

MINUTES OF THE HOUSE INSURANCE COMMITTEE

The meeting was called to order by Chairman Clark Shultz at 3:32 P.M. on February 14, 2006 in Room 527-S of the Capitol.

All members were present except:

Representative Nancy Kirk- 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:

Representative Virgil Peck, District 11, Tyro KS

Larry McGill, Kansas Association of Insurance Agents, Topeka, KS

Jarrold Forbes, Kansas Department of Insurance, Topeka, KS

Others attending:

See attached list.

Hearing on:

HB 2771: **Insurance agents; disciplinary license actions by another state for failure to pay income tax in such state**

Proponents:

Representative Virgil Peck, District 11, (Attachment #1), presented testimony in support of **HB 2771**.

Larry McGill, Kansas Association of Insurance Agents, (Attachment #2), gave testimony in support of **HB 2771**.

Neutral:

Jarrold Forbes, Kansas Department of Insurance, (Attachment #3), presented testimony concerning **HB 2771**.

Hearing closed on **HB 2771**.

Discussion and action on:

HB 2693: **Group health insurance - Replacement coverage allowed in HMO policies**

Representative Dillmore moved to favorably pass **HB 2693**. Seconded by Representative B. Sharp.

Discussion followed. Representative Schwab made a substitute motion to pass the bill out favorably and place it on the consent calendar. Seconded by Representative Faber. The substitute motion failed.

The action to move **HB 2693** favorably out of committee passed.

Representative Grant recommended without objection the committee members approve the committee minutes of February 12, 2006.

Meeting adjourned at 4:25 PM.

Next meeting will be Thursday, February 16, 2006, at 3:30 PM, in Room 527-S.

STATE OF KANSAS

VIRGIL PECK, JR.

REPRESENTATIVE, DISTRICT 11
BOX 251
TYRO, KANSAS 67364



TOPEKA

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**Testimony Regarding HB 2771
February 14, 2006**

Mr. Chairman, Mr. Vice-Chairman, Mr. Ranking Minority Member and Citizens of the House Insurance Committee. Kansas is giving up revenue to our neighbor to the east and I don't like it.

In November 2005 I had a meeting with the Sr. Vice-President/Marketing Director from one of the insurance companies I am licensed to write business for. During our conversation he asked if I was aware of what Missouri is doing to non-resident insurance agents. I replied I did not. He proceeded to tell me that he had received a letter from the Missouri Department of Insurance informing him that since he had not filed a Missouri income tax return and had not paid Missouri income taxes, they were going to suspend his insurance license. They also said he had fifteen (15) days to comply. (see attached)

This was news to me and I thought "surely they wouldn't do that". But, as you can see it was and is true.

Due to his position with the insurance company he is familiar with the licensing requirements and regulations of many states.

Nate informed me that he had no knowledge of any other state doing as Missouri was. And even though the law took affect in 2003 the Missouri Insurance Department was just now informing many agents of this issue (I understand some agents still have not been notified).

After my conversation with Nate I contacted several insurance agents I know in Kansas and Oklahoma to see how they were handling the new law. I received a mixed bag of responses from those who knew about it, and of course, none of them liked it.

I asked this committee to sponsor **HB 2771** because Kansas insurance agents are giving income tax dollars to Missouri that belong to Kansas. This bill is a reciprocal bill not only to Missouri, but to any state that requires our insurance agents to pay income taxes to them. Simply put, if states take money away from us we're going to take money back from them.

I'll answer questions when the Honorable Chairman says it's time.

House Insurance
Date: 2-14-06
Attachment # 1

State of Missouri

Department of Insurance
P.O. Box 690
Jefferson City, Missouri 65102-0690



Matt Blunt, Governor

W. Dale Finke, Director

October 12, 2005

NATHAN [REDACTED]
[REDACTED] S WHISPER BROOK BAY
DRAPER, [REDACTED]

Dear Nathan [REDACTED]

This office has been notified by the Missouri Department of Revenue that you have either failed to file a state income tax return or pay income taxes owed to the state. You should have already received notification from the Missouri Department of Revenue regarding this delinquency. Please be advised that Section 324.010 of the Revised Statutes of Missouri provides that your insurance license shall be suspended by operation of law within 90 days after receiving notification from the Missouri Department of Revenue of your failure to file a state income tax return or to remit payment of any taxes owed.

You must contact the Department of Revenue in order to meet your obligation or make arrangements to file a tax return or pay any delinquent tax amount. Once you have made arrangements, the Department of Revenue will issue you a "tax compliance" letter. If you have not made arrangements to remedy your tax situation and not received a "tax compliance" letter within fifteen (15) days of the date of this letter, your insurance license will be suspended by operation of law.

Should you have any questions regarding this notice, please contact the Missouri Department of Revenue at (573) 751-7200. The Missouri Department of Insurance cannot provide any assistance regarding tax compliance issues and will refer all inquiries to the Department of Revenue.

Sincerely,

A handwritten signature in cursive script that reads 'Mike Duffeck'.

Mike Duffeck
Licensing Manager



**Testimony on House Bill 2771
Before the House Insurance Committee
By Larry Magill
February 14, 2006**

Thank you mister chairman and members of the committee for the opportunity to appear today in support of HB 2771, a measure introduced at the request of Representative Peck. My name is Larry Magill and I represent 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 roughly 70% of the business property and liability insurance in Kansas and 35% of the personal insurance. Independent agents are free to represent a number of different insurance companies.

In December of 2003 the Missouri Department of Revenue put out a press release on House Bill 600 passed by their legislature that year. The bill gave the Department of Revenue the authority to obtain non-resident license information from the Missouri Department of Insurance to cross reference to the tax returns filed. If the Department of Revenue did not have a tax return on file from a non-resident, they wrote them a letter and asked for their last three years Missouri tax returns.

You can imagine the surprise among our members when they received these threatening letters for taxes they never thought they owed. The generally held view was that if you lived in Missouri or had an office in Missouri, you owed income tax in Missouri for the income you derived from Missouri sales but otherwise you did not. Missouri has a \$600 de minimus threshold before a tax return is required to be filed and agreed that if all the business were done over the phone and the individual did not physically go to Missouri to call on customers, that no tax was owed. Further, the Missouri law, or at least its new application, only applied to individuals and not to the agencies.

All of this really made no sense to our members. Furthermore, none of my members reported being harassed in similar fashion by other states where they hold non-resident licenses. Missouri was really engaging in a "zero sum game". In theory and if successful, they would force non-residents to pay them income taxes. Those individuals would then deduct the taxes paid to Missouri from their Kansas income tax liability. If Kansas does the same thing to Missouri residents, then the two actions should approximately cancel each other out. But in the process, thousands of agents are forced to file many thousands of additional tax returns, especially if this idea spreads to other states, and hire tax experts to help in the process. State agencies on both sides of the border incur substantial cost to try to force compliance with a law the general population feels is unjust. Carried to the extreme, some agents could be forced to file income tax returns in 50 states.

Possibly the worst impact of the action by Missouri could be the effect of having penalties applied on an agency's other non-resident licenses. Under licensing laws in most jurisdictions, we understand that the agent must report any tax penalty immediately to the other licensing authorities. So an unfair action in Missouri could have a snowball effect for an agency with all

their other non-resident licenses. Each license application can be a little different and would require careful review and possible lengthy explanations of any penalties assessed and taxes owed.

We understand that the Kansas Insurance Department has issued a \$90,000 fiscal note on the bill and question whether it would involve that much staff time for the Department to review what other states are doing and certify to the Director of the Department of Revenue those states that are requiring proof of filing of income tax returns by Kansas agents holding non-resident licenses in the other state.

Tax law is a complex area and we freely admit we lack expertise in the nuances. However, it seems clear to us that Missouri's approach, if left unchecked, will lead to a tremendous additional work load for agents and no net new revenues for states in the end. We urge you to act favorably on HB 2771. We would be happy to answer questions or provide additional information. Thank you for your time on this issue.





K a n s a s I n s u r a n c e D e p a r t m e n t

Sandy Praeger COMMISSIONER OF INSURANCE

COMMENTS
ON
HB 2771—CONCERNING THE LICENSING OF INSURANCE AGENTS
HOUSE COMMITTEE ON INSURANCE
February 14, 2006

Mr. Chairman and members of the committee:

Thank you for the opportunity to visit with you on behalf of the Kansas Insurance Department. We understand the rationale behind HB 2771, and we do support the overall principle of protecting our Kansas agents. However, we are obligated to point out the fiscal impact this legislation would have on our department.

In preparing our response to the fiscal note request by the budget office we spoke with the Missouri Department of Insurance with regard to their law and the administrative enforcement of that law. Our fiscal note reflects our conversation with Missouri.

As for the central issue of Missouri collecting income tax from Kansas agents, I can assure you that our office is engaged in ongoing dialog with the Missouri department. However, I will admit I am not sure how far we will get, being that our desired result would require Missouri to repeal the legislation they passed last year.

Mr. Chairman, the Kansas Insurance Department fully supports protecting Kansas agents and should this committee believe that HB 2771 is the best approach to the agent income tax situation, we will fully enforce the law. The purpose of my testimony is to make sure the legislature is aware of the fiscal impact this legislation would have on the Kansas Insurance Department.

Thank for the opportunity to speak today I would be happy to stand for any questions the committee may have.

Jarrod Forbes
Government Affairs Officer

House Insurance
Date: 2-14-06
Attachment # 3