

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 6, 2007 in Room 234-N of the Capitol.

All members were present except Senator Barnett

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:

Leroy Brungardt, Director, Kansas Insurance Dept.  
Lee Wright, Farmers Insurance Group  
John Meetz, Government Affairs Liaison, Kansas Insurance Dept.

Others attending:

See attached list.

The Chair called the meeting to order.

Hearing on:

**SB 113 - concerning insurance agents and producers, relating to continuing education requirements; amending K.S.A. 2006 Supp. 40-4903 and repealing the existing section.**

Melissa Calderwood, Legislative Research Department, gave an overview of the bill. This bill amends the biennial continuing education requirements. The bill provides that a licensed insurance agent who is an individual and holds a property or casualty, life, accident and health, or variable contracts qualification or any combination thereof have a total of 24 hours of continuing education. Three of these hours must be ethics and legal compliance.

Leroy Brungardt, Director, Kansas Insurance Department was the first to testify on behalf of the Kansas Insurance Department. Mr. Brungardt testified that this Bill originated in the National Gramm Leach Bliley Act of the late 1990's. Reciprocity in the licensing functions of the states was the aim of that Act with emphasis on uniformity. The current proposal is a last step in the uniformity aspect of the continuing education requirement. SB 113 proposes that insurance agents who have authority in life, health, property, casualty, personal lines, variable or any combination thereof have a total of 24 hours of continuing education in two years. The Kansas Insurance Department proposes a phase-in period.

A second change that has been suggested and agreed to is to allow carryover credit from one biennium to the next. A third change involves changing the ethics requirement to ethics and legal compliance. The fourth change involves agents who have life/health authority and property/casualty authority would not have a phase in period since they already acquire 24 hours of CEC's for their license.

The Kansas Insurance Department encourages consideration of this bill as it is proposed. (Attachment 1)

Kansas Association of Insurance and Financial Advisers submitted written testimony in support of SB 113. NAIFA Kansas supports the efforts to increase the hours of required continuing education from 12 hours to 24 hours every two years, including three hours of ethics.

This bill would enhance the knowledge of NAIFA members and bring uniformity to Kansas. (Attachment 2)

CONTINUATION SHEET

MINUTES OF THE Senate Financial Institutions and Insurance Committee at 9:30 A.M. on February 6, 2007 in Room 234-N of the Capitol.

The Chair asked Melissa Calderwood for an overview of SB 121. This bill concerns reciprocal insurance companies; pertaining to attorneys-in-fact; amending K.S.A. 40-1611 and repealing the existing section. It was requested by Farmers Insurance Group.

Larry Magill, Executive Director, Kansas Association of Insurance Agents, presented neutral testimony on SB 113. He testified that KAIA understands and supports the need to keep Kansas in the mainstream of state regulation. To the extent that the current continuing education requirement is one of the lowest and that the NAIC standard is 24 hours every two years, we felt the need to not oppose the Department's effort to bring Kansas in line. (Attachment 3)

The Chair asked for testimony on SB 121. Lee Wright, Farmers Insurance Group, testified that SB 121 would amend a portion of statute dealing only with those insurers organized as reciprocals. A reciprocal and its attorney-in-fact shall be considered the same entity. A reciprocal or inter-insurance exchange is an unincorporated association of individuals, partnerships or corporations, called "subscribers." Exchanges generally are managed by a representative called an "attorney-in-fact", appointed by the subscribers in their subscriber agreements. Kansas Insurance Department requested the change to this particular statute during the 2000 legislative session. Testimony specifically indicates the Insurance Department sought to avoid significant public policy shifts or issues in redrafting Kansas reciprocal law.

Without the change requested, an attorney-in-fact could be subjected to taxation, creating an unfair double tax on reciprocal insurance company structures.

This bill has been reviewed by both the Kansas Insurance Department and the Kansas Property and Casualty Domestic Insurers Association, representing the three domestic companies organized as reciprocals. All are in full support of this legislation. (Attachment 4)

John Meetz, Government Affairs Liaison for the Kansas Insurance Department testified that the Kansas Insurance Department endorses SB 121 as proposed by Farmers Insurance Group. (Attachment 5)

Written testimony was presented by David A. Hanson, Legislative Counsel, Kansas Association of Property & Casualty Insurance Companies. (Attachment 6)

Action on:

**SB 114 - concerning insurance fraud, pertaining to the penalty therefor; amending K.S.A. 2006 Supp. 40-2,118 and repealing the existing section.**

Ken Wilke, Revisor of Statutes Office, testified that in Paragraph 2, Section (e) Line 23 that addresses the question raised by Senator Barone regarding the aggregate amount has been amended to read, *A fraudulent insurance act as defined in subsection (a), or any combination of such acts which occur in a period of six consecutive months, which involves \$25,000 or more shall have a presumptive sentence of imprisonment regardless of its location on the sentencing grid block.*

Senator Barone moved the amendment. Seconded by Senator Wysong. Motion carried.

Senator Wysong moved the bill out favorably as amended. Seconded by Senator Barone. Motion carried.

Action on:

**SB 121 - concerning reciprocal insurance companies; pertaining to attorneys-in-fact; amending K.S.A. 40-1611 and repealing the existing section.**

Senator Wilson moved to pass this bill out favorably and that it be put on the consent calendar. Senator Steineger seconded. Motion carried.

Meeting adjourned at 10:15 a.m.

**FINANCIAL INSTITUTIONS & INSURANCE COMMITTEE GUEST LIST**

**DATE:** 2-6-07

NAME	REPRESENTING
Alex Kotoyantz	P.I.A.
David Hanson	Kansas Assn P&C Ins Cos/ACI
John Meete	KID
Kerri Spielman	KAIA
Larry Magill	KAIA
Doug Wareham	KBA
Dan Murray	Fed Consulting
John Campbell	KID
Michael Landford	Farmers Ins.
JOE DOWNS JR	FARMERS INS.
Lee Wright	Farmers Ins.
LeRoy Brungardt	KID
Bill Snelled	State Farm
Natalie Haag	Security Benefit

TO: CHAIRPERSON TEICHMAN & COMMITTEE MEMBERS  
FROM: LEROY BRUNGARDT, DIRECTOR-AGENTS DIVISION,  
KANSAS INSURANCE DEPARTMENT  
RE: SB 113

After SB 113 was filed, we have been contacted by the agent associations regarding the details and reasons for the proposal. In the examination of the Bill, there have been some suggestions to alter and add four items. I will address these changes as I make my testimony.

The history and genesis of this Bill originated in the National Gramm Leach Bliley Act of the late '90's. Kansas introduced the agents licensing model act to meet a demand in that Act. Reciprocity in the licensing functions of the states was the aim of that Act with emphasis on uniformity later on. This current proposal is a last step in the uniformity aspect of the continuing education requirement. The 24 hours of CEC's with 3 hours in ethics is the uniform standard that states are trying to achieve. Kansas has achieved uniformity in the other phases of licensing.

SB 113 is proposing that insurance agents that have authority in life, health, property, casualty, personal lines, variable or any combination thereof have a total of 24 hours of continuing education (CE) in a biennium (2 years). Three of these hours must be ethics and legal compliance. Currently, agents that have life/health (LH) authority or property/casualty (PC) have a requirement of 12 hours per biennium with one of those hours being an ethics hour.

There are right at 22,000 licensed resident agents in Kansas. Twenty-four (24)% of these agents have LH and PC authority. This bill will have little impact on them because they are already required to do 24 hours of CE. It does impact the other 76% in doubling their requirement.

With that in mind, we are proposing a phase-in period. The first phase-in period would begin January 1, 2009 where the agents with a "single" license would be required to submit 18 hours of CEC's of which 3 would be ethics and legal compliance hours. The final period would begin January 1, 2011 when 24 hours of CEC's would be required, 3 of which would be ethics and legal compliance hours for all agents.

*FI&I*  
*2-6-07*  
*Attachment 1*

A second change that has been suggested and agreed to is to allow carryover credit from one biennium to the next. In our phase-in period, we would allow a maximum carryover of nine hours from the January 1, 2009 to December 31, 2010 biennium to the following biennium. Thereafter, there would be a maximum carryover of 12 hours to the succeeding biennium.

A third change would be a very minor one. We would change the ethics requirement to ethics and legal compliance. In my 18 years of approving continuing education courses, I have found that legal compliance courses are already heavily laced with ethical implications.

The fourth change would be that agents that have life/health authority and property/casualty authority would not have a phase in period since they already acquire 24 hours of CEC's for their license. However, after January 1, 2011 those agents would have to have a minimum of six hours of LH CEC's and six hours of PC CEC's and three hours of ethics and insurance legal compliance CEC's. The balance of their 24 required hours could be taken in any area that has been approved as a CEC by the commissioner.

We encourage you to give consideration to this bill as it is proposed.

I will answer any questions that you may have.



**Written Testimony of Sandy Braden**  
**NAIFA Kansas**  
**In Support of Senate Bill 113**  
**Before the Senate Financial Institutions and Insurance Committee**  
**February 6, 2007**

Madame Chairman and Committee Members, thank you for the opportunity to provide testimony to the Senate Financial Institutions and Insurance Committee today on behalf of the members of NAIFA Kansas in support of SB113. Our membership consists of 1,000 Kansans who are actively engaged as life, health, property and casualty insurance agents and financial advisors.

NAIFA Kansas members are engaged in offering insurance and other related financial services and occupy the unique position of liaison between the purchasers and the suppliers of insurance and closely related financial products. Inherent in this role is the combination of professional duty to the client and to the company as well. And ethical balance is required to avoid any conflict between these two obligations.

Part of the NAIFA Kansas code of ethics is to adhere to professional standards of conduct in helping my clients to protect insurable obligations and attain their financial security objectives; to present accurately and honestly all facts essential to clients decisions; to perfect skills and increase knowledge through continuing education; to conduct business in such a way that that their example might help raise the professional standards of those in the profession; and to keep informed with respect to applicable laws and regulations and to observe them in the practice of their profession.

Because of the professional ethics goals, NAIFA Kansas supports the efforts to increase the hours of required continuing education from 12 hours to 24 hours every two years, including 3 hours of ethics. In today's competitive marketplace with heightened consumer awareness and expanded product offerings, NAIFA Kansas members need to be up to date and well informed.

And NAIFA Kansas offers many opportunities for their members to easily get their continuing education requirements through online services and seminars, so the 24 hours should not be a burden on the insurance professional.

This bill would not only enhance the knowledge of NAIFA Kansas members, but would also bring uniformity to Kansas, and provide to provide for a more seamless regulatory structure across the country.

Thank you for your consideration.  
Sandy Braden, NAIFA Kansas Executive Director  
825 S Kansas Suite 500  
Topeka, Kansas 66612      785-354-7770

# Kansas Association of Insurance Agents



## Testimony on Senate Bill 113 Before the Senate Financial Institutions & Insurance Committee By Larry Magill February 6, 2007

Thank you madam chair and members of the committee for the opportunity to appear today as a neutral, but interested party on SB 113, which would double the number of hours of continuing education from 12 to 24 for a single property and casualty or life and health licensed agent. My name is Larry Magill and I represent the Kansas Association of Insurance Agents. We have approximately 433 member agencies across the state and another 110 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.

### Member Survey Results

Because of the controversial nature of this legislation and its obvious impact on our members, we began a survey process the beginning of January and have 258 responses to date. As we anticipated, and despite a number of positive changes in the bill, our membership is fairly evenly divided on the question of doubling the required number of hours of continuing education for single license holders with 133 supporting and 125 opposed. We estimate that approximately 75% of our members' licensed employees are licensed for only property and casualty. We can boil the opposition down to essentially two issues: cost and time out of the office or, at least, away from work.

Our survey was taken first by emailing it to the entire membership and then by passing the survey out in our CE classes at the recently concluded Rural & Small Agents Conference where we had approximately 380 member agents and a total attendance of around 700.

### Changes Agreed To

As you have heard from the Kansas Insurance Department, they worked with us to address some of the concerns raised by our members and have added language to stair-step up the increase over the next four years beginning with a 6 hour increase in 2009 and concluding with a second 6 hour increase in 2011. That gives our members who have a number of single licensed agents time to adjust to the increased cost in both dollars and time.

In addition, there is greater flexibility in using hours in one discipline, where the agent spends most of his/her time, to meet the requirement. At the same time, we felt that there should be a minimum number of hours required in each of the two main areas: property/casualty and life/health, for agents with both licenses. Therefore, the amendments call for a minimum of 6 hours in each of the two main disciplines for dually licensed agents.

FI&I  
2-6-07  
Attachment 3

We added a 9-hour maximum carryover of excess hours from one biennium to the next at the first step-up and a 12-hour carry over at the second step-up as a cost saving measure. And we asked the Department to change the ethics requirement to broaden its scope to include “insurance legal compliance”.

### **KAIA Supports Uniformity and State Regulation**

We understand and support the need to keep Kansas in the mainstream of state regulation. To the extent that our current continuing education requirement is one of the lowest and that the NAIC standard is 24 hours every two years, we felt the need to not oppose the Department’s effort to bring Kansas in line.

We strongly support state regulation of insurance over federal. That debate is going on right now in Washington and we are committed to make state regulation work and oppose a new federal bureaucracy.

We would be happy to provide any additional information the Committee needs or answer questions.







FARMERS

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Suite 201 A  
Overland Park, Kansas 66210  
R118 913-339-9558

February 6, 2007

To: Senate Financial Institutions and Insurance Committee

From: Lee Wright, Governmental Affairs Representative

Re: Testimony on Senate Bill 121

Thank you Madame Chairman and members of the Committee. My name is Lee Wright and I represent Farmers Insurance. We appreciate this opportunity to appear today in support of Senate Bill 121, a bill Farmers requested.

Farmers Insurance is structured as a reciprocal insurer and Senate Bill 121 would amend a portion of the statute dealing only with those insurers organized as reciprocals. The amending language would simply clarify that for the purpose of payment of taxes, a reciprocal and its attorney-in-fact shall be considered the same entity.

A reciprocal or inter-insurance exchange is an unincorporated association of individuals, partnerships or corporations, called "subscribers", that enter into contracts known as "subscriber agreements" to insure themselves and each other against designated risks. As such, exchanges are recognized as a form of mutual insurance arrangements.

Because subscribers merely represent an inter-exchange of insurance contracts with no corporate existence, the contracting subscribers must, as a practical matter, appoint a legal representative to ensure the proper administration of their insurance agreements. Therefore, exchanges generally are managed by a representative called an "attorney-in-fact", appointed by the subscribers in their subscriber agreements.

The attorney-in-fact is typically a corporation whose function is to manage the day-to-day operations of the exchanges. The attorney-in-fact is authorized to seek new subscribers, to accept or reject risks, to accept contracts of insurance on behalf of the subscribers, to collect premiums, to pay losses, to invest subscriber funds, to contract with agents and brokers, and to perform other similar duties. It is the existence of an attorney-in-fact which distinguishes the reciprocal from other types of insurers.

During the 2000 legislative session, it was the Kansas Insurance Department that requested the change to this particular statute, K.S.A. 40-1611. A review of their testimony and Committee minutes from that time indicated they simply wanted to do a general update of the laws governing reciprocals, since most had not been changed in over 70 years. Their testimony specifically indicates they sought to avoid significant public policy shifts or issues in redrafting Kansas' reciprocal law. There is no mention or indication of any intention to create a dual taxation structure for reciprocals.

FI&I  
2-6-07  
Attachment 4

Without the change we are requesting, an attorney-in-fact could be subjected to dual taxation, creating an unfair double tax on reciprocal insurance company structures. A double tax scenario would not be present for insurers organized as mutual or stock companies and would place reciprocal insurance company structures at a competitive disadvantage.

We would also advise the Committee this bill has been reviewed by both the Kansas Insurance Department and the Kansas Property and Casualty Domestic Insurers Association, representing the three domestic companies organized as reciprocals. All are in full support of the legislation.

We know of no opposition to Senate Bill 121, and would respectfully request the Committee's approval for passage.

Thank you Madame Chairman, that concludes my remarks.



# 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  
SB 121—ATTORNEY IN FACT  
SENATE COMMITTEE ON FINANCIAL INSTITUTIONS AND INSURANCE  
February 6, 2007

Madam Chair and members of the committee:

Thank you for the opportunity to speak today. The Kansas Insurance Department would like to endorse SB121 which was proposed by Farmers Insurance Group.

This bill would codify the relationship between the two entities of a reciprocal insurance company. For tax purposes the "attorney in fact" and the subscribers would be considered one entity.

The Kansas Insurance Department has always treated reciprocal insurance companies as one entity for tax purposes and has every intention of doing so in the future. For this reason the department would like to endorse SB 121 in an effort to make tax procedures for reciprocal insurance companies crystal clear.

John Meetz  
Government Affairs Liaison

*FI&I  
2-6-07  
Attachment 5*

# KANSAS ASSOCIATION OF PROPERTY & CASUALTY INSURANCE COMPANIES

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## Senate Financial Institutions and Insurance Committee Testimony on Senate Bill 121

### 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

February 5, 2007

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, whose members are domestic insurance companies in Kansas.

Several of our member companies are reciprocal insurance companies and operate with an attorney-in-fact for administrative matters and insurance transactions on behalf of the company. We appreciate the work of the Bill sponsor in bringing this legislation to you and we believe the amendment is needed for clarification in the statute as explained by the sponsor. We would therefore support the amendment and urge your passage of the Bill.

Respectfully,



David A. Hanson

FI&I  
2-6-07  
Attachment 6