

MINUTES OF THE SENATE FINANCIAL INSTITUTIONS AND INSURANCE COMMITTEE

The meeting was called to order by Chairman Ruth Teichman at 9:30 A.M. on February 15, 2005 in Room 234-N of the Capitol.

All members were present.

Committee staff present:

Melissa Calderwood, Kansas Legislative Research Department  
Terri Weber, Kansas Legislative Research Department  
Ken Wilke, Office of Revisor of Statutes  
Sandy Yingling, Committee Secretary

Conferees appearing before the committee:

Chad Austin, Senior Director of Health Policy & Data  
Senator Ruth Teichman  
Senator David Wysong  
Rep. Eric Carter  
Paul Odle, Commissioner Olathe Youth Baseball, Inc.  
Mick Murphy, General Manager Olathe Youth Baseball, Inc.  
Eric Blasdel, General Manager Westurban Baseball  
Jeff Chalk, Executive Director the 3&2 Baseball Club of Johnson County  
F. Russell Peterson, Kansas Trial Lawyers Association  
Bob Tomlinson, Assistant Commissioner of Insurance  
William Sneed, State Farm Insurance Co., Inc.  
Larry McGill  
Kathy Olsen, KBA  
Bill Henry, Kansas Credit Union Association

Others attending:

See attached list.

Madam Chair opened the hearing on **SB 152**.

**SB 152 - District hospitals; procedure for disposal of property.**

Chair Teichman testified in favor of **SB 152** by offering the situation that arose in Stafford that prompted this bill to be written. (Attachment 1)

Chad Austin, Senior Director of Health Policy and Data, testified in favor on SB 152. (Attachment 2). Mr. Austin stated that **SB 152** amends K.S.A. 80-250 and would allow district hospitals to choose an alternative process for the disposal of property. Senator Steineger asked what was going on in Stafford that the hospital and school were sold? Chair Teichman answered, anyone the Senator would like to send out in her economically deprived area would be a blessing.

Senator Barnett asked Ken Wilke if there were any other definitions of "hospital" that would be of concern in this particular instance? Mr. Wilke answered **SB 152** was designed to deal with hospitals districts which have taxing powers to support the hospitals and was not designed to extend to other hospitals outside of that hospital district. Senator Barnett asked Mr. Wilke if he agreed with the language as written and Mr. Wilke stated he did. Madam Chair pointed out that Mr. Wilke wrote the language.

Madam Chair asked for other questions. There were none.

Madam Chair closed the hearing on **SB 152**.

Madam Chair opened the hearing on **SB 177**.

**SB 177 - Workers compensation; exemption for certain sports working for nonprofit organizations.**

## CONTINUATION SHEET

MINUTES OF THE Senate Financial Institutions and Insurance Committee at 9:30 A.M. on February 15, 2005 in Room 234-N of the Capitol.

Senator Wysong offered an overview of the bill. Senator Wysong played baseball in Johnson County as a youth 46 years ago and feels very strongly in favor of **SB 177**. He stated that for the first time in 50 years of operation, the baseball club is being forced, by its insurance carrier, to take premiums on umpires for its workers compensation insurance. Senator Wysong stated the bill amends K.S.A. 44-505 to provide services performed by an individual as a sports official for a private, nonprofit organization, which sponsors amateur sports events. This employment is not subject to the Workman's Compensation Act.

Madam Chair stated that the Committee would hear all the proponents on **SB 177** before questions and that this bill is double introduced in House and the Senate. The House hearing would be this afternoon.

Paul Odle, Commissioner of Olathe Youth Baseball, Inc., testified in favor of **SB 177** stating they were a nonprofit organization with two thousand, six hundred ball players in their league aging from six to 18. (Attachment 3) Mr. Odle stated that approximately 60% to 70% of their umpires range from ages 13 through 18 and the balance would be 18 through 55. Given the number of umpires and the games to be played, it is estimated that should **SB 177** not be passed, it would be adding around \$18,00 for the worker's compensation costs.

Rep. Eric Carter, Kansas State Representative, testified in favor of **SB 177**. (Attachment 4) Rep. Carter pointed out that these are risks in the workers' compensation bases that are being priced at much higher costs than the likelihood of any instance of loss. Johnson County's 3&2 Baseball League is looking at a \$70,000 bill that is pending, plus another \$70,000 for each on-going year including this year. Other leagues across the state are facing a similar proposition.

Mick Murphy, General Manager of Olathe Youth Baseball, Inc., added his comments to Paul Odle's in favor of **SB 177**.

Eric Blasdel, General Manager of Westurban Baseball, testified in favor of **SB 177**. (Attachment 5)

Jeff Chalk, Executive Director of The 3 & 2 Baseball Club of Johnson County, testified in favor of **SB 177**. (Attachment 6)

Madam Chair opened **SB 177** for questions.

Senator Brownlee asked, who is writing the pay check for the officials? Mr. Chalk answered, in the case of 3 & 2 Baseball, the organization writes the pay check and there are no withholdings taken out. Although, the officials are issued 1099's. Senator Brownlee, asked if that was also the case with the other organizations? Mr. Murphy answered yes, that would be the same with Olathe. Senator Brownlee asked, if the kids had entered into a contract, were they not more of an employee than an independent contractor? Rep. Carter answered, they go by what the determination of the IRS is. Senator Brownlee stated that it would be her understanding that the officials are technically employed by the leagues. Mr. Blasdel added that earlier this year he made a call to the Kansas Department of Labor and asked them a similar question and was transferred to the Worker's Compensation Bureau and he talked to two individuals there, Carol Case and Nick Compus. Both Ms. Case and Mr. Compus stated to Mr. Blasdel they would be considered independent contractors.

Senator Brownlee wondered if one step to be taken, would be to change or review the rating from "professional athlete" through the Department of Labor or the Insurance Office. Mr. Tomlinson, Kansas Insurance Department, explained that his office does not do those ratings. The KID has had complaints in regard to the ratings. They are looking into those ratings for definitions frequently used in cases like these that have nothing to do with sports. The KID can make an adjustment and are currently in the process of doing so, not that this has specific relevance to this case. The KID cannot make any guarantees, but they are certainly trying to help.

Madam Chair announced the Committee, they would now hear from the opponents to **SB 177**.

Russell Peterson, for the Kansas Trial Lawyers Association, testified in opposition of **SB 177**. (Attachment 7) Mr. Russell stated he is currently a practicing attorney, a sports official, a 3 & 2 umpire and a 3 & 2 coach.

## CONTINUATION SHEET

MINUTES OF THE Senate Financial Institutions and Insurance Committee at 9:30 A.M. on February 15, 2005 in Room 234-N of the Capitol.

He stated he has had experience in the Blue Valley system as well as Olathe. Mr. Peterson stated that there is an assumption being made. The proposed exclusion may violate the equal protection clause since it applies only to sports officials working for private, nonprofit organizations, and would bar compensation to sports officials doing exactly the same work for a public entity. Also, sports officials who are hired as independent contractors rather than employees, are already excluded from the Workers Compensation Act. Mr. Peterson believes work needs to be done with the Insurance Department to address the ratings issue. Mr. Peterson stated the problem lies with mis-classification.

Madam Chair asked if there were questions of Mr. Peterson. Senator Barone asked, if the \$70,000 covered everybody or is each group paid \$70,000? Mr. Chalk stated that the \$70,000 were the 3 & 2's premiums for the year 2003. Senator Barone asked about Wichita's? Mr. Blasdel stated that in Wichita, they are paying just less than \$11,000. Senator Barone asked what is the difference between private nonprofit organization and public nonprofit organization? Why is "private" in there? Rep. Carter suggested that would be a question for advisor, Ken Wilke. Mr. Wilke stated, private not-for-profits would be things like Optimist and 3 & 2; public-not-for profit would be the schools and similar things. Senator Barone asked if the leagues sponsored by the City would be included in this bill? Mr. Wilke stated the city leagues would not be included in the bill as it is written. Senator Barone asked if the leagues were paying workers' compensation now with accelerated premiums or are they not paying workers' compensation at all? Mr. Chalk answered that 3 & 2 baseball is not currently paying workers' compensation. Mr. Odle stated youth baseball has not been paying. Mr. Blasdel stated that Westurban Baseball has been paying workers' compensation. Bill Curtis, KASB, stated that when public schools have officials at high school football games, the official have some written contract that clarify his or her status and thus are not compensated under the school district's worker's compensation policy. Rep. Carter pointed out that Mr. Peterson's testimony probably defines this problem correctly. In this case these organizations have long viewed and treated their umpires as independent contractors. That is how the IRS has treated them, and that is how the State of Kansas has viewed them. Mr. Blasdel added his similar comments.

Madam Chair thanked all the conferees then closed the hearing on **SB 177**.

Madam Chair opened the hearing on **SB 207**.

### **SB 207 - Insurance department; fraud prevention program.**

Bob Tomlinson, Assistant Commissioner of Kansas Insurance Department, testified in favor of **SB 207**. (Attachment 8) Mr. Tomlinson stated **SB 207** is an anti-fraud bill the Department has sponsored. Further, fraudulent insurance plans are becoming more prevalent in every line of insurance, and cost consumers billions in unpaid claims.

Madam Chair asked for questions. Senator Barone asked if this mandates fraud? Mr. Tomlinson answered yes. Senator Barone asked, as a private citizen, if he were aware of a fraudulent claim, would he be caught in the web of this bill? Mr. Tomlinson stated no, it references insurance companies.

Bill Sneed, Legislative Counsel to State Farm Insurance Co. Inc., testified in support of **SB 207**. (Attachment 9) Mr. Sneed put on record that State Farm Insurance Co. Inc., is in support of a bill of the Insurance Department. Madam Chair asked for questions. There were none.

Written testimony from Howard Goldblatt, Coalition Against Insurance Fraud, in support of **SB 207** was offered to the Committee. (Attachment 10)

Madam Chair closed the hearing on **SB 207**.

Madam Chair handed out a schedule of the bills currently in the committee. (Attachment 11)

Madam Chair requested more time for **SB 103** since an agreement is about to be reached. The request was granted.

## CONTINUATION SHEET

MINUTES OF THE Senate Financial Institutions and Insurance Committee at 9:30 A.M. on February 15, 2005 in Room 234-N of the Capitol.

Madam Chair announced final action on **SB 103** and **SB 140** would be February 22.

Madam Chair reopened the hearing on **SB 140**.

### **SB 140 - Limitation on insurance value on improvements on real property.**

Larry McGill, Kansas Association of Insurance Agents, passed out a bill draft with an amendment. (Attachment 12) Mr. McGill stated they were adding a sentence at the end which says “that nothing in this section will be deemed to create a private cause of action by the insured against the lien holder or mortgagee.” This amendment is an attempt on KAIA’s part to address some of the opponent’s concerns that might shift some liability to the lien holder. Mr. McGill stated that he does not believe that is the case because the liability they are concerned with is potential liability for establishing replacement costs on the home. Mr. McGill stated that is a function of the insurance policy. Also, in the first sentence of the amendment, Mr. McGill stated it should say “no lien holder or mortgage may require . . .” replacing may with “shall.” Madam Chair asked for questions. There were none.

Madam Chair asked Ken Wilke if he had the style changes. Mr. Wilke stated that what he would do, is where we have it provided, he would put a period after improvements and just say “nothing contained herein will prohibit an inflation guard provision.” It would just be a matter of starting a new sentence and would not change the intent. Madam Chair asked Mr. Wilke if the amendment would read “no lien holder or mortgage shall require insurance on improvements to real property for more than the reasonably estimated replacement cost of such improvements. Nothing herein (or nothing contained herein) . . .”

Kathy Olsen, Kansas Banker’s Association, continued to express concern about the proposed amendment on **SB 140** (Attachment 13) One reason being “replacement cost” is a value that is between the insurance company and the insured. Often the lender does not know the value because it is not on the insurance policy. Secondly, KBA does think there is liability placed on the lien holder or mortgagee with this new language. Ms. Olsen stated that the KBA is not opposed to the idea that replacement costs should be the value, but again they are opposed to making the lien holder or mortgagee monitor this value that KBA does not have access to or cannot determine. Senator Brungardt stated that it looks like there is a difference of opinion in market value and replacement value.

Bill Henry, Director of Governmental Affairs for the Kansas Credit Union Association, in opposition of **SB 140** stated this issue was visited by F I & I Committee last year. In the financial institutions when a mortgage is issued, it is keyed into the appraised value. In the insurance industry, on the other hand, the issue is replacement value. Mr. Henry stated, trying to meld these two together to govern what should be the right level of coverage is a vexing issue. Mr. Henry requested, they take more time in deciding this new language. KCA likes the original language better. There were no other questions.

Madam Chair closed the hearing on both **SB 103** and **SB 140** until February 22. Any questions could be taken up with the conferees. If an agreement still has not been reached at that time, Madam Chair may look at the possibility of these two bills being an interim study.

Meeting adjourned 10:30 a.m.

**FINANCIAL INSTITUTIONS & INSURANCE COMMITTEE GUEST LIST**

DATE: Tues, Feb. 15, 2005

NAME	REPRESENTING
Bob Tomlinson	KID
<del>Jamal Jones</del>	KID
Chad Austin	KHA
Alex Kobyanetz	PIA
RUSSELL PETERSON	KTLA
Dag Wareham	Kansas Bankers Assn.
Kathy Olsen	Kansas Bankers Assn.
Bill Sneed	State Farm
Janelle Nuessen	Hein Law Firm
Bill Curtis	Ks Assoc. of School Bds
LARRY MAGILL	KAIA



*"Working Hands - Caring Hearts"*

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November 15, 2004

Senator Ruth Teichman  
434 E. Old Highway 50  
Stafford, KS 67578-7805

Dear Senator Teichman;

There is a problem with one of the statutes covering District Hospitals which I would like to see cleaned up or clarified before another hospital has the types of problems we have been having in trying to sell hospital owned property. The Statute (80-2520) is as follows:

**80-2520. Same; sale of hospital property.** (a) The board of any hospital is hereby authorized to: (1) Sell personal property of the hospital in the value of less than \$10,000, either in the open market or upon bids in the manner provided in subsection (b); and

(2) subject to the provisions of subsection (b), sell and convey any real or personal property of the hospital in the value of \$10,000 or more.

(b) Before selling and conveying any real or personal property designated in provision (2) of subsection (a), the board shall negotiate a sale thereof and no such sale shall be completed and conveyance made until: (1) The board has solicited sealed bids by public notice inserted in one publication in a newspaper of general circulation in the taxing district of the hospital and such sale shall be to the highest responsible bidder after such notice, except such board may reject any or all bids, and, in any such case, new bids may be called for as in the first instance; and (2) the bid has been accepted and a resolution accepting the same has been made a part of the records of the board. Thereupon, the board, by its chairperson and secretary, is hereby authorized to make, execute and deliver a good and sufficient deed or deeds of conveyance to the purchaser or purchasers thereof.

This statute has caused difficulties for Stafford District Hospital on two occasions in the past year as we have attempted to sell properties.

The first difficulty was faced when we were approached by two individual parties asking if we would sell the Grand Street Clinic formerly occupied by Dr. Quijano and Dr. Ward. The statute says that we must first negotiate a sale and then place a notice in the Courier asking

502 SOUTH BUCKEYE STREET, P.O. BOX 190 • STAFFORD, KS 67578-0190  
PHONE: 620-234-5221 • FAX: 620-234-5792

*Attachment 1  
2/15/05  
FII*

for sealed bids. We got an offer from one of the individuals but, even though it was not of sufficient amount to close a sale, we advertised for bids. The only bid received was not enough to allow the board, in good faith, to sell the land and we refused that bid and still have the clinic for hospital use.

It just seems a little silly and unworkable if we have to negotiate a sale with a buyer who is attempting to buy the item in good faith but we have to tell them that, after reaching a satisfactory negotiated price, then we have to advertise for public bids and they will have to submit a bid knowing that others might bid higher. Wouldn't it make more sense to remove the part about negotiating a sale first and just allow us to go direct to taking bids through advertisement in our official paper?

The second situation arose when we attempted to have a public auction to sell 80 acres of land which we received from an estate. We decided, after receiving clearance from our legal counsel, to have a public auction with Carr Auction and Real Estate handling the advertising and the auction. We felt that this type of sale would allow for public negotiating through public bidding for the property and would possibly allow us to make more money on the sale rather than taking bids. The auctioneer and attorney confirmed that this has been done in the past for schools, hospitals and other public entities.

The auction was set for Tuesday morning, July 5, after a three day Fourth of July weekend. Late Friday morning on July 1, we received word from the Realty division of Carr Auction that the Title Insurance Company would not write the insurance as we had not followed the dictates of Statute 80-2520. Imagine my increased stress level when I thought we were going to have to cancel the sale that had been advertised for weeks and the resulting public relations fiasco that would cause.

I asked the Carr representative to contact our legal counsel who proceeded to work on this situation all Friday afternoon until early evening prior to getting a satisfactory conclusion worked out. This time plus time spent later during the next week caused an increase in legal fees which we had not anticipated.

The legal counsel had secured a second Title Insurance Company from Eastern Kansas who agreed to write the insurance provided the board would hold a special meeting and agree to their stipulations which were then announced prior to the start of the Auction on July 5.

That announcement given by legal counsel at the auction is summarized as follows: There has been an unforeseen glitch in the sale caused by an interpretation of state statute. The sale will go forth as advertised with the successful high bidder being the buyer of the land. That successful high bidder will; however, be required to file a written, sealed bid in the amount he/she bid at auction to the hospital following the instructions in the "Request for Bid" legal notice which will appear in the Stafford Courier issue of July 6, 2004. At the time selected for opening of bids, (requiring another special meeting), that successful bidder's bid will be chosen as the winning bid. This is irregardless of any other bids which might come in and be higher. Any resulting legal action would be the responsibility of the Title Insurance Company who asked that this scenario be followed in order for them to agree to write the insurance.

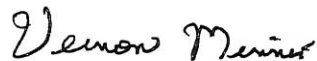
November 15, 2004

It would seem that a solution to this type of fiasco happening again to us or any other district hospital could be solved (1) with the removal of the wording requiring a negotiated sale prior to advertising for bids and (2) modification of wording to allow the hospital to choose the method of sale which could include the advertising for bid or utilization of a public auction. Both cases would be covered by public notice either for solicitation of bids or in advertising the public auction.

I visited with Representative Minor at your debate in St. John and he thought that this problem had been handled and that the statute had been changed; however, it appears that a change has not yet been forthcoming.

I would be happy to visit with you concerning this problem and would appreciate any action which you might be able to take to correct the confusing wording.

Sincerely,



Vernon Minnis  
Administrator





MEMORANDUM

Thomas L. Bell  
President

To: Senate Financial Institutions and Insurance Committee

From: Kansas Hospital Association  
Chad Austin, Senior Director of Health Policy and Data

Re: Senate Bill 152

Date: February 15, 2005

The Kansas Hospital Association appreciates the opportunity to provide comments in support of Senate Bill 152. This bill would amend K.S.A. 80-250 and would allow district hospitals to choose an alternative process for the disposal of property. A similar bill, House Bill 2600, was passed in the 2004 Legislature and presently enables county officials to choose the method of sale for county-owned property. Senate Bill 152 would provide comparable options for district hospitals.

The current statute requires that a district hospital must negotiate the sale of property prior to providing a public notification. The order of these steps has created confusion and chaos for district hospitals when selling property valued more than \$10,000. Therefore, by passing Senate Bill 152 the Legislature would be creating consistency among county and district hospitals when selling property.

Thank you for your consideration of our comments.

*Attachment 2*  
*2/15/05*  
*FF*

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**Kansas Hospital Association**

215 SE 8<sup>th</sup> Ave. • P.O. Box 2308 • Topeka, KS • 66601 • 785/233-7436 • Fax: 785/233-6955 • www.kha-net.org

Testimony to Senate Committee on Financial Institutions & Insurance  
Paul Odle, Commissioner  
Mick Murphy, General Manager  
Olathe Youth Baseball, Inc.

February 15, 2005

Chairperson Ruth Teichman and other Honorable Senators:

I am appearing today on behalf of Olathe Youth Baseball, Inc., in support of Senate Bill 177 which, if made law, will benefit Olathe Youth Baseball, Inc., and other non-profit, amateur, youth, sports organizations.

Our organization is a not-for-profit corporation that provides the youth of our area with an organized, structured baseball program through the spring, summer and fall seasons. There is expected to be about 2,600 youth of ages 6-18 on about 175 teams for the coming season. Umpires are employed as independent contractors and are paid for their service on a game by game basis, with no other benefits except that they receive the same secondary accident and liability protection as is afforded all players and adult volunteers. The umpires range in age from 13 to adulthood and accept umpire assignments as fits their need and schedule. Many are school age and wanting summer evening and week-end employment not otherwise available. Adults are working for some extra income and for maintaining an interest in a sport they once enjoyed playing.

Given the number of umpires and the games to be played, it is estimated that should the Bill 177 not be passed, we will be looking at adding around \$18,000 for the worker's compensation of umpires. Whatever the cost turns out to be, it will necessarily be passed on to our players and their parents, but not before next year as enrollment for the current season is already under way. We take great pride at trying to provide the most affordable program and thereby being as accessible to as many of our youth as is prudently possible.

Olathe Youth Baseball, Inc., and it predecessor organizations, spanning a period of over 50 years has never had a known case of an umpire submitting a worker's compensation claim. Not knowing for how long this current legislation has been in effect and why it is being brought forward by the insurance carrier at this time is a mystery to us. It may be the fact that Continental Western, administered by Berkley Risk Administrators is the only carrier approved by the State to provide this coverage and therefore there is no other competition for this business.

We urge your support of Bill 177, which will then greatly benefit and support our program.

Your questions are welcome.

*Paul M. Odle*  
*Mick Murphy*

*Attachment 3*  
*2/15/05*  
*FII*

STATE OF KANSAS

ERIC C. CARTER  
REPRESENTATIVE, FORTY-EIGHTH DISTRICT  
14340 MACKEY  
OVERLAND PARK, KANSAS 66223  
913.568.4754  
email: representative@ericcarter.com  
web: www.ericcarter.com  
STATE CAPITOL BUILDING—110-S  
TOPEKA, KANSAS 66612-1504  
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carter@house.state.ks.us



TOPEKA

HOUSE OF  
REPRESENTATIVES

COMMITTEE ASSIGNMENTS  
VICE-CHAIR: INSURANCE  
MEMBER: REVENUE, JUDICIAL,  
TRANSPORTATION, AND  
RETIREMENT BUDGET  
UTILITIES  
LEGISLATIVE HOTLINE: 1.800.432.3924  
TTY: 785.296.8430

Proponent: SB 177/HB 2039

Services performed by a individual as a sports official for a private, nonprofit organization that sponsors an amateur sports event, should not be treated as an employment setting, subject to the Workers Compensation Act. A "sports official" includes umpires, referees, judges, score keepers or other neutral participants in amateur sports events.

The not- for- profit corporation's sole mission is to provide the youth of their community with a quality environment for the enjoyment of sports. Thousands of youth between the ages of four and eighteen enjoyed organized sports each summer and fall. Many of the umpires, referees, judges and score keepers are older youth working a summer job. The not- for- profit organizations are being forced by insurance carriers to pay exorbitant premiums for workers compensation to cover officials. For example, the Three and Two Baseball Club of Johnson County's potential cost for coverage is approximately \$70,000.00, per year. Other youth sports in the State of Kansas are facing similar exorbitant demands from their insurance providers.

The States of Missouri, Virginia, Alaska, Montana, California and Oregon have already enacted laws exempting sports officials from the coverage of their workers compensation acts. This bill has been written to apply only to nonprofit organizations sponsoring amateur sports events. This change in law will help ensure that youth in the state of Kansas can continue to have organized sports opportunities at an affordable cost.

A large, stylized handwritten signature in blue ink, consisting of several loops and a long horizontal stroke.

Attachment 4  
2/15/04  
FII

Testimony to Senate Bill 177  
Senate Committee on Financial Institutions & Insurance  
Eric D. Blasdel, General Manager for the  
Westurban Baseball Complex and Youth League

February 15, 2005

Chairperson Teichman and other Honorable Senators:

I am here today representing the Westurban Baseball Complex and Youth League and to support Senate Bill 177 and to testify why its passage would be a benefit to us.

Westurban Baseball is a non-profit organization whose sole purpose is to promote and provide the youth of south central Kansas with baseball. Approximately 2100 kids between the ages of 4-18 enjoyed organized baseball at Westurban Baseball last summer and fall. The complex is also home to Friends University and several Wichita area High School teams. Westurban will host some 1700 events this year, ranging from league games to youth tournaments to national tournaments.

Westurban Baseball hires umpires to officiate games played at the Westurban Baseball each year. The pool of umpires we use will also officiate games for other local youth leagues, area high schools, the Kansas Christian Athletic Conference, the Missouri Valley Conference, the Big XII and the National Baseball Congress World Series. Unfortunately, Westurban Baseball is forced by its insurance carrier to pay premiums for workers compensation for umpires even though they are universally regarded as independent contractors by such institutions as the Internal Revenue Service and the State of Kansas. The Umpires view themselves as independent contractors and each season sign an agreement confirming this fact.

There are 3 reasons why we support this Bill:

**Cost-** Westurban would save approximately \$11,000 of our \$14,000 worker compensations expense. We spend 80% for umpires who work for 3-4 months and 20% is for our employees and volunteers. Our cost works out to be \$129.41 per umpire. There are organizations that provide coverage to umpires that includes medical, liability and game loss income coverage for less than \$40 per umpire. One of our former board members owns an automotive repair shop with 6 full service bays and his workers comp insurance is one third of what ours is. The reason Work Comp coverage is so expensive is that umpires for youth leagues are "rated" the same as professional athletes such as the Chiefs and Royals and that insurances cost are based on actual histories of injured employees. I do not think one could confuse the risk that a professional athlete takes during games with the risk that a youth umpire takes when he officiates his games. I know that in over 15 yrs that I have been involved with Westurban we have had only one injury claim.

**Fairness-** We are aware that not all leagues provide workman's' comp insurance for their umpires. I do not intend to name those leagues, I will just state that they are not just youth leagues. This creates an advantage for those who do not pay. They can charge less to play, they can put more money into their facilities and they can pay their umpires more, all are statements that we have heard used against us. Now other youth sports organizations in the State of Kansas are facing similar exorbitant demands from their insurance providers, however there are still several organizations that do not pay. It

*Attachment 5*  
*2/15/05*  
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appears to us that it is left up to the Insurance Carrier who is required to pay and not the State of Kansas.

**Exposure-** I know this sounds ridiculous but by providing coverage we are increasing are exposure and liability, however we are. As stated earlier umpires view themselves as independent contractors, they work when and where they want to. So in they course of a week the might work a little league game, a high school game and finish by working a college 3-game stand. Our increased exposure and liability occurs due to the fact we have insurance coverage while others do not. An umpire will get hurt working for another organization and then work a game for us and claim to have been hurt during our game because he knows we have coverage. This happened twice during the 2004 season.

Several states have enacted laws exempting sports officials from the coverage of their workers compensation acts. Senate Bill 177 has been written in a very narrow fashion to apply only to nonprofit organizations sponsoring amateur sports events and the officials working those events. I would appreciate you providing your support to Senate Bill 177. Passage of this Bill in the current legislative session is imperative to Westurban Baseball and many other youth sports organizations.

I would like to thank the Chairman and the committee for this opportunity to testify and I will be happy to answer any questions the committee might have.



Eric D Blasdel  
General Manager  
Westurban Baseball

Testimony to Senate Committee on Financial Institutions & Insurance  
Jeff Chalk, Executive Director  
The 3&2 Baseball Club of Johnson County

February 15, 2005

Chairperson Ruth Teichman and other Honorable Senators:

I am appearing today on behalf of The 3&2 Baseball Club of Johnson County in support of Senate Bill 177 which, if made law, will benefit The 3&2 Baseball Club of Johnson County and many other non-profit, amateur, youth, sports organizations.

The purpose of this bill is to provide an exemption from the coverage of the workers compensation act for those who serve as an umpire, referee, judge, scorekeeper or timekeeper in sporting events sponsored by non-profit, youth, sports organizations.

3&2 Baseball is a not-for-profit corporation that's sole mission is to provide the youth of the community with a quality environment for the enjoyment of the baseball experience. Approximately 8500 kids between the ages of 4-18 enjoyed organized baseball at 3&2 last summer and fall. 3&2 employs umpires as independent contractors to officiate the many games played each year. The umpires control their own schedule and many officiate games for other organizations during the same season. The umpires are compensated for each game they umpire, receive no other benefits of any kind and pay for their own equipment. Many of the umpires are kids working summer jobs.

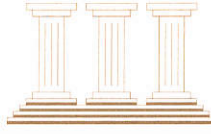
Unfortunately, for the first time in its fifty-plus years of operation, 3&2 is being forced by its insurance carrier (Continental Western, administered by Berkley Risk Administrators) to pay premiums for workers compensation insurance for umpires. The amount demanded for the 2003 season is \$67,266 based on overall umpires' wages of \$324,816 or \$18.87 per \$100 of wages. By way of comparison, the rate for grounds crew personnel is \$6.32 per \$100 of wages. The Baseball Club's insurance provider is demanding payment of this premium despite the fact that an umpire-related workers compensation claim has never been submitted against 3&2 and 3&2's liability for such a claim, if made, would be questionable at best. Should 3&2 have to pay that premium, it would be forced to raise fees to the point that many children would be sent to the sidelines because of the high player fees. Many other youth sports organizations in the State of Kansas are facing similar exorbitant demands from their insurance providers.

Currently, the States of Missouri, Virginia, Alaska, Montana, California and Oregon have enacted laws exempting sports officials from the coverage of their workers compensation acts. The bill before you is written in a more narrow fashion than the laws of the referenced states such that it only applies to sports events sponsored by nonprofit organizations. The bill creates a legitimate and narrow exemption and will help ensure that the youth of the State of Kansas can continue to enjoy organized sports at a reasonable cost.

I would be glad to answer any questions.



Attachment 6  
2/15/05  
FII



KANSAS TRIAL LAWYERS ASSOCIATION

*Lawyers Representing Consumers*

To: Chairman Teichman and Members of the Senate Financial Institutions & Insurance Committee

From: F. Russell Peterson for the Kansas Trial Lawyers Association

Date: February 15, 2005

Re: **SB 177**

Madame Chairman and members of the Committee, my name is Russ Peterson and I am appearing today to testify on SB 177. I'm a practicing attorney and member of the Kansas Trial Lawyers Association. The Kansas Trial Lawyers Association is a statewide, nonprofit organization of lawyers who represent consumers and advocate for the safety of families and the preservation of the civil justice system. We are pleased with the opportunity to provide you with written and oral testimony on SB 177.

SB 177 amends K.S.A. 44-505 to exempt from coverage under the workers compensation act "sports officials" working for a "private nonprofit organization which sponsors an amateur sports event" unless the sports official is "otherwise employed by the private nonprofit organization". "Sports official" is defined as an individual "who performs services as an umpire, referee, judge, scorekeeper or timekeeper," or is a "neutral participant" in the amateur sports event.

KTLA has several concerns with SB 177. The proposed exclusion may violate the equal protection clause, since it applies only to sports officials working for private, nonprofit organizations, and would not bar compensation to sports officials doing exactly the same work for a public entity (such as a school district or city recreation department) or a for-profit organization. There is no rational basis for making a distinction between workers so similarly situated.

Second, sports officials who are hired as independent contractors, rather than employees, are already excluded from the Workers Compensation Act. However, simply calling a worker an independent contractor will not exclude him or her from coverage under the Act if the worker meets the legal criteria defining an employee for workers compensation purposes. An addition concern is that a worker who is under 18 cannot legally enter into a binding contract, and thus cannot be considered an independent contractor. To the extent that the intent of the bill is limit workers compensation coverage of minor "sports officials", we wonder at the policy impact of not protecting children whose parents may

*Terry Humphrey, Executive Director*

*Attachment 7  
2/15/05*

not have health insurance to cover their child's injuries while serving as a "sports official".

Third, injuries to sports officials are rare, and few workers compensation claims by sports officials involve more than minor medical treatment. The wages paid to sports officials by nonprofit organizations are low, so any disability compensation will likewise be low. If high premiums demanded by an insurer for the nonprofit organization prompted this bill, the premiums cannot be justified by the claims history or the risk to be insured. We question whether the "sports officials" intended to be covered by the act are being rated appropriately by the insurer. If not, addressing the rating problems first would be more appropriate than creating a new exemption in the workers compensation act.

Thank you for the opportunity to provide you with comments on SB 177. We respectfully request your opposition.





# Kansas Insurance Department

**Sandy Praeger** COMMISSIONER OF INSURANCE

COMMENTS ON  
SB 207—RELATING THE PREVENTION OF FRAUDULENT PRACTICES  
SENATE COMMITTEE ON FINANCIAL INSTITUTIONS AND INSURANCE  
February 15, 2005

Madam Chair and Members of the Committee:

Thank you for the opportunity to visit with you on behalf of the Kansas Insurance Department. Senate Bill 207 would strengthen the current Kansas Anti-Fraud statutes.

Fraudulent insurance plans are becoming more prevalent in every line of insurance, and cost consumers billions in unpaid claims. According to the National Insurance Crime Bureau, it is estimated that insurance fraud costs Americans about \$30 billion each year. To put that into perspective, a 2003 Newsweek study indicates the insurance industry nation wide suffers three times the economic loss of September 11, 2001 every year due to insurance fraud. For average Kansans, that means paying for insurance premiums which have increased between \$200 and \$300.

Senate Bill 207 would mandate the reporting of suspected insurance fraud to the insurance department by any individual having knowledge of such actions, as well as require each insurer to have an anti-fraud plan. In addition, it strengthens penalties for committing insurance fraud.

The Kansas Insurance Department is asking for this legislation to help us deal with the ever growing problem of insurance fraud. We believe this bill addresses a growing problem that costs and good for the industry we regulate.

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

Bob Tomlinson  
Assistant Commissioner of Insurance

*Attachment 8  
2/15/05  
FI+I*

**Memorandum**

**TO:** THE HONORABLE RUTH TEICHMAN, CHAIRMAN  
SENATE FINANCIAL INSTITUTIONS & INSURANCE COMMITTEE

**FROM:** WILLIAM W. SNEED, LEGISLATIVE COUNSEL  
THE STATE FARM INSURANCE COMPANIES, INC

**RE:** SENATE BILL 207

**DATE:** FEBRUARY 15, 2005

Madame Chairman, Members of the committee: My name is William Sneed and I am legislative counsel for the State Farm Insurance Companies. State Farm is the largest insurer of homes and automobiles in Kansas. State Farm insured one out of every three cars and one out of every four homes in the United States. We appreciate the opportunity to present our thoughts regarding Senate Bill 207. Please be advised that State Farm supports Senate Bill 207.

After reviewing the bill, we believe that there are several points that should be mentioned as to why this bill strengthens the Department's work against fraud.

First, it requires insurers, agents and their employees to report fraud. This is a major change if passed, as my client would have an affirmative duty to report.

Secondly, the bill requires insurers to have fraud investigators or submit an anti-fraud plan to the Commissioner. My client has a dedicated fraud unit and fraud investigators.

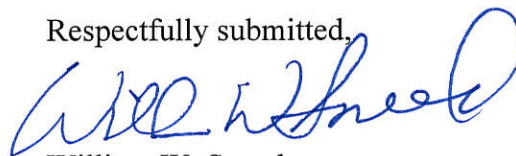
Third, the prior law gives a general definition of fraud. This bill is more specific. We believe this strengthens the overall law.

Finally, the bill changes the monetary threshold in relation to various felony classes, which although up to the Legislature from a public policy standpoint, appear to be appropriate.

Thus, after careful review of the bill, we respectfully commend the Department for its efforts and request the committee to act favorably on Senate Bill 207.

I am available for questions at your convenience.

Respectfully submitted,



William W. Sneed

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Attachment 9  
2/15/05  
FII



# Coalition Against Insurance Fraud

February 14, 2005

1012 14th Street, N.W., Suite 200  
Washington, D.C. 20005  
202.393.7330  
202.393.7329 fax  
[www.insurancefraud.org](http://www.insurancefraud.org)

The Hon. Ruth Teichman  
Chair – Committee on Financial Institutions  
And Insurance  
Kansas State Senate  
Topeka, KS 66612

**BOARD OF DIRECTORS**

- Allstate Insurance Company
- American Council on Consumer Affairs
- American Insurance Association
- Atlantic Mutual Companies
- Center for Consumer Affairs – University of Wisconsin-Milwaukee
- CNA
- Consumer Action
- Consumer Federation of America
- Consumer Fraud Watch
- Fireman's Fund Insurance
- General Reinsurance Corporation
- International Association of Insurance Fraud Agencies
- The Hartford
- Liberty Mutual
- Mutual
- National Association of Consumer Agency Administrators
- National Association of Insurance Commissioners
- National Conference of Insurance Legislators
- National Criminal Justice Association
- National District Attorneys Association
- National Insurance Crime Bureau
- National Urban League
- Nationwide Insurance
- Office of Attorney General, Minnesota
- OneBeacon Insurance
- Progressive Insurance
- Prudential
- SAFECO
- St. Paul Fire & Marine
- State Farm Insurance Companies
- Travelers Property/Casualty
- UnumProvident Corporation
- USAA

Deneta Jay  
Executive Director

*A national coalition of consumers, government agencies and insurers dedicated to combating all forms of insurance fraud through public information and advocacy.*

Dear Senator Teichman:

On behalf of the Coalition Against Insurance Fraud, I am writing in support of Senate Bill 207, a bill that strengthens the state's anti-fraud effort.

The coalition is a national broad-based organization of consumer groups, government agencies and insurance companies dedicated to combating all forms of insurance fraud. We are recognized as one of the leading experts on insurance fraud in the nation. We have advised legislators and regulators in states throughout the nation on the best strategies to strengthen the anti-fraud effort.

Insurance fraud is the second largest economic crime in our nation. Insurance fraud raises costs to consumers and businesses in the states and we support legislation that would help ease the burden to consumers and businesses.

Senate Bill 207 broadly defines insurance fraud to target those unscrupulous individuals and entities that are trying to scam Kansas's consumers and businesses. The bill is based on a model bill that the National Association of Insurance Commissioners drafted with the assistance of the coalition. It targets those who are committing insurance fraud in the state and proactively will help deter fraud.

45 states and the District of Columbia already have insurance fraud laws – the language of Senate Bill 207 would place Kansas's definition in the mainstream of what other states have as their definition.

Strong insurance fraud laws clearly help consumers and businesses in the states. Stronger laws and stronger enforcement have shown to help reduce insurance costs in several states. We would expect increased efforts to have similar effects on the cost of insurance that consumers pay in any jurisdiction where anti-fraud efforts are in place.

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FII*

Page 2

Senate Bill 207 is a bill that will help in the fight against insurance fraud in Kansas. It is good for consumers; it is good for business and it is good public policy.

The coalition supports its passage and respectfully recommends that this committee pass Senate Bill 207.

I apologize for not being able to appear in person. However, if you have any questions, please do not hesitate to get in touch.

Sincerely,



Howard Goldblatt  
Director of Government Affairs

SENATE FINANCIAL INSTITUTIONS AND INSURANCE  
COMMITTEE ACTION INDEX

Bill Number	Subject	Date of Hearing/ Discussion	Date of Final Action by Full Committee	Senate Vote	House Vote
1602	SCR – Urging appointment of task force to study the licensing & appointment process for insurance agents KID	2/3/05 <i>FA-2/3/05</i>	2/10/05	40-0	
57	Consumer Protection Act – relating to occasional sales of certain repossessed collateral KBA	2/1/05 <i>FA-2/8/05</i>	2/10/05	40-0	
100	Pertaining to HIPPA Compliance KID	2/3/05 <i>Consent Cal</i>	2/10/05	40-0	
101	Relating to employment of an officer or director who has been removed for cause OSBC	2/8/05 <i>FA 2/9/05</i>	2/15/05		
102	Health Insurance; relating to notice when a block of business is closed KID	2/9/05 <i>FA -2/10/05</i>			
103	Relating to certain insurance policies issued to Kansas residents deployed in military service KID	2/10/05 <i>FA-2/15 or 2/22</i>			
104	Relating to examination of certain affiliated business entities OSBC	2/8/05 <i>FA – 2/9/05</i>	2/15/05		
114	Relating to issuance of civil penalties OSBC	2/9/05			
140	Relating to limiting the insurance value of improvements on real property to its replacement cost Magill	2/10/05 <i>FA-2/15 or 2/22</i>			
152	Relating to the sale of hospital property Teichman	2/15/05 <i>FA –2/16/05</i>			
160	Reimbursement of Certain Services – Licensed Clinical Social Workers Huelskamp				
165	Health Insurance; relating to abuse in health care-dealing with co-pays & deductibles Hein	Interim			
166	Health Insurance; relating to assignment of insurance payments Dental Assoc.	Interim			

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*2/15/05*  
*F I I*

167	Relating to insurance payments for covered dental services Dental Assoc.	Interim			
175	Securities held by insurance companies/ technical changes KID	2/17/05 FA-2/21/05			
176	Relating to new terminology – changing broker to producer KID	2/16/05 FA-2/21/05			
177	Worker Comp – Sports Bill Wysong	2/15/05 FA-2/16/05			
178	Enacting the home service contract act Burke	2/16/05 FA-2/21/05			
196	Kansas Mortgage Business; administration of the act by the state banking commissioner OSBC	2/17/05 FA-2/22/05			
197	Relating to insurance scores; repealing KSA 2004 and related supplements Journey	2/21/05 or 2/22/05			
198	Act concerning the Kansas insurance score act; relating to penalties for violations thereof Journey	2/21/05 or 2/22/05			
207	Relating to fraudulent insurance acts and prevention thereof KID	2/15/05 FA-2/21/05			
223	An act concerning payday loans; relating to fees collected from deployed military personnel Burke	2/16/05 FA-2/22/05			

SENATE BILL No. 140

By Committee on Financial Institutions and Insurance

1-31

9 AN ACT concerning insurance; relating to limiting the insurance value of  
10 improvements on real property to its replacement cost; amending K.S.A.  
11 40-905 and repealing the existing section.  
12

13 *Be it enacted by the legislature of the state of Kansas:*

14 Section 1. K.S.A. 40-905 is hereby amended to read as follow: 40-905.

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

25 (2) ~~Improvements on real property shall not be insured for more than~~  
26 ~~replacement cost of such improvements as determined by a recognized~~  
27 ~~appraisal method or service. Nothing herein shall prohibit an insurer from~~  
28 ~~offering an inflation guard endorsement on a replacement cost policy.~~

29 (b) The provisions of subsection (a) shall not apply to:

30 (1) New policies of fire insurance or existing policies of fire insurance  
31 where there has been an increase in the amount of coverage of 25% or more,  
32 until such policies have been in effect for at least 60 days. If there is a total  
33 loss by fire within the sixty-day period and the insurer pays less than the  
34 face value of the policy, the insurer shall refund the difference in premium  
35 between the amount of insurance purchased and the premium applicable for  
36 the amount of the loss actually paid. This paragraph shall not apply to a loss  
37 by fire caused by lightning.

38 (2) Builder's risk policies of insurance covering property in the process  
39 of being constructed. The value of the property insured shall be the actual  
40 value of the property at the time of the loss.

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

42 Sec. 3. This act shall take effect and be in force from and after its  
43 publication in the statue book.

(2) No lienholder or mortgagee may require insurance on improvements to real property for more than the reasonably estimated replacement cost of the such improvements; provided, however, that nothing herein shall prohibit an inflation guard provision or similar provision in a policy or endorsement to a policy, as described in paragraph (a) of this section. Nothing in this section shall be deemed to create a private cause of action by the insured against the lienholder or mortgagee.

Attachment 12  
2/15/05  
ETT

**Insurance To Value**  
**SB 140**  
**February 15, 2005**

**Background:**

The bill simply prohibits requiring an insurance limit of more than the replacement cost of a structure. The bill needs to be amended to clarify that lenders should not ask for more than the replacement cost and that they will be held harmless in regard to the amount of insurance provided.

The latter hold harmless provision is intended to satisfy the lenders' concerns that the bill would somehow shift liability for determining the proper amount of insurance from the insured to the lender. We do not see this liability for estimating the replacement cost of the home falling back on the lenders under our balloon language offered with my testimony. They are not the party insuring the home on a replacement cost basis and would have no liability, as far as we can see, for erring on the replacement cost estimate. We feel that court cases have been clear that the property owner is responsible for determining the proper amount of insurance on their property. Of course, the insurance company and agent help estimate the replacement cost.

**We Urge You to Support KAIA's Amendment to SB 140 With This Change and Report the Bill Out Favorably For These Reasons:**

- The insurance coverage is based on replacement cost, the cost to build a new building just like the one destroyed. Banks and other mortgage companies lend money based on market values determined by appraisals. They are apples and oranges.
- The market or appraised value includes the value of the land. Insurance does not insure land since it cannot be destroyed.
- Lenders are concerned with market (appraised) value since that is a measure of what the property could be sold for if they have to foreclose on the loan.
- SB 140 saves consumers needless expense buying insurance they do not need. As long as there is enough replacement cost insurance to rebuild the structure after a loss, the lender's collateral is protected.
- SB 140 avoids the potential for fraud and arson. The "valued policy law" provides that the insured will be paid the limit of coverage on the building if it is totally destroyed. If the lender has forced the property to be over-insured, there would be an economic incentive to burn it.





The KANSAS BANKERS ASSOCIATION  
A Full Service Banking Association

February 11, 2005

To: Senate Committee on Financial Institutions and Insurance

From: Kansas Bankers Association

**Re: SB 140: Restrictions on Amount of Insurance**

Madam Chair and Members of the Committee:

Thank you for an opportunity to present a statement in opposition of the amendment that was proposed in the committee hearing February 10, 2005, on **SB 140**. As originally written, the Kansas Bankers Association would not object to the bill, however for similar reasons that the amendment was introduced, the KBA strongly objects to the proposed amendment.

As originally drafted, the bill put restrictions on the amount of insurance to improvements on real property that could be placed by an insurance company. Objections by the insurance industry as presented in testimony given at the hearing indicate that the original language placed additional liability on the insurance companies and potentially, on agents as well.

The amendment is designed to place this potential liability on another industry – the banking industry. In placing the restriction on lienholders and mortgagees, the potential liability has just been shifted from the insurance company or agent to the lender involved in the transaction. The proponent of this amendment claims that it will not cause additional liability to the lender, but who would be liable in the case that insurance for more than “the reasonably estimated replacement cost of such improvements” was placed on the property if the amendment was adopted? We believe that the intent of the amendment is to shift this burden to the banking industry and we object to that for a couple of reasons.

First of all, holding the banking industry to a standard that the insurance industry determines seems highly unusual. In other words, the amendment would restrict a lender from requiring more than “replacement cost” of the improvements. “Replacement cost” is an amount that is determined by the insurance company and transmitted to the insured by the insurance agent. It would seem logical that any restriction on the amount of insurance placed should be placed with the industry that determines the maximum limit under that restriction.

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2/15/05 FII*

Secondly, if in fact, there are problems with some lenders demanding more insurance than the insurance company or agent is willing to place on the property, then we believe that the bill as originally drafted would be a big enough stick to keep that from happening in the future. In other words, all an agent would have to say to the lender was that state law prevents him or her from placing more than what the insurance company determines is the replacement value of the property.

In a very informal survey of some of our members, we learned that in many cases, the "replacement cost" that the insurance company comes up with is higher than the actual amount of the loan or appraised value of the improvements. In fact, Chuck Stones, President of the KBA offered the example that when he built his first home, the appraised value of the land plus improvements was \$120,000 (backing out the value of the land, the home was appraised at \$105,000). As the homeowner, he filled out the paperwork necessary to obtain homeowner's insurance, gave it to his agent and the insurance company came back with a replacement cost of \$170,000 for his home. We question whether many insurance companies or agents are regularly being put in an awkward position over replacement cost figures.

In conclusion, we would just express our opposition to the amendment before you on **SB 140** and ask that you not adopt it as a part of the bill.