

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 March 7, 2006 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
Bev Beam, Committee Secretary

Conferees appearing before the committee:

Sonya Allen, State Bank Commissioner's Office
Jarrod Forbes, Kansas Insurance Dept.
Dave Hanson, Kansas Insurance Associations

Others attending:

See attached list.

The Chair asked Melissa Calderwood for an overview of **(HB 2874) - an act relating to transmission of money; providing for the regulation thereof.** Ms. Calderwood said **(HB 2874)** would enact new law by creating a Kansas Money Transmitter Act and amend the banking code to provide licensure requirements and regulate for the transmission of money. Among the things the bill would accomplish is, it would require the bank commissioner to issue a license only if the commissioner is of the opinion that the person would be able to and will perform the obligations to purchasers of money transmission services and purchasers, payees and holders of money orders sold by it and its agents, and that the financial responsibility, character, reputation, experience and general fitness of the person, its senior officers, directors and principal stockholders are such to warrant the belief that the business will be operated efficiently, fairly and in the public interest. The commissioner would also have the authority after notice and an opportunity for a hearing to revoke a license.

The revocation standards are in new section 2, Page 1 beginning in subsection b. Those include that a person may be financially unable to perform his obligations or that the person has willfully failed without reasonable cause to pay or provide for payment of any of its obligations related to the person's money transmission business. Another failure could result because the person or a senior officer, director or a stockholder who owns more than 10% of the money transmission business' outstanding stock has been convicted of a crime involving fraud, dishonesty or deceit. Another reason for revocation of license is a refusal by the person to permit an investigation by the commissioner and finally a failure to comply with any order of the commissioner.

Next addressed is permissible investments beginning on page 3, line 19 and it is also found in the definition section of the bill. The licensee will be required at all times to possess permissible investments having an aggregate market value of not less than the aggregate amount of all outstanding payment instruments issued or sold by the licensee in the United States. The permissible investments would be deemed to be by operation of law to be held in a trust for the benefit of purchasers and holders of the licensees outstanding payment instruments in the event the bankruptcy of the licensee even if the investments are commingled with other assets of the licensee. The Bill also would require that the information and reports obtained by the commissioner in the course of licensing be kept confidential, but there are exceptions. The commissioner would have the authority to share the supervisory information including examinations with other state and local agencies that have regulatory authority. The commissioner would also have authority to conduct joint examination and provide for release of information to law enforcement agencies or prosecutorial agencies or offices who are required to maintain the confidentiality of information. However, nothing in the bill prohibits the commissioner from releasing to the public a list of persons licensed or their agents or from releasing aggregated financial data on these persons.

The Chair called on Sonya Allen, General Counsel, Office of the State Banking Commissioner for her testimony. Ms. Allen said **(HB 2874)** amends the group of statutes governing the licensing and regulation of money transmitters in Kansas. Money transmitters include non-bank companies that perform funds

CONTINUATION SHEET

MINUTES OF THE Senate Financial Institutions and Insurance Committee at 9:30 A.M. on March 7, 2006 in Room 234-N of the Capitol.

transfers for consumers wanting to wire money from one location to another, and companies that engage in the sale of money orders, traveler's checks and stored value cards. They operate through agent locations. Those agents typically are businesses that offer money transmission services as an ancillary service. Grocery stores, convenience stores, and even banks are often agents for money transmitter companies. **(HB 2874)** is designed to modernize the statutes that are currently on the books in order to ensure that new technological methods of transmission are clearly covered by the licensing requirements of the law. The OSBC currently licenses 34 money transmitters operating through approximately 3,345 agents located in Kansas. The OSBC is part of the Money Transmitter Regulator's Association. Some of the changes in this bill address our supervision and examination authority and our ability to coordinate and share information with other states, many of whom are MTRA members. In drafting these changes, we consulted with other MTRA member states that have recently changed or updated their laws, and also reviewed two model acts, one authored by the MTRA and the other, the Uniform Money Services Act drafted in 2000 by the National Conference of Commissioners on Uniform State Laws, she said. (Attachment 1)

The chair closed the hearing on **(HB 2874)**.

The chair opened the hearing on **(HB 2692) - An act concerning insurance; pertaining to risk-based capital requirements.** This is the second of the two date-change bills before this committee. This particular bill relates to the calculation and filing of certain reports and would update from December 31, 2004 to December 31, 2005.

The Chair called on Jarrod Forbes, Kansas Insurance Department for his testimony. Mr. Forbes said this bill is a proposal to amend K.S.A. 40-2c01(j), which is the definition of "RBC instructions" for insurance companies. Risk-based capital (RBC) is a method that has been used by the Kansas Insurance Department since the mid 1990's to evaluate the financial solvency of insurance companies doing business in this state. The RBC statutes also prescribe various forms of regulatory action that may be taken in the event that a company's calculated RBC meets certain thresholds.

Companies must file financial reports with the Department using RBC instructions and formulas developed by the National Association of Insurance Commissioners. These instructions, including the formulas, are amended each year to address various matters, such as changes to line references in the annual statement blanks and to reflect any necessary modifications or adjustments to the formulas. The current law requires companies to use the December 31, 2004 version of the "RBC instructions". This bill would reflect a change in the date of the standards so that companies would use the "RBC instructions", including the formulas, in effect as of December 31, 2005. (Attachment 2)

The Chair asked David Hanson, Legislative Counsel, Kansas Insurance Associations, for his testimony. Mr. Hanson said the risk-based capital provisions referenced in the Bill were developed by the NAIC for adoption and use by the states as a standardized method of monitoring the financial condition of insurers and assessing the need for corrective action. The reference date in the statutory definition of "RBC instructions" was originally required with the initial passage of this law in 1994 to make sure that the adopted instructions and formula were limited to those that we had an opportunity to review, rather than potential future revisions, which could adversely affect our companies' risk-based capital evaluation and the resulting action or control levels. While we believe our companies remain in good standing, under the previously adopted NAIC instructions and formula, we also believe any significant changes in those instructions and formula by the NAIC should be carefully considered before adoption in Kansas. We do not believe there will be any substantial adverse effect from the latest revisions referred to in the Bill.

Mr. Hanson also asked the committee to consider amendments to the Kansas Insurance Guaranty Association Act in order to correct a wording error in the amendments to the guaranty association act adopted last year in **(HB 2326)**. He said the error was in the definition of an "insolvent insurer" requiring an order of liquidation by a court in the "insured's home state" rather than the "insurer's domiciliary state." Mr. Hanson said requiring such an order of liquidation was important to help clarify when coverage under the act was triggered and whether a claim would be considered a "covered claim" under the act. Rather than requiring multiple orders from various states where different insureds may reside, the intent was to refer to a single readily identifiable jurisdiction, the insured's state of domicile. (Attachment 3)

CONTINUATION SHEET

MINUTES OF THE Senate Financial Institutions and Insurance Committee at 9:30 A.M. on March 7, 2006 in Room 234-N of the Capitol.

The Chair called on John Federico, Humana, Inc., for his testimony. Mr. Federico said he would like to offer a simple amendment to **(HB 2692)**. Mr. Federico said currently Kansas statutes provide that group life insurance may be offered to groups of three employees or more. He said his amendment merely seeks to modify the Group Life Insurance eligibility requirement to a group size of two. He said the specific change would read "The policy shall cover at least two employees at the date of issue." He said the change in the Kansas statute will allow small group insurers to offer group life coverage to any group so they can offer health insurance coverage. (Attachment 4)

The Chair closed the hearing on **(HB 2692)**.

The Chair called for final action on **(SB 322) - relating to the Kansas Automobile Injury Reparations Act; concerning certain penalties; providing for triple damages.**

The Chair asked Ken Wilke to go over with the committee the amendments to **(SB 322) relating to the Kansas Automobile Injury Reparations Act; concerning certain penalties; providing for triple damages.** (Attachment 5)

Senator Wysong said on Page 4, Section 2, it says the fine is "not less than \$800" for a second conviction of a violation of any provision of this section within five years of any prior conviction. I would like to see that raised to \$1,000 because if the judge gives them a \$1,000 fine under (g)(1) for a first conviction, why would we give less than that on the second fine. It seems to me it should be at least \$1,000.

Senator Brungardt said once again we are dealing with people who have no money.

Senator Schmidt said she agrees with Senator Wysong.

The Chair asked for the wishes of the committee. Senator Wysong moved to raise the fine from \$800 to \$1,000. Senator Schmidt seconded; however, the vote tied, so motion died for lack of needed votes.

Senator Schmidt moved to move out substitute (SB 322). Motion was seconded by Senator Steineger. The bill was passed out favorably.

The meeting adjourned at 10:30 a.m. The next meeting of this Committee is scheduled for March 8, 2006.

FINANCIAL INSTITUTIONS & INSURANCE COMMITTEE GUEST LIST

DATE: March 7, 2006

NAME	REPRESENTING
Natalie Haseg	Security Benefit
Alex Kobayantz	PIA
Samuel [unclear]	KID
Clancy Norris	Off. State Bank Comm.
Dana Hampton	" "
Bill Sneed	Amerus
David Hanson	KS Ins Assn
Kathy Olsen	KS Bankers Assn.



KANSAS

KATHLEEN SEBELIUS, GOVERNOR

OFFICE OF THE STATE BANK COMMISSIONER
CLARENCE W. NORRIS, *Bank Commissioner*

SENATE COMMITTEE ON FINANCIAL INSTITUTIONS & INSURANCE

March 7, 2006

Madame Chairperson and Members of the Committee:

My name is Sonya Allen, and I am the General Counsel for the Office of the State Bank Commissioner. I am testifying today in support of HB 2874.

HB 2874 amends the group of statutes governing the licensing and regulation of money transmitters in Kansas. Money transmitters include non-bank companies that perform funds transfers for consumers wanting to wire money from one location to another, and companies that engage in the sale of money orders, traveler's checks and stored value cards. They operate through agent locations. Those agents typically are businesses that offer money transmission services as an ancillary service. Grocery stores, convenience stores, and even banks are often agents for money transmitter companies. HB 2874 is designed to modernize the statutes that are currently on the books in order to ensure that new technological methods of transmission are clearly covered by the licensing requirements of the law. The OSBC currently licenses 34 money transmitters operating through approximately 3,345 agents located in Kansas. The OSBC is part of the Money Transmitter Regulator's Association ("MTRA"). Some of the changes in this bill address our supervision and examination authority and our ability to coordinate and share information with other states, many of whom are MTRA members. In drafting these changes, we consulted with other MTRA member states that have recently changed or updated their laws, and also reviewed two model acts, one authored by the MTRA and the other, the Uniform Money Services Act drafted in 2000 by the National Conference of Commissioners on Uniform State Laws. A section-by-section synopsis of HB 2874 follows:

New Section 1. Names this group of statutes the "Kansas Money Transmitter Act".

New Section 2. Establishes licensing criteria. The bill requires the commissioner to determine that the character and fitness of the applicant warrants a belief that the applicant will conduct the business competently, honestly and fairly. It also provides the commissioner, after notice and opportunity for a hearing, the ability to revoke a license.

New Section 3. Introduces the concept of "permissible investments". The bill requires that a money transmitter possess certain types of assets (defined in Section 5 of the bill) in an amount equal to the amount of outstanding payment instruments, and specifies that those assets are deemed to be held in trust for the benefit of the consumer holders of those payment instruments. This is a concept that has been adopted by several other states, particularly those who have recently updated or enacted money transmitter laws.

*Senate FI&I Committee
Attachment 1-1
March 7, 2006*

New Section 4. Sets out the parameters for the Commissioner to share information with other state and federal agencies having the supervisory or regulatory authority over money transmitters. Many money transmitters operate on a nationwide or regional basis, and the ability for states to share examination information and to conduct joint examinations with other states and with the Federal government will reduce the burden on the licensees. Currently, the OSBC is involved in the development and implementation of a core examination report that all states could use to conduct joint examinations. Besides state licensing requirements, all money transmitters are subject to inspection and regulation by the Internal Revenue Service for compliance with provisions in the Bank Secrecy Act which are designed to detect and deter money laundering. With respect to the IRS, a nationwide Memorandum of Understanding has been drafted concerning sharing of information and examination functions between the states and the IRS.

Section 5. Includes the list of defined terms to be used in the act. Key changes include broadening the definition of "money transmission" and adding a broad definition of "payment instrument" to encompass new electronic technologies for moving money from one place to another, such as Internet funds transmission and stored value cards.

Section 6. Includes the "nuts and bolts" requirements for licensing. An application must be submitted to the commissioner for review. Agents must be identified. The transmitter must provide cash or securities, or post a bond in the amount of \$200,000. This section also authorizes the commissioner to examine licensees for compliance with state and federal law.

Section 7. Provide authority for licensees to operate through the use of agents, and requires a list of those agents to be provided to the OSBC annually. At this time, we issue licenses on an annual basis, so the list would be provided at the time of license renewal.

Section 8. Provides exemptions from licensing for federally insured financial institutions and the government.

Section 9. Makes violations of the act a felony. Engaging in a money transmitter business without a license is also a felony crime at the federal level.

Section 10. Sets out the intent of the act. Subsection (b) was added to state the purpose and scope of the law: to protect Kansas consumers who use money transmitter services regardless of whether or not the transmitter has a physical presence in the state.

I would respectfully request your favorable consideration of HB 2874, and would be happy to answer any questions about the bill.

1-2



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 2692—RISK BASED CAPITAL REQUIREMENTS
SENATE FINANCIAL INSTITUTIONS AND INSURANCE
March 7, 2006

Madam Chair and Members of the committee:

Thank you for the opportunity to visit with you on behalf of the Kansas Insurance Department. This bill is a proposal to amend K.S.A. 40-2c01(j), which is the definition of "RBC instructions" for insurance companies.

Risk-based capital (RBC) is a method that has been used by the Kansas Insurance Department since the mid 1990's to evaluate the financial solvency of insurance companies doing business in this state. The RBC statutes also prescribe various forms of regulatory action that may be taken, or shall be taken, in the event that a company's calculated RBC meets certain thresholds.

Companies must file financial reports with the Department using RBC instructions and formulas developed by the National Association of Insurance Commissioners (NAIC). These instructions, including the formulas, are amended each year to address various matters, such as changes to line references in the annual statement blanks and to reflect any necessary modifications or adjustments to the formulas.

The current law requires companies to use the December 31, 2004 version of the "RBC instructions". This bill would reflect a change in the date of the standard so that companies would use the "RBC instructions", including the formulas, in effect as of December 31, 2005.

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

*Senate FI & I Committee
Attachment 2
March 7, 2006*

KANSAS INSURANCE ASSOCIATIONS

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Kansas Association of Property & Casualty Ins. Cos.

Member Companies:

Armed Forces Insurance
Exchange
Ft. Leavenworth

Bremen Farmers Mutual
Insurance Co.
Bremen

Columbia Insurance Group
Salina

Farm Bureau Mutual
Insurance Company
Manhattan

Farmers Alliance Mutual
Insurance Company
McPherson

Farmers Mutual Insurance Co.
Ellinwood

Federated Rural Electric
Insurance Exchange
Lenexa

Kansas Mutual Insurance Co.
Topeka

Marysville Mutual Insurance Co.
Marysville

Mutual Aid Association of the
Church of the Brethren
Abilene

Mutual Aid eXchange
Overland Park

Upland Mutual Insurance Co.
Chapman

Senate Financial Institutions and Insurance Committee Testimony on House Bill 2692

March 7, 2006

Madam Chair and Members of the Committee:

Thank you for this opportunity to present information on behalf of the Kansas Association of Property and Casualty Insurance Companies and the Kansas Life and Health Insurance Association, whose members are domestic insurance companies in Kansas.

The risk-based capital provisions referenced in the Bill were developed by the NAIC for adoption and use by the states as a standardized method of monitoring the financial condition of insurers and assessing the need for corrective action. The reference date in the statutory definition of "RBC instructions" was originally requested with the initial passage of this law in 1994 to make sure that the adopted instructions and formula were limited to those that we had had an opportunity to review, rather than potential future revisions, which could adversely affect our companies' risk-based capital evaluation and the resulting action or control levels. While we believe our companies remain in good standing under the previously adopted NAIC instructions and formula, we also believe any significant changes in those instructions and formula by the NAIC should be carefully considered before adoption in Kansas. At this point, we do not believe there will be any substantial adverse effect from the latest revisions referred to in the Bill before you.

We would also appreciate your consideration of amendments to the Kansas insurance guaranty association act as attached to this testimony in order to correct a wording error in the amendments to the guaranty association act adopted last year in House Bill 2326. The error was in the definition of a "insolvent insurer" requiring an order of liquidation by a court in the "insured's home state" rather than the "insurer's domiciliary state." Requiring such an order of liquidation was important to help clarify when coverage under the act was triggered and whether a claim

Kansas Life & Health Insurance Association

Member Companies:

The American Home Life
Insurance Company
Topeka

American Investors Life
Insurance Company
Topeka

Blue Cross/Blue Shield
of Kansas
Topeka

Employers Reassurance
Corporation
Overland Park

First Life America Corporation
Topeka

Preferred Health Systems
Wichita

The Pyramid Life Insurance
Company
Shawnee Mission

Security Benefit Life Insurance
Company
Topeka

*Senate F I & I Committee
Attachment 3-1
March 7, 2006*

would be considered a "covered claim" under the act. Rather than requiring multiple orders from various states where different insureds may reside, the intent was to refer to a single readily identifiable jurisdiction, the insurer's state of domicile. For added clarification, the definition of "domiciliary state" from the Interstate Insurance Product Regulatory Compact approved last year in Senate Bill 268 has been included in the attached amendments for your approval. We have also included language to reflect that the provisions of K.S.A. 40-2903, as amended last year and with the proposed corrective amendments this year, would be intended to apply to any claims not paid prior to April 14, 2005, the effective date of last year's amendments in House Bill 2326. This would help make application of the amendments consistent and avoid any requirement for a court order from the insured's home state. We believe this will resolve any issues as to the wording error in last year's bill and we would urge your favorable consideration of the proposed amendments, as well as for the original provisions of House Bill 2692.

Thank you for your consideration.

Respectfully,



DAVID A. HANSON

HOUSE BILL No. 2692

By Committee on Insurance

1-24

and the Kansas insurance guaranty association act relating to definitions

and K.S.A. 2005 supp. 40-2903

sections

9 AN ACT concerning insurance; pertaining to risk-based capital require-
10 ments; amending K.S.A. 2005 Supp. 40-2c01; 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. 2005 Supp. 40-2c01 is hereby amended to read as
15 follows: 40-2c01. As used in this act:

16 (a) "Adjusted RBC report" means an RBC report which has been
17 adjusted by the commissioner in accordance with K.S.A. 40-2c04, and
18 amendments thereto.

19 (b) "Corrective order" means an order issued by the commissioner
20 specifying corrective actions which the commissioner has determined are
21 required to address a RBC level event.

22 (c) "Domestic insurer" means any insurance company or risk reten-
23 tion group which is licensed and organized in this state.

24 (d) "Foreign insurer" means any insurance company or risk retention
25 group not domiciled in this state which is licensed or registered to do
26 business in this state pursuant to article 41 of chapter 40 of the Kansas
27 Statutes Annotated or K.S.A. 40-209, and amendments thereto.

28 (e) "NAIC" means the national association of insurance
29 commissioners.

30 (f) "Life and health insurer" means any insurance company licensed
31 under article 4 or 5 of chapter 40 of the Kansas Statutes Annotated or a
32 licensed property and casualty insurer writing only accident and health
33 insurance.

34 (g) "Property and casualty insurer" means any insurance company
35 licensed under articles 9, 10, 11, 12, 12a, 15 or 16 of chapter 40 of the
36 Kansas Statutes Annotated, but shall not include monoline mortgage
37 guaranty insurers, financial guaranty insurers and title insurers.

38 (h) "Negative trend" means, with respect to a life and health insurer,
39 a negative trend over a period of time, as determined in accordance with
40 the "trend test calculation" included in the RBC instructions defined in
41 subsection (j).

(i) "RBC" means risk-based capital.

(j) "RBC instructions" mean the risk-based capital instructions prom-

1 ulgated by the NAIC, which are in effect on December 31, ~~2004~~ 2005.

2 (k) "RBC level" means an insurer's company action level RBC, reg-
3 ulatory action level RBC, authorized control level RBC, or mandatory
4 control level RBC where:

5 (1) "Company action level RBC" means, with respect to any insurer,
6 the product of 2.0 and its authorized control level RBC;

7 (2) "regulatory action level RBC" means the product of 1.5 and its
8 authorized control level RBC;

9 (3) "authorized control level RBC" means the number determined
10 under the risk-based capital formula in accordance with the RBC instruc-
11 tions; and

12 (4) "mandatory control level RBC" means the product of .70 and the
13 authorized control level RBC.

14 (l) "RBC plan" means a comprehensive financial plan containing the
15 elements specified in K.S.A. 40-2c06, and amendments thereto. If the
16 commissioner rejects the RBC plan, and it is revised by the insurer, with
17 or without the commissioner's recommendation, the plan shall be called
18 the "revised RBC plan."

19 (m) "RBC report" means the report required by K.S.A. 40-2c02, and
20 amendments thereto.

21 (n) "Total adjusted capital" means the sum of:

22 (1) An insurer's capital and surplus or surplus only if a mutual insurer;
23 and

24 (2) such other items, if any, as the RBC instructions may provide.

25 (o) "Commissioner" means the commissioner of insurance.

26 Sec. ~~A~~ K.S.A. 2005 Supp. 40-2c01 ~~is hereby repealed.~~

27 Sec. ~~B~~ This act shall take effect and be in force from and after its
28 publication in the statute book.

2. K.S.A. 2005 Supp. 40-2903 is hereby amended to read as follows: 40-2903. As used in this act: (a) "Association" means the Kansas insurance guaranty association created by this act.

(b) "Commissioner" means the commissioner of insurance of this state.

(c) "Covered claim" means an unpaid claim, including one for unearned premiums, which arises out of and is within the coverage and not in excess of the applicable limits of an insurance policy to which this act applies issued by an insurer, if such insurer becomes an insolvent insurer after the effective date of this act and:

(1) The claimant or insured is a resident of this state at the time of the insured event. For entities other than an individual, the residence of a claimant, insured or policyholder is the state in which the principal place of business of such claimant, insured or policyholder is located at the time of the insured events; or

(2) the claim is a first party claim for damage to property that is permanently located in this state.

"Covered claim" shall not include:

(1) Any amount due any reinsurer, insurer, insurance pool or underwriting association, as subrogation recoveries or otherwise.

(2) any amount awarded as punitive or exemplary damages unless such damages were covered under the policy of the insolvent insurer;

(3) any claim by an affiliate of the insolvent insurer.

(d) "Domiciliary state" means:

(1) The state in which an insurer is incorporated or organized; or

(2) in the case of an alien insurer, the state of entry of such insurer.

(e) "Insolvent insurer" means:

(1) An insurer licensed by the commissioner to transact insurance in this state either at the time the policy was issued or when the insured event occurred; and

(2) determined to be insolvent by a court of competent jurisdiction and against whom a final order of liquidation has been entered by a court of competent jurisdiction in the ~~insured's home~~ insurer's domiciliary state.

(~~e~~) (f) "Member insurer" means any person who (1) is authorized to write any kind of insurance to which this act applies under K.S.A. 40-2902, and amendments thereto, including the exchange of reciprocal or inter-insurance contracts; and

(2) is licensed by the commissioner to transact insurance in this state. This act shall not apply to those persons transacting business pursuant to the provisions of K.S.A. 40-202, and amendments thereto.

(~~f~~) (g) "Net direct written premiums" means first gross premiums written in this state on insurance policies to which this act applies, less return premiums thereon and dividends paid or credited to policyholders on such direct business. "Net direct written premiums" does not include premiums on contracts between insurers or reinsurers.

(~~g~~) (h) "Person" means any individual, corporation, partnership, association or voluntary organization.

(i) The provisions of this section, as amended on July 1, 2006, shall apply to all claims which have not been paid prior to April 14, 2005.

Sec. 3

and K.S.A. 2005 Supp. 40-2903 are



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Testimony in Support of Amendments To HB 2692

John J. Federico

On Behalf of Humana, Inc.

Senate FI&I

March 7, 2006

Good morning Madam Chairperson, I am John Federico, here on behalf of Humana, Inc., and appreciate the opportunity to offer a simple amendment to HB2692.

Currently Kansas statutes (specifically - K.S.A. 40-433 (1)(c)) provides that group life insurance may be offered to groups of 3 (three) employees or more. Our amendment merely seeks to modify the Group Life Insurance eligibility requirement to a group size of 2 (two).

The specific change would read:

K.S.A. 40-433 (1)(c) The policy shall cover at least ~~three~~ two employees at the date of issue.

The change in the Kansas statute will allow small group insurers to offer group life coverage to any group that they can offer health insurance coverage.

Before offering this amendment, we worked closely with the Kansas Insurance Department and received their approval. I urge the Committee's support of our amendment and would be happy to respond to any questions.

*Senate FI & I Committee
Attachment 4
March 7, 2006*

Substitute for SENATE BILL NO. 322

By Committee on Financial Institutions and Insurance

AN ACT relating to the Kansas automobile injury reparations act; concerning certain penalties; amending K.S.A. 40-3104 and repealing the existing section.

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

Section 1. K.S.A. 40-3104 is hereby amended to read as follows: 40-3104. (a) Every owner shall provide motor vehicle liability insurance coverage in accordance with the provisions of this act for every motor vehicle owned by such person, unless such motor vehicle: (1) Is included under an approved self-insurance plan as provided in subsection (f); (2) is used as a driver training motor vehicle, as defined in K.S.A. 72-5015, and amendments thereto, in an approved driver training course by a school district or an accredited nonpublic school under an agreement with a motor vehicle dealer, and such motor vehicle liability insurance coverage is provided by the school district or accredited nonpublic school; (3) is included under a qualified plan of self-insurance approved by an agency of the state in which such motor vehicle is registered and the form prescribed in subsection (b) of K.S.A. 40-3106, and amendments thereto, has been filed; or (4) is expressly exempted from the provisions of this act.

(b) An owner of an uninsured motor vehicle shall not permit the operation thereof upon a highway or upon property open to use by the public, unless such motor vehicle is expressly exempted from the provisions of this act.

(c) No person shall knowingly drive an uninsured motor vehicle upon a highway or upon property open to use by the public, unless such motor vehicle is expressly exempted from the provisions of this act.

(d) Any person operating a motor vehicle upon a highway or upon property open to use by the public shall display, upon demand, evidence of financial security to a law enforcement officer. The law enforcement officer shall issue a citation to any person who fails to display evidence of financial security

*Senate FI & I Committee
Attachment 5-1
March 7, 2006*

upon such demand. The law enforcement officer shall attach a copy of the insurance verification form prescribed by the secretary of revenue to the copy of the citation forwarded to the court.

No citation shall be issued to any person for failure to provide proof of financial security when evidence of financial security meeting the standards of subsection (e) is displayed upon demand of a law enforcement officer. Whenever the authenticity of such evidence is questionable, the law enforcement officer may initiate the preparation of the insurance verification form prescribed by the secretary of revenue by recording information from the evidence of financial security displayed. The officer shall immediately forward the form to the department of revenue, and the department shall proceed with verification in the manner prescribed in the following paragraph. Upon return of a form indicating that insurance was not in force on the date indicated on the form, the department shall immediately forward a copy of the form to the law enforcement officer initiating preparation of the form.

(e) Unless the insurance company subsequently submits an insurance verification form indicating that insurance was not in force, no person charged with violating subsections (b), (c) or (d) shall be convicted if such person produces in court, within 10 days of the date of arrest or of issuance of the citation, evidence of financial security for the motor vehicle operated, which was valid at the time of arrest or of issuance of the citation. For the purpose of this subsection, evidence of financial security shall be provided by a policy of motor vehicle liability insurance, an identification card or certificate of insurance issued to the policyholder by the insurer which provides the name of the insurer, the policy number and the effective and expiration dates of the policy, or a certificate of self-insurance signed by the commissioner of insurance. Upon the production in court of evidence of financial security, the court shall record the information displayed thereon on the insurance verification form prescribed by the secretary of revenue,

immediately forward such form to the department of revenue, and stay any further proceedings on the matter pending a request from the prosecuting attorney that the matter be set for trial. Upon receipt of such form the department shall mail the form to the named insurance company for verification that insurance was in force on the date indicated on the form. It shall be the duty of insurance companies to notify the department within 30 calendar days of the receipt of such forms of any insurance that was not in force on the date specified. Upon return of any form to the department indicating that insurance was not in force on such date, the department shall immediately forward a copy of such form to the office of the prosecuting attorney or the city clerk of the municipality in which such prosecution is pending when the prosecuting attorney is not ascertainable. Receipt of any completed form indicating that insurance was not in effect on the date specified shall be prima facie evidence of failure to provide proof of financial security and violation of this section. A request that the matter be set for trial shall be made immediately following the receipt by the prosecuting attorney of a copy of the form from the department of revenue indicating that insurance was not in force. Any charge of violating subsection (b), (c) or (d) shall be dismissed if no request for a trial setting has been made within 60 days of the date evidence of financial security was produced in court.

(f) Any person in whose name more than 25 motor vehicles are registered in Kansas may qualify as a self-insurer by obtaining a certificate of self-insurance from the commissioner of insurance. The certificate of self-insurance issued by the commissioner shall cover such owned vehicles and those vehicles, registered in Kansas, leased to such person if the lease agreement requires that motor vehicle liability insurance on the vehicles be provided by the lessee. Upon application of any such person, the commissioner of insurance may issue a certificate of self-insurance, if the commissioner is satisfied that such person is possessed and will continue to be possessed of ability to pay

any liability imposed by law against such person arising out of the ownership, operation, maintenance or use of any motor vehicle described in this subsection. A self-insurer shall provide liability coverage subject to the provisions of subsection (e) of K.S.A. 40-3107, and amendments thereto, arising out of the ownership, operation, maintenance or use of a self-insured motor vehicle in those instances where the lessee or the rental driver, if not the lessee, does not have a motor vehicle liability insurance policy or insurance coverage pursuant to a motor vehicle liability insurance policy or certificate of insurance or such insurance policy for such leased or rented vehicle. Such liability coverage shall be provided to any person operating a self-insured motor vehicle with the expressed or implied consent of the self-insurer.

Upon notice and a hearing in accordance with the provisions of the Kansas administrative procedure act, the commissioner of insurance may cancel a certificate of self-insurance upon reasonable grounds. Failure to provide liability coverage or personal injury protection benefits required by K.S.A. 40-3107 and 40-3109, and amendments thereto, or pay any liability imposed by law arising out of the ownership, operation, maintenance or use of a motor vehicle registered in such self-insurer's name, or to otherwise comply with the requirements of this subsection shall constitute reasonable grounds for the cancellation of a certificate of self-insurance. Reasonable grounds shall not exist unless such objectionable activity occurs with such frequency as to indicate a general business practice.

Self-insureds shall investigate claims in a reasonably prompt manner, handle such claims in a reasonable manner based on available information and effectuate prompt, fair and equitable settlement of claims in which liability has become reasonably clear.

As used in this subsection, "liability imposed by law" means the stated limits of liability as provided under subsection (e) of K.S.A. 40-3107, and amendments thereto.

Nothing in this subsection shall preclude a self-insurer from pursuing all rights of subrogation against another person or persons.

(g) (1) ~~Any-person-violating~~ Upon a first conviction of a violation of any provision of this section, a person shall be guilty of a class B misdemeanor and shall be subject to a fine of not less than \$300 nor more than \$1,000 or confinement in the county jail for a term of not more than six months, or both such fine and confinement.

(2) ~~Any-person-convicted-of-violating~~ On a second conviction of a violation of any provision of this section ~~within--three years--of-any-such-prior-conviction~~ within five years of any such prior conviction, a person shall be guilty of a class A misdemeanor and shall be ~~subject-to-a-fine-of~~ fined not less than \$800 nor more than \$2,500.

(3) On a third or subsequent conviction of a violation of any provision of this section, a person shall be guilty of a nonperson felony and sentenced to not less than 90 days nor more than one year's imprisonment and fined not less than \$1,500 nor more than \$2,500. The person convicted shall not be eligible for release on probation, suspension or reduction of sentence or parole until the person has served at least 90 days' imprisonment. The 90 days' imprisonment mandated by this subsection may be served in a work release program only after such person has served 48 consecutive hours' imprisonment, provided such work release program required such person to return to confinement at the end of each day in the work release program. The court may place the person convicted under a house arrest program pursuant to K.S.A. 21-4603b, and amendments thereto, to serve the remainder of the minimum sentence only after such person has served 48 consecutive hours' imprisonment.

(h) In addition to any other penalties provided by this act for failure to have or maintain financial security in effect, the director, upon receipt of a report required by K.S.A. 8-1607 or 8-1611, and amendments thereto, or a denial of such insurance by

the insurance company listed on the form prescribed by the secretary of revenue pursuant to subsection (d) of this section, shall, upon notice and hearing as provided by K.S.A. 40-3118, and amendments thereto:

(1) Suspend:

(A) The license of each driver in any manner involved in the accident;

(B) the license of the owner of each motor vehicle involved in such accident, unless the vehicle was stolen at the time of the accident, proof of which must be established by the owner of the motor vehicle. Theft by a member of the vehicle owner's immediate family under the age of 18 years shall not constitute a stolen vehicle for the purposes of this section;

(C) if the driver is a nonresident, the privilege of operating a motor vehicle within this state; or

(D) if such owner is a nonresident, the privilege of such owner to operate or permit the operation within this state of any motor vehicle owned by such owner; and

(2) revoke the registration of all vehicles owned by the owner of each motor vehicle involved in such accident.

(i) The suspension or revocation requirements in subsection (h) shall not apply:

(1) To the driver or owner if the owner had in effect at the time of the accident an automobile liability policy as required by K.S.A. 40-3107, and amendments thereto, with respect to the vehicle involved in the accident;

(2) to the driver, if not the owner of the vehicle involved in the accident, if there was in effect at the time of the accident an automobile liability policy with respect to such driver's driving of vehicles not owned by such driver;

(3) to any self-insurer as defined by subsection (u) of K.S.A. 40-3103, and amendments thereto;

(4) to the driver or owner of any vehicle involved in the accident which was exempt from the provisions of this act pursuant to K.S.A. 40-3105, and amendments thereto;

(5) to the owner of a vehicle described in subsection (a)(2).

(j) (1) For the purposes of provisions (1) and (2) of subsection (i) of this section, the director may require verification by an owner's or driver's insurance company or agent thereof that there was in effect at the time of the accident an automobile liability policy as required in this act.

~~Any suspension or revocation effected hereunder shall remain in effect until satisfactory proof of financial security has been filed with the director as required by subsection (d) of K.S.A. 40-3118, and amendments thereto, and such person has been released from liability or is a party to an action to determine liability pursuant to which the court temporarily stays such suspension pending final disposition of such action, has entered into an agreement for the payment of damages, or has been finally adjudicated not to be liable in respect to such accident and evidence of any such fact has been filed with the director and has paid the reinstatement fee herein prescribed. Such reinstatement fee shall be \$100 except that if the registration of a motor vehicle of any owner is revoked within one year following a prior revocation of the registration of a motor vehicle of such owner under the provisions of this act such fee shall be \$300.~~

~~(k) The provisions of this section shall not apply to motor carriers of property or passengers regulated by the corporation commission of the state of Kansas.~~

~~(l) The provisions of subsection (d) shall not apply to vehicle dealers, as defined in K.S.A. 8-2401, and amendments thereto, for vehicles being offered for sale by such dealers.~~

(2) Subject to the provisions of subsection (k), any suspension or revocation effected hereunder shall remain in effect until such person:

(A) Has filed satisfactory proof of financial security with the director as required by subsection (d) of K.S.A. 40-3118 and amendments thereto;

(B) has paid the reinstatement fee herein prescribed; and
(C) (i) has been released from liability;
(ii) is a party to an action to determine liability pursuant
to which the court temporarily stays such suspension pending
final disposition of such action;
(iii) has entered into an agreement for the payment of
damages; or
(iv) has been finally adjudicated not to be liable in
respect to such accident and evidence of any such fact has been
filed with the director.

(3) The reinstatement fee shall be \$100 except that if the
registration of a motor vehicle of any owner is revoked within
one year following a prior revocation of the registration of a
motor vehicle of such owner under the provisions of this act such
fee shall be \$300.

(k) (1) Whenever any person whose license has been suspended
or revoked pursuant to this section is involved in an accident
and has entered into an agreement with any driver, or such
driver's insurer, who has been damaged or whose vehicle has been
damaged to pay for such damage and such person defaults on
payments under such agreement, the driver or the driver's
insurer, as appropriate, shall notify the director within 60 days
of the date of default.

(2) Upon receipt of the notice of default, the director
shall immediately suspend such person's license and registration.
If such person is a nonresident, the director shall immediately
suspend such person's nonresident's privilege to operate a motor
vehicle in this state.

(3) Except as provided in paragraph (4), such person's
driver's license, registration and nonresident's operating
privilege shall remain so suspended and shall not be renewed, nor
shall any such license or registration be thereafter issued in
the name of such person, including any such person not previously
licensed, unless and until:

(A) The director receives notice payments under the

agreement referred to in paragraph (1) have been resumed and that payments under such agreement are no longer in default;

(B) such person has filed satisfactory proof of financial responsibility with the director as required by subsection(d) of K.S.A. 40-3118 and amendments thereto; and

(C) the reinstatement fee required by subsection (j) has been paid.

(4) Upon due notice to the director that the conditions of paragraph (3) have been fulfilled, such person may obtain from the director an order restoring such person's driver's license, registration and nonresident's operating privilege to operate a motor vehicle in this state conditioned upon such person's continued compliance with the agreement referred to in paragraph (1).

(5) In the event such person fails to make any further payment under the agreement referred to in paragraph (1) when such payment is due, the director, upon receipt of notice of such default, shall immediately suspend the license, registration or nonresident's operating privilege of such person until all payments have been made under the agreement referred to in paragraph (1). No suspension of such person's license, registration or nonresident's privilege to operate a motor vehicle in this state shall be reinstated pursuant to paragraph (4).

(1) The provisions of this section shall not apply to motor carriers of property or passengers regulated by the corporation commission of the state of Kansas.

(m) The provisions of subsection (d) shall not apply to vehicle dealers, as defined in K.S.A. 8-2401, and amendments thereto, for vehicles being offered for sale by such dealers.

Sec. 2. K.S.A. 40-3104 is hereby repealed.

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