the standard does not meet the state's needs.

Who will regulate products approved by the Commission?

- The state insurance department will continue to be responsible for all market regulation activities. This includes products that have been approved by the Commission.

When will the Compact Commission become operational?

- Although the Commission came into existence when the first two states joined the Compact, the Commission will only become operational when 26 states or states representing 40% of the premium volume for life insurance, annuities, disability income and long-term care insurance join the Compact.
- Once it is operational, the Commission will be able to adopt product standards and receive product filings.

How many states have joined the Compact so far?

- A total of 10 states have enacted the Compact legislation so far. In 2004, nine states joined the Interstate Compact. Nebraska became the first state to join in 2005.

How will the Compact be funded?

- User/filing fees paid by insurance companies filing products with the Commission will fund the Compact.

What is the fiscal impact of the Compact on member states?

- Joining the Compact should not have a negative fiscal impact on states, i.e., states will not be asked to fund the Compact.

Will a state be able to withdrawal from the Compact?

- Yes. A member state will be able to withdraw from the Compact at any time by repealing the statute that enacted the Compact into law.

What role will state legislatures play in the operation of the Compact?

- The Compact establishes a legislative committee of state legislators to monitor the operations of the Commission and make recommendations to the Commission.
- State legislatures will be able to opt-out of a uniform standard for any product line at any time through legislation.
- The Commission will be required to make an annual report, which includes the findings of an independent audit, to the legislature and governor of each member state.

What role will consumers play in the operations of the Compact?

- The Compact Commission will establish an advisory committee for consumer representatives.

Will insurance companies be required to file their products with the Commission?

- No. Companies will have the choice of filing products through the Commission or filing products directly with a state insurance department.

MARCH 22, 2005

KANSAS HOUSE

INSURANCE COMMITTEE

SENATE BILL 268

TESTIMONY

By

THE AMERICAN COUNCIL OF LIFE INSURERS

Chairman Shultz and Members of the Committee:

The American Council of Life Insurers (ACLI) represents three hundred and fifty-four (354) member companies operating within the United States. These 354 member companies account for 74 percent of total assets, 69 percent of the life insurance premiums, 79 percent of annuity considerations, 51 percent of disability income insurance premiums and 81 percent of long-term care insurance premiums in the United States.

Thank you for the opportunity to comment in support of SB 268.

ACLI strongly supports enactment of the Interstate Insurance Product Regulation Compact.

The Interstate Insurance Product Regulation Compact will establish a system to address the most troublesome problem facing the state insurance regulatory system today, namely, a non-uniform system for bringing products to market.

Life insurance, annuities, disability income insurance, and long-term care insurance products are generally required to be approved by an individual state before they can be marketed in that state. The states have differing requirements for the structure of these products, so a product must be revised to meet each state's particular standards before the product will be approved. Consequently, it is expensive and time-consuming for ACLI members to get their products to market in the current non-uniform state system when compared with the uniform federal system used by our members' federally regulated competitors in the financial services marketplace. This "speed to market" problem was identified by our member companies' CEOs as the key element of state insurance regulation that is most in need of reform.

The interstate compact legislation in SB 268 that you are considering today will enhance state regulation of insurance by creating a Commission governed collectively by the states. The Commission will serve as a single point of product approval for life, long-term care and disability insurance products. The Commission will also establish uniform, national standards for those products. Such a system will benefit consumers, state government and insurers.

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Consumers will benefit from strong, uniform national product standards, which is especially important given our nation's increasingly mobile population. Regulatory approval of insurance products will be enhanced, as experienced Commission staff will review the product filings, thereby enabling state insurance regulators to devote more time and resources to monitoring problems in the marketplace. The public will have more timely access to innovative insurance products.

Most importantly, the legislature will retain oversight of the state's participation in the Compact through the Compact's mechanisms for opting out of product standards and the ability to repeal the state's membership in the Compact.

It should be noted that repealing participation in the Compact will not have any fiscal impact on the state. Likewise, repealing participation does not prohibit a state from rejoining the Compact at some future time.

Ten states (CO, HI, IA, ME, NE, NH, RI, UT, VA, WV) have already joined the Compact. Fourteen states (AL, CT, FL, ID, IL, IN, KS, MD, NJ, NC, PA, TX, VT, WA) are currently considering joining the Compact this year.

The Compact has received the endorsement of the National Conference of State Legislators (NCSL) and the National Conference of Insurance Legislators (NCOIL).

Meanwhile, the National Association of Insurance Commissioners (NAIC) is drafting national standards for the products that will be governed by the Compact Commission.

The ACLI strongly supports adoption of the Interstate Insurance Product Regulation Compact. We commend the Kansas Insurance Department for seeking enactment of the Compact legislation. We urge that you adopt this important piece of legislation in recognition of the need for a streamlined and efficient regulatory process for insurance product filings. National product standards and a single point of filing for life, annuity, disability income and long-term care insurance products would benefit all interested parties - consumers, insurers, and government alike.

James D. Hall
Senior Counsel and Director
Central States Region
American Council of Life Insurers
Washington, DC



Overview of the Interstate Insurance Product Regulation Compact

What is an Interstate Compact?

- **Creates the framework for cooperative solutions to multistate challenges**
- **Referenced in the U.S. Constitution**
- **Historically used to address such issues as border disputes and water rights between states**
- **Use expanded in recent decades – taxation, adoption laws, drivers' licenses, environmental issues, emergency management**
- **Over 200 already in existence, covering a variety of subjects. Every state belongs to at least 14**

What is the Interstate Insurance Product Regulation Compact?

- **Developed by the National Association of Insurance Commissioners (NAIC) in conjunction with the states, industry and consumers**
- **Provides for the single point of filing for certain insurance products with uniform national standards**
- **Member states develop uniform standards that apply to products filed with the compact commission**
- **Uniform standards take effect in all compacting states 90 days after adoption by the compact commission**
- **Where state does not opt-out, approval of a product by the compact is the same as approval by a member state**
- **Companies can still file products in the individual states through the existing form filing process**

Which Insurance Products are Covered by the Compact?

- **Individual and Group
life insurance
annuities
disability income insurance
long-term care insurance**

How is the Compact Governed?

- **Compact establishes a commission**

- **Every state joining the compact will participate in the governance of the commission**
- **A Management Committee is established to address daily affairs**
- **No uniform standards, rules, or operating procedures will become effective unless adopted by the members of the commission**

How will Uniform Standards be Developed?

- **Process led by state insurance regulators**
- **Conducted through rulemaking process**
- **Requires approval of 2/3 of commission management committee and 2/3 of commission members**
- **States can opt-out**

What if a State Disagrees with Uniform Standard Developed by the Commission?

- **States may opt-out of a uniform standard
by regulation
by enactment of law**
- **For long-term care insurance, states may opt-out at time of joining compact (“front-end” opt-out)**
- **For opt-out by regulation
must show that the uniform standard does not provide reasonable protections to the citizens of the state and that the needs of the state outweigh the Legislature’s intent to participate in and receive the benefits of the compact**

What is the Role of the State in Governing Market Conduct Activity Once the Compact is Enacted?

- **Individual states will continue to regulate market activities**
- **Compact allows for coordination between states and commission to determine violations of uniform standards**

When will the Compact Become Effective?

- **Compact comes into existence when two states enact compact legislation**
- **Commission becomes operational (i.e. adopting uniform standards, receiving products and giving approvals/disapprovals) if 26 states or states representing 40% of the premium for life, annuities, disability income insurance and LTC join the compact**

How will the Compact Be Funded?

- **Operations of the commission will be financed by filing fees paid by insurers**

**Testimony Before the House Insurance Committee
On SB 268
By Larry Magill
Kansas Association of Insurance Agents
March 22, 2005**

Thank you mister chairman and members of the committee for the opportunity to appear today in support of House Bill 2241. My name is Larry Magill and I'm representing the Kansas Association of Insurance Agents. We have approximately 425 member agencies across the state and another 125 branch offices that employ a total of approximately 2,500 people. Our members write approximately 70% of the business property and liability insurance in Kansas. As independent agents, they are free to represent multiple insurance companies.

One of our associations over-arching principals, and one of our Nationals, is that we support state regulation of insurance. This is our number one priority issue in Congress as we fight efforts by the American Council of Life Insurers (ACLI) and others to create a federal charter for an insurer and federal agent licensing. The large property and casualty company associations are supporting ACLI's efforts.

Because of that, we support the Kansas Insurance Department's effort to pass the interstate insurance product regulation compact act for life, annuity, disability and long term care products. These products generally have virtually no differences from state to state in policy language or rates, are more standardized than property and casualty coverage and change less frequently. It makes sense to experiment with streamlining the regulation of these products.

More importantly from our perspective, it should take the wind out of any effort to establish a federal insurance company charter and agent's license.

We understand the legislatures reluctance to relinquish control to an interstate compact but understand that there are safeguards and safety values in this proposal that allow us to feel more comfortable.

We urge the committee to act favorably on SB 268.

House Insurance
Date: 3-22-05
Attachment # 4

Polsinelli | Shalton
Welte | Suelthaus_{PC}

Memorandum

TO: THE HONORABLE CLARK SHULTZ
CHAIRMAN, HOUSE INSURANCE COMMITTEE

FROM: WILLIAM W. SNEED, LEGISLATIVE COUNSEL
AMERICAN INVESTORS LIFE INSURANCE COMPANY

RE: S.B. 268

DATE: MARCH 22, 2005

Mr. Chairman, Members of the Committee: My name is Bill Sneed and I am Legislative Counsel for American Investors Life Insurance Company ("AIL"). AIL is a member of AmerUs Annuity Group, one of the largest sellers of fixed annuities in the United States. AIL is a Kansas domestic insurer located in Topeka, Kansas. On behalf of AIL, I appreciate the opportunity to speak in support of S.B. 268.

S.B. 268 would enact legislation to allow the State of Kansas to join the Interstate Insurance Product Regulation Compact, which is an initiative of the National Association of Insurance Commissioners ("NAIC"). This proposal is the state's response to the ongoing threat of federal intervention and regulation of insurance products, which have traditionally come under the purview of state law.

AIL is a supporter of state regulation. However, in order for this type of regulation to compete in an ever-changing global financial world, initiatives like this must be created in order to allow insurance companies to equally compete in the financial arena. Others will go through the bill and describe its components. My client wishes to make two specific points.

First, the compact is designed to allow its members, i.e., Kansas, a place at the table to help design future rules and regulations on life and annuity products. We believe it to be extremely important that Kansas have a place at the table. Secondly, the compact does provide an "opt out" to any compact regulation. This provides not only your domestic industry, but you as legislators, the ability to continue oversight.

One AmVestors Place
555 Kansas Avenue, Suite 301
Topeka, KS 66603

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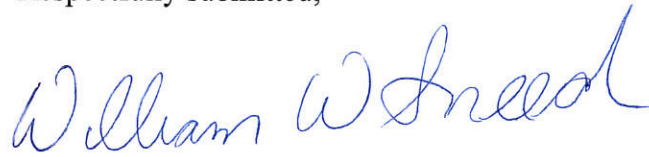
House Insurance

Date: 3-22-05

Attachment # 5

Based upon the foregoing, we respectfully request that this Committee report S.B. 268 favorably for passage. I would be happy to answer any questions the Committee may have.

Respectfully submitted,



William W. Sneed

WWS:kjb

018801 / 032853
WWSNE 1179418

**Testimony of Sandy Braden on behalf of the
Kansas Association Insurance and Financial Advisors (KAIFA)
In Support of SB268
Regarding the Interstate Insurance Product Regulation Compact
Before the House Insurance Committee on Tuesday, March 22, 2005**

Thank you, Mr. Chairman and members of the Committee. I am Sandy Braden of Gaches, Braden, Barbee and Associates, testifying on behalf of the members of Kansas Association of Insurance and Financial Advisors (KAIFA) in support of SB268. Our membership consists of 1000 individual insurance and financial advisors in Kansas who are primarily providers of the annuity, life insurance, disability income and long term care products identified in this bill.

KAIFA supports the Interstate Compact as a positive step to improve insurance regulation. Kansas's participation in the Compact will improve speed to market conditions for insurance products by establishing a single point of filing for uniform product review for life insurance, annuity, disability income and long term care insurance products. It will provide for quick marketing of certain types of insurance products nationally and reduce the number of variations of the same products. KAIFA members will benefit from Kansas's participation, as the new products would be available sooner for our members to provide for to the consumers.

KAIFA supports state regulation of our members and their products. SB268 provides an opportunity to streamline and approve products without transferring this responsibility to a federal regulatory system, which has been discussed on a national level.

The Interstate Compact would only regulate the content of the insurance policies addressed by the act. States would retain their authority to scrutinize market conduct, ensure that claims are settled properly, investigate complaints, and take actions against companies in violation of the terms of an insurance policy and enforcement of consumer protection laws. The Compact also provides for consumer and industry input through advisory committees established to exchange of information and ideas with the Commission.

Currently, nine states have enacted the compact into law: Colorado, Iowa, Utah, West Virginia, Virginia, New Hampshire, Rhode Island, Maine and Hawaii. KAIFA encourages this Committee to support SB268 to join in other states in approving the Interstate Insurance Product Regulation Compact.

Thank you for your consideration, and I will be available to respond to any questions at the appropriate time.

Sandy Braden
Gaches, Braden, Barbee and Associates
825 S. Kansas Suite 500
Topeka, Kansas 66612
1-785-354-7770
sbraden@gbbaks.com

House Insurance
Date: 3-22-05
Attachment # 6

HOUSE COMMITTEE ON INSURANCE
Testimony on SB 268
Natalie G. Haag
Security Benefit Life Insurance Company
Topeka, Kansas

Mr. Chair and members of the committee:

Thank you for the opportunity to testify on SB 268. Security Benefit Life Insurance Company sells its products in all 50 states. Under current law, we must file our products for approval in each of these states separately. This is an extremely time consuming and costly endeavor for our company. The Interstate Insurance Product Regulation Compact, as set forth in SB 268, does not force a company to file through the Compact Commission but it will provide this option for companies. We support uniform laws that reduce the burdens and costs of doing business. The Compact is the part of the effort by the NAIC to bring uniformity to the regulation of insurance.

Thank you.

KANSAS LIFE & HEALTH INSURANCE ASSOCIATION

DAVID A. HANSON, LEGISLATIVE COUNSEL
800 S.W. JACKSON, SUITE 900
TOPEKA, KS 66612-1259

TELEPHONE NO. (785) 232-0545
FAX NO. (785) 232-0005

House Insurance Committee Testimony on Senate Bill 268

March 22, 2005

Mr. Chairman and Members of the Committee:

Thank you for this opportunity to support Senate Bill 268 on behalf of the Kansas Life and Health Insurance Association, whose members are domestic insurance companies in Kansas.

We believe this bill will help "speed to market" issues and maintain our state insurance regulatory system. For companies writing in multiple states, it is expensive and time-consuming to get products to market in the current system where the various states have their own non-uniform requirements. While the proposed compact will help provide a system for approval of life, long-term care and disability insurance products, it also preserves and protects state regulatory ability by allowing states to opt out of product standards and also allowing a state to repeal its membership in the compact.

We support these provisions and recommend them for your favorable consideration.

Respectfully,



DAVID A. HANSON
Legislative Counsel

House Insurance
Date: 3-22-05
Attachment # 8

SENATE BILL No. 176

By Committee on Financial Institutions and Insurance

2-2

9 AN ACT concerning insurance; relating to new terminology for insur-
 10 ance brokers; [amending K.S.A.]40-37a01, 40-37a02, 40-37a03, 40-
 11 37a04, 40-37a05, 40-37a06 and 40-4502 and K.S.A. 2004 Supp. 40-
 12 2,131 [and repealing the existing sections].
 13

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

15 Section 1. K.S.A. 2004 Supp. 40-2,131 is hereby amended to read as
 16 follows: 40-2,131. (a) No person, firm, association or corporation shall act
 17 in the capacity of an MGA with respect to risks located in this state for
 18 an insurer licensed in this state unless such person is a licensed agent or
 19 broker producer in this state.

20 (b) No person, firm, association or corporation shall act in the capac-
 21 ity of an MGA representing an insurer domiciled in this state with respect
 22 to risks located outside this state unless such person is licensed as an
 23 agent or broker a producer in this state pursuant to the provisions of
 24 K.S.A. 40-240 or 40-3701 the uniform insurance agents licensing act,
 25 K.S.A. 2004 Supp. 40-4901 et seq., and amendments thereto.

26 (c) The commissioner may require a bond in an amount acceptable
 27 to the commissioner for the protection of the insurer.

28 (d) *For the purposes of this section, the term "producer" shall have*
 29 *the meaning ascribed to it in K.S.A. 2004 Supp. 40-4902 and amendments*
 30 *thereto.*

31 Sec. 2. K.S.A. 40-37a01 is hereby amended to read as follows: 40-
 32 37a01. This act may be cited as the business transacted with broker pro-
 33 ducer controlled insurer act.

34 Sec. 3. K.S.A. 40-37a02 is hereby amended to read as follows: 40-
 35 37a02. As used in this act:

36 (a) "Accredited state" means a state in which the insurance depart-
 37 ment or regulatory agency has qualified as meeting the minimum financial
 38 regulatory standards promulgated and established from time to time by
 39 the national association of insurance commissioners.

40 (b) "Captive insurer" means an insurance company owned by an-
 41 other organization whose exclusive purpose is to insure risks of the parent
 42 organization and affiliated companies or, in the case of groups and as-
 43 sociations, an insurance organization owned by the insureds whose exclu-

relating to limiting the insurance value of improvements on
 real property to the replacement cost thereof; relating to
 notice when a block of business is closed; relating to
 HIPAA compliance; amending K.S.A. 40-905, 40-2255,

and 40-2258 and repealing the existing sections

House Insurance
 Date: 3-22-05
 Attachment # 9

1 or underwriting office, and acts as an agent for such reinsurer whether
 2 known as a reinsurance manager, manager or other similar term. Not-
 3 withstanding the above, the following persons shall not be considered a
 4 reinsurance manager, with respect to such reinsurer, for the purposes of
 5 this act:

- 6 (1) An employee of the reinsurer;
- 7 (2) a U.S. manager of the United States branch of an alien reinsurer;
- 8 (3) an underwriting manager who, pursuant to contract, manages all
 9 the reinsurance operations of the reinsurer, is under common control with
 10 the reinsurer, subject to the holding company act, and whose compen-
 11 sation is not based on the volume of premiums written;
- 12 (4) the manager of a group, association, pool or organization of in-
 13 surers which engage in joint underwriting or joint reinsurance and who
 14 are subject to examination by the chief insurance regulatory official of the
 15 state in which the manager's principal business office is located.

16 (h) "Reinsurer" means any person, firm, association or corporation
 17 duly licensed in this state pursuant to chapter 40 of the Kansas Statutes
 18 Annotated as an insurer with the authority to assume reinsurance.

19 (i) "To be in violation" means that the reinsurance intermediary, in-
 20 surer or reinsurer for whom the reinsurance intermediary was acting
 21 failed to substantially comply with the provisions of this act.

22 (j) For purposes of this act, a "qualified United States financial insti-
 23 tution" means an institution that:

- 24 (1) Is organized or, in the case of a United States office of a foreign
 25 banking organization licensed, under the laws of the United States or any
 26 state thereof;
- 27 (2) is regulated, supervised and examined by United States federal or
 28 state authorities having regulatory authority over banks and trust com-
 29 panies; and
- 30 (3) has been determined by either the commissioner, or the securities
 31 valuation office of the national association of insurance commissioners, to
 32 meet such standards of financial condition and standing as are considered
 33 necessary and appropriate to regulate the quality of financial institutions
 34 whose letters of credit will be acceptable to the commissioner.

35 (k) "Commissioner" means the commissioner of insurance of this
 36 state.

required to be

For the purposes of this paragraph, "improvements on real property" means a fixture, building or other structure attached to real property and intended as a permanent addition to such real property.

~~[As Amended by Senate Committee of the Whole]~~

~~As Amended by Senate Committee~~

~~Session of 2005~~

~~SENATE BILL No. 140~~

~~By Committee on Financial Institutions and Insurance~~

~~1-31~~

12 AN ACT concerning insurance; relating to limiting the insurance value
 13 of improvements on real property to its replacement cost; amending
 14 K.S.A. 40-905 and repealing the existing section.

16 ~~Be it enacted by the Legislature of the State of Kansas.~~

17 Section 9. K.S.A. 40-905 is hereby amended to read as follows: 40-
 18 905. (a) (1) Whenever any policy of insurance or an increase in the amount
 19 of coverage in an existing policy of insurance shall be written to insure
 20 any improvements upon real property in this state against loss by fire,
 21 tornado, windstorm or lightning, and the property insured shall be wholly
 22 destroyed, without criminal fault on the part of the insured or the in-
 23 sured's assigns, the amount of insurance written in such policy shall be
 24 taken conclusively to be the true value of the property insured, and the
 25 true amount of loss and measure of damages, and the payment of money
 26 as a premium for insurance shall be prima facie evidence that the party
 27 paying for such insurance is the owner of the property insured.

28 (2) ~~Improvements on real property shall not be insured for more than~~
 29 ~~replacement cost of such improvements as determined by a recognized~~
 30 ~~appraisal method or service. Nothing herein shall prohibit an insurer from~~
 31 ~~offering an inflation guard endorsement on a replacement cost policy No~~
 32 ~~lienholder or mortgagee shall require insurance on improvements~~
 33 ~~to real property that includes land value. [Improvements on real~~
 34 ~~property shall not be insured for more than the reasonably esti-~~
 35 ~~mated replacement cost of such improvements. Nothing herein shall~~
 36 ~~prohibit a policy or endorsement to a policy as described in this~~
 37 ~~subsection from containing an inflation guard provision or similar~~
 38 ~~provision. Nothing in this section shall be deemed to create a private~~
 39 ~~cause of action.]~~

40 (b) The provisions of subsection (a) shall not apply to:
 41 (1) New policies of fire insurance or existing policies of fire insurance
 42 where there has been an increase in the amount of coverage of 25% or
 43 more, until such policies have been in effect for at least 60 days. If there

1 is a total loss by fire within the sixty-day period and the insurer pays less
2 than the face value of the policy, the insurer shall refund the difference
3 in premium between the amount of insurance purchased and the pre-
4 mium applicable for the amount of the loss actually paid. This paragraph
5 shall not apply to a loss by fire caused by lightning.

6 (2) Builder's risk policies of insurance covering property in the pro-
7 cess of being constructed. The value of the property insured shall be the
8 actual value of the property at the time of the loss.

9 ~~Sec. 2. K.S.A. 40-905 is hereby repealed.~~

10 ~~Sec. 3. This act shall take effect and be in force from and after its~~
11 ~~publication in the statute book.~~

~~SENATE BILL No. 102~~

~~By Committee on Financial Institutions and Insurance~~

~~1-25~~

9 AN ACT concerning health insurance; relating to notice when a block of
10 business is closed; amending K.S.A. 40-2255 and repealing the existing
11 section.

12
13 ~~Be it enacted by the Legislature of the State of Kansas.~~

14 Section ~~1~~ K.S.A. 40-2255 is hereby amended to read as follows: 40-

15 2255. (a) This act shall apply to individual contracts covering hospital,
16 medical or surgical expenses, providing long-term care coverage, and
17 medicare supplement policies, which are issued, amended, delivered or
18 renewed on or after the effective date of this act but shall not apply to
19 any block of long-term care coverage or medicare supplement business
20 already in force in Kansas on such effective date.

21 (b) As used in this act:

22 (1) "Block of business" means a particular individual policy form or
23 contract providing hospital, medical or surgical expense, long-term care
24 or medicare supplement coverage issued by a carrier to one or more
25 individuals which includes distinct benefits, services and terms.

26 (2) "Closed block of business" means a block of business which a
27 carrier ceases to actively offer or sell to new applicants.

28 (3) "Carrier" means any insurance company, nonprofit medical and
29 hospital service corporation, municipal group-funded pool, fraternal ben-
30 efit society or health maintenance organization, as these terms are defined
31 by the Kansas Statutes Annotated, that offers any individual hospital, sur-
32 gical or medical expense, long-term care or medicare supplement policy
33 and which is authorized to do business in this state. "Carrier" does not
34 include those entities identified above with respect to the sale or issuance
35 of policies or certificates covering only accident, credit, dental, disability
36 income, hospital indemnity, specified disease, vision care, coverage issued
37 as a supplement to liability insurance, insurance arising out of a workers
38 compensation or similar law, automobile medical payment insurance, or
39 insurance under which benefits are payable with or without regard to
40 fault and which is statutorily required to be contained in any liability
41 insurance policy or equivalent self-insurance.

42 (4) "Commissioner" means the commissioner of insurance.

43 (c) No block of business shall be closed by a carrier unless:

10

1 (1) The carrier ~~permits existing contract holders to purchase a con-~~
2 ~~tract provides written notice of the carrier's decision to close a block of~~
3 ~~business to each existing policyholder or contract holder affected and of-~~
4 ~~fers each policyholder or contract holder affected an opportunity to pur-~~
5 ~~chase a policy or contract from any block of business that is not closed~~
6 ~~and which provides comparable benefits, services and terms, with no ad-~~
7 ~~ditional underwriting requirement or waiting period. Each policyholder~~
8 ~~or contract holder affected by the carrier's decision to close a block of~~
9 ~~business shall be permitted to purchase such policy or contract during the~~
10 ~~60-day period commencing on the day following the date of the written~~
11 ~~notice;~~

12 (2) the carrier pools the experience of the closed block of business
13 with all appropriate blocks of business that are not closed for the purpose
14 of determining the premium rate of any contract within the closed block,
15 with no rate penalty or surcharge beyond that which reflects the experi-
16 ence of the combined pool; and

17 (3) if a carrier does not offer or sell any block of business which
18 provides comparable benefits, services and terms comparable to the
19 closed block of business, paragraphs (1) and (2) shall not apply. If a block
20 of business providing benefits, services and terms comparable to the
21 closed block of business becomes available within 24 months of the notice
22 to the commissioner, such block shall be open to any contract holder in
23 accordance with the provisions of paragraphs (1) and (2). The carrier shall
24 provide notice to the commissioner in writing within 30 days of its deci-
25 sion to close a block of business or, in the absence of an actual decision
26 to close a block of business, within 30 days of its determination that a
27 block of business is within one of the presumptions set forth in subsection
28 (d).

29 (d) Unless an insurer presents evidence satisfactory to the commis-
30 sioner that such a presumption is or would be incorrect, a block of busi-
31 ness shall be presumed closed if either of the following circumstances
32 exist:

33 (1) There has been an overall reduction in that block of 12% in the
34 number of in-force contracts for a period of 12 months; or

35 (2) that block has less than 500 in-force contracts in this state.
36 The presumption that applies in the circumstances of subsection (d)(2)
37 shall not apply to a block of business initiated within the previous 24
38 months, but notification of that block of business shall be provided to the
39 commissioner pursuant to subsection (e).

40 The fact that a block of business does not meet one of the presumptions
41 set forth in this subsection shall not preclude a determination that it is
42 closed as defined in paragraph (2) of subsection (b).

43 (e) A carrier shall notify the commissioner in writing within 30 days

1 of its decision to close a block of business or, in the absence of an actual
2 decision to close a block of business, within 30 days of its determination
3 that a block of business is within one of the presumptions set forth in
4 subsection (d). When the carrier decides to close a block of business, the
5 written notice shall fully disclose all information required for compliance
6 with subsection (c). When the carrier determines that a block of business
7 is within a presumption of subsection (c), the written notice shall fully
8 disclose all information required for compliance with a presumption of
9 subsection (c). In the case of either notice, the carrier shall provide ad-
10 ditional information within 15 business days after a request by the com-
11 missioner. This subsection shall not apply to a carrier which does not have
12 available a block of business which provides comparable benefits, services
13 and terms comparable to the closed block of business and which has
14 complied with the notice requirements pursuant to subsection (c)(3).

15 (f) A carrier shall preserve for a period of not less than five years in
16 an identified location which is readily accessible for review by the com-
17 missioner, all books and records relating to any action taken by a carrier
18 pursuant to subsection (c).

19 (g) No carrier shall offer or sell any contract, or provide misleading
20 information about the active or closed status of a block of business, for
21 the purpose of evading this act.

22 ~~Sec. 2. K.S.A. 40-2255 is hereby repealed.~~

23 ~~Sec. 3. This act shall take effect and be in force from and after its~~
24 ~~publication in the statute book.~~ 7

~~SENATE BILL No. 100~~

~~By Committee on Financial Institutions and Insurance~~

~~1-25~~

9 AN ACT concerning insurance; pertaining to HIPAA compliance;
10 amending K.S.A. 2004 Supp. 40-2258 and repealing the existing
11 section.

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

14 Section 1 K.S.A. 2004 Supp. 40-2258 is hereby amended to read as
15 follows: 40-2258. (a) An accident and sickness insurer which offers cov-
16 erage through a group policy providing hospital, medical or surgical ex-
17 pense benefits pursuant to K.S.A. 40-2209 and amendments thereto
18 which includes mental health benefits shall be subject to the following
19 requirements:

20 (1) If the policy does not include an aggregate lifetime limit on sub-
21 stantially all hospital, medical and surgical expense benefits, the policy
22 may not impose any aggregate lifetime limit on mental health benefits;

23 (2) if the policy includes an aggregate lifetime limit on substantially
24 all hospital, medical and surgical expense benefits the plan shall either:
25 (A) Apply the applicable lifetime limit both to the hospital, medical and
26 surgical expense benefits to which it otherwise would apply and to mental
27 health benefits and not distinguished in the application of such limit be-
28 tween such hospital, medical and surgical expense benefits and mental
29 health benefits; or (B) not include any aggregate lifetime limit on mental
30 health benefits that is less than the applicable lifetime limit on hospital,
31 medical and surgical expense benefits;

32 (3) if the policy does not include an annual limit on substantially all
33 hospital, medical and surgical expense benefits, the plan or coverage may
34 not impose any annual limit on mental health benefits; and

35 (4) if the policy includes an annual limit on substantially all hospital,
36 medical and surgical expense benefits the policy shall either: (A) Apply
37 the applicable annual limit both to hospital, medical and surgical expense
38 benefits to which it otherwise would apply and to mental health benefits
39 and not distinguish in the application of such limit between such hospital,
40 medical and surgical expense benefits and mental health benefits; or (B)
41 not include any annual limit on mental health benefits that is less than
42 the applicable annual limit.

43 (b) If the group policy providing hospital, medical or surgical expense

1 benefits is not otherwise covered by subsection (a) and either does not
2 apply a lifetime or annual benefit or applies different lifetime or annual
3 benefits to different categories of hospital, medical and surgical expense
4 benefits, the commissioner may adopt rules and regulations under which
5 subsections (a)(2) and (a)(4) are applied to such policies with respect to
6 mental health benefits by substituting for the applicable lifetime or annual
7 limits an average limit that is computed taking into account the weighted
8 average of the lifetime or annual limits applicable to such categories.

9 (c) Nothing in this section shall be construed as either:

10 (1) Requiring an accident and sickness policy to offer mental health
11 benefits except as otherwise required by K.S.A. 40-2,105 and amend-
12 ments thereto; or

13 (2) affecting any terms and conditions of a policy which does include
14 mental health benefits including provisions regarding cost sharing, limits
15 on the number of visits or days of coverage, requirements relating to
16 medical necessity, requirements relating to the amount, duration or scope
17 of mental health benefits under the plan or coverage, except as specifically
18 provided in subsection (a).

19 (d) This section shall not apply to any group accident and health in-
20 surance policy which is sold to a small employer as defined in K.S.A. 40-
21 2209 and amendments thereto.

22 (e) This section shall not apply with respect to a group policy provid-
23 ing hospital, medical or surgical expense benefits if the application of this
24 section will result in an increase in the cost under the plan of at least 1%.

25 (f) In the case of a group policy providing hospital, medical or surgical
26 expense benefits that offers an eligible employee, member or dependent
27 two or more benefit package options under the policy, subsections (a)
28 and (b) shall be applied separately with respect to each such option.

29 (g) As used in this section:

30 (1) "Aggregate lifetime limit" means, with respect to benefits under
31 a group policy providing hospital, medical or surgical expense benefits, a
32 dollar limitation on the total amount that may be paid with respect to
33 such benefits under the policy with respect to an eligible employee, mem-
34 ber or dependent;

35 (2) "annual limit" means, with respect to benefits under a group pol-
36 icy providing hospital, medical or surgical expense benefits, a dollar lim-
37 itation on the total amount of benefits that may be paid with respect to
38 such benefits in a 12-month period under the policy with respect to an
39 eligible employee, member or dependent;

40 (3) "hospital, medical or surgical expense benefits" means benefits
41 with respect to hospital, medical or surgical services, as defined under
42 the terms of the policy, but does not include mental health benefits;

43 (4) "mental health benefits" means benefits with respect to mental

1 health services, as defined under the terms of the policy, but does not
2 include benefits with respect to treatment of substance abuse or chemical
3 dependency.

4 (h) This section shall be effective for group policies providing hos-
5 pital, medical or surgical expense benefits which are entered into or re-
6 newed after January 1, 1998. This section shall not apply to benefits for
7 services furnished on or after December 31, ~~2004~~ 2005.

8 (i) The commissioner is hereby authorized to adopt such rules and
9 regulations as may be necessary to carry out the provisions of this section.

10 ~~Sec. 2. K.S.A. 2004 Supp. 40-2258 is hereby repealed.~~

11 ~~Sec. 3. This act shall take effect and be in force from and after its~~
12 publication in the statute book.

40-905, 40-2255,

12 37 Sec. 9. K.S.A. 40-37a01, 40-37a02, 40-37a03, 40-37a04, 40-37a05,
38 40-37a06 and 40-4502 and K.S.A. 2004 Supp. 40-2,131, are hereby
39 repealed.

13 40 Sec. 10. This act shall take effect and be in force from and after its
41 publication in the statute book.

and 40-2258

SENATE BILL No. 178

By Committee on Financial Institutions and Insurance

2-2

10 AN ACT concerning home service contracts; enacting the home service
11 contract act; registration with the insurance commissioner.]

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

14 Section 1.] (a) Sections 1 through 12, and amendments thereto, shall
15 be known and may be cited as the home service contract act;

16 (b) The following are exempt from this act:

17 (1) Warranties;

18 (2) maintenance agreements;

19 (3) warranties, service contracts or maintenance agreements offered
20 by public utilities on transmission devices to the extent such utilities are
21 regulated by the Kansas corporation commission;

22 (4) service contracts sold or offered for sale to persons other than
23 consumers; and

24 (5) insurers otherwise licensed and regulated under the insurance
25 code of the state of Kansas, chapter 40, of the Kansas Statutes Annotated,
26 and amendments thereto.

27 Sec. 2. As used in sections 1 through 12, and amendments thereto:

28 (a) "Administrator" means the person who is responsible for the ad-
29 ministration of the home service contracts or the home service contracts
30 plan.

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

32 (c) "Consumer" means a person who buys, other than for purposes
33 of resale, any tangible personal property that is distributed in commerce
34 and that is normally used for personal, family or household purposes and
35 not for business or research purposes.

36 (d) "Maintenance agreement" means a contract of limited duration
37 that provides for scheduled maintenance only and does not include repair
38 or replacement.

39 (e) "Person" means an individual, partnership, corporation, incor-
40 porated or unincorporated association, joint stock company, reciprocal,
41 syndicate or any similar entity or combination of entities acting in concert.

42 (f) "Premium" means the consideration paid to an insurer for a re-
43 imbursement insurance policy.]

10-2

1 [section, violations shall be of a similar nature if the violation consists of
 2 the same or similar course of conduct, action or practice, irrespective of
 3 the number of times the act, conduct or practice which is determined to
 4 be a violation of sections 1 through 12, and amendments thereto,
 5 occurred.

6 Sec. 11. The provisions of sections 1 through 12, and amendments
 7 thereto, shall govern all home service contracts issued after the effective
 8 date of this act. Contracts in effect on the effective date of this act shall
 9 become covered upon any renewal thereof.

10 Sec. 12. If any provision of this act or the application thereof to any
 11 person or circumstances, shall be held invalid, the remainder of the act,
 12 and the application of the provision to persons or circumstances other
 13 than those as to which it is held invalid, shall not be affected. To this end,
 14 the provisions of this act are declared to be severable.]

2 15 Sec. ~~13~~. This act shall take effect and be in force from and after its
 16 publication in the statute book.

STRIKE SECTIONS
 1-12 and INSERT

.. (a) The marketing, sale, offering for sale, issuance, making, proposing to make
 and administration of a service contract shall not be construed to be the business of insurance and
 shall be exempt from regulation as insurance pursuant to chapter 40 of the Kansas Statutes
 Annotated and amendments thereto.

(b) For the purposes of this section, "service contract" means a contract or agreement for a
 separate or additional consideration, for any specified duration, to service, repair, replace or
 maintain all or any part of any structural component, appliance, or utility system of any
 residential property, consumer good or other property; or to indemnify for service, repair,
 replacement or maintenance for consumer good or other property, due to a defect in materials,
 workmanship, normal wear and tear; or as a result of power surges or as a result of accidental
 damage from the handling of property damaged by power surges. with or without additional
 provision for indemnity payments when service repair or replacement is not reasonably,
 commercially or economically feasible. Service contract also includes any nonconsumer
 commercial service contract. Service contract does not include an automobile club service as
 defined in K.S.A. 40-2507 and amendments thereto.

(c) (1) No service contract which is exempt from regulation as insurance pursuant to chapter 40
 of the Kansas Statutes Annotated, and amendments thereto, pursuant to this section shall contain
 any provision for consequential damages unless such consequential damages are caused by the
 failure of service, repair, replacement or maintenance rendered under the service contract.

(2) No service contract which is exempt from regulation as insurance pursuant to chapter 40 of
 the Kansas Statutes Annotated, and amendments thereto, pursuant to this section shall contain
 any provision, except as exempt by this section, which would otherwise be covered by a contract
 of property or liability insurance issued in this state.