

Approved: February 28, 2007

Date

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, 2007 in Room 234-N of the Capitol.

All members were present except:

David Wysong- excused

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:

John Campbell, KID; Chris Swickard, Security Benefit; Dave Hanson, Kansas Insurance Assns;  
Rick Wilborn, Farmers' Alliance; Larry Magill, KAIA; and John Meetz, KID

Others attending:

See attached list.

The Chair called the meeting to order.

Hearing on:

**SB 219 - concerning insurance; relating to acquisition of subsidiaries by domestic insurance companies; amending K.S.A. 40-3303 and repealing the existing section.**

Chris Swickard, Second Vice President and Assistant General Counsel for Security Benefit Life Insurance Company, testified first in support of SB 219. Mr. Swickard testified that SB 219 proposed to amend K.S.A. 40-3303, which is part of the Kansas law that governs insurance holding companies. He said the amendment would make clear that, within certain prescribed parameters, subsidiary companies of an insurer do not need to comply with the investment statutes otherwise applicable to insurance companies. Mr. Swickard testified that the proposed amendment, which is from the NAIC model holding company act, will allow insurance companies to invest in one or more subsidiaries in an amount not to exceed the lesser of 10% of the insurer's assets or 50% of the insurer's surplus without having to comply with Article 2a or 2b of Chapter 40. The Kansas Insurance Department has reviewed the proposed amendment and is supportive of it. (Attachment 1)

John Campbell, General Counsel for the Kansas Insurance Department testified that the Kansas Insurance Department is in support of SB 219. This bill would permit domestic insurance companies to invest in their subsidiaries. Mr. Campbell testified that there are limits to these investments with safeguards to insure policy holders are protected. This bill is based on the National Association of Insurance Commissioners Model Insurance Holding Company System Regulatory Act. The Insurance Department's Financial Surveillance Division has thoroughly reviewed the proposed statute and is of the opinion that it can be safely implemented. The Commissioner is of the opinion that allowing domestic companies to use the same financial investment rules enjoyed by the insurance companies of other states and the world will make domestic companies more competitive and will ultimately benefit policy holders. (Attachment 2)

Following discussion Senator Schmidt moved SB 219 out favorably for passage. Senator Barone seconded. Motion carried.

Hearing on:

**SB 220 - pertaining to insurance companies; relating to corporate structure; amending K.S.A. 40-1004, 40-1006, 40-1201, 40-1508 and 40-1511 and K.S.A. 2006 Supp. 40-502 and repealing existing sections.**

David Hanson, Legislative Counsel, Kansas Insurance Associations, testified in support of SB 220, stating that provisions contained in SB 220 will help modernize and simplify statutory provisions relating to domestic company organizational requirements. The amendments being proposed essentially do away with outdated

## CONTINUATION SHEET

MINUTES OF THE Senate Financial Institutions and Insurance Committee at 9:30 A.M. on February 15, 2007 in Room 234-N of the Capitol.

requirements that have remained in some statutes since 1927, while other statutory provisions have been updated. Proposed amendments eliminate the complex requirement for boards of directors to be divided into groups with elections of not less than 1/5 nor more than 1/3 of the members each year to serve not more than five years nor more than three years respectively. Mr. Hanson said the current statutory restrictions Kansas Insurance Associations is proposing to amend are no longer necessary and are burdensome and discourage out of state companies from considering redomesticating to Kansas. ([Attachment 3](#))

Chris Swickard, again testified in support of [SB 220](#). Mr. Swickard testified that [SB 220](#) proposes to amend K.S.A. 40-502 which was originally adopted in 1927 and currently requires that at least one-fifth of the board of directors of a mutual life insurance company be elected to not more than five year terms, but that no more than one third of the board be elected to three year terms. Mr. Swickard said this provision is outdated and cumbersome. Mr. Swickard testified that the proposed amendment removes the one-fifth and one-third requirement. If [SB 220](#) is adopted, the election and terms of directors of mutual companies would be governed in accordance with the Kansas general corporation code. Policy holders would then continue to elect members of the Board of Directors of mutual companies at the annual meeting based upon the number of directors whose terms have expired and directors would have to stand for election at least every third year. ([Attachment 4](#))

Richard Wilborn, Vice President of Government Affairs for Farmers Alliance Mutual Insurance Companies, testified in support of [SB 220](#) stating Farmers Alliance is simply attempting to modernize the statute that governs corporate structure of mutual insurance companies. He said these changes would be more in line with provisions of the corporate code and make it more attractive for insurance companies to move to Kansas and help companies attract quality people to serve on their Board of Directors. ([Attachment 5](#))

John Campbell again testified in support of [SB 220](#). Mr. Campbell testified that [SB 220](#) would allow mutual life insurance companies to determine the method used to elect the board of directors and officers of the board as well as the titles and duties of the officers of the board under the provisions of the general corporation code. [SB 220](#) would also require that a quorum consist of a majority of the board of directors. The bill would update the governance of mutual insurance companies to 21<sup>st</sup> century standards. The Commissioner is of the opinion that the bill represents an important modernization of insurance laws. ([Attachment 6](#))

The Chair closed the hearing on SB 220. Senator Brungardt moved the bill out favorably for passage. Senator Wilson seconded. Motion carried.

Hearing on:

**SB 271 - concerning insurance; relating to certain forms and rate filings; amending K.S.A. 2006 Supp. 40-216 and 40-955 and repealing the existing sections; also repealing K.S.A. 2006 Supp. 40-955a.**

Larry Magill, KAIA, testified in support of [SB 271](#) stating that attached to his testimony were balloon amendments to the bill that respond to concerns raised by the Department and other interested parties. Mr. Magill stated [SB 271](#) adds greater rating flexibility and efficiency to workers compensation and regulates the use of certificates of insurance. Mr. Magill stated that under Kansas' current insurance laws and regulations, an insurer with multiple insurance company licenses in its group is free to file a different loss cost multiplier for each company in the group. A regional mutual insurer may only have one company license. This bill allows them to do what the large insurer groups do by allowing them to file up to four loss cost multipliers in one insurer and to use underwriting judgment to determine which rate is used.

Mr. Magill said the Kansas Insurance Department is concerned about one carrier that is able to offer both multiple loss cost multipliers and dividend plans. KID asked, as a compromise, to delete the authority for multiple dividend plans in one insurer. In the absence of this change, a single carrier could actually have greater flexibility than a group because they could mix and match both rating factors where a group would have to designate one dividend plan for all business for that member insurance company.

CONTINUATION SHEET

MINUTES OF THE Senate Financial Institutions and Insurance Committee at 9:30 A.M. on February 15, 2007 in Room 234-N of the Capitol.

Mr. Magill stated a certificate of insurance is supposed to give a snapshot of the coverage that a business has purchased. It is intended to grant no rights to the requester and merely verifies that certain policies with certain limits are in force for the insured. Our amendment would make it clear that a certificate “neither affirmatively nor negatively amends, extends or alters the coverage afforded by policy number...” This makes a long-standing insurance department position clear that certificates of insurance cannot amend a contract of insurance; only endorsements that are filed and approved by the Department can do that. Kansas Association of Independent Agents urges the Committee to adopt the balloon amendments agreed to with the Department and other interested parties and pass the bill out favorably. (Attachment 7)

John Meetz, Kansas Insurance Department, testified that changes to SB 271 serve two purposes. First, to prevent a fraudulent act that occurs when insureds attempt to modify insurance coverages with a certificate of insurance. The insurance department now approves these certificates and files them so that a record may be kept and checked against the insured’s certificate in the event of a claim. Second, it allows insurers to file up to four workers compensation loss cost multipliers within a single insurer under the condition that the insurer obtains prior approval by the Insurance Commissioner for each multiplier over one. This legislation has been scrutinized by the Insurance Department and we have reached an agreement on the bill that should protect agents and provide for a more flexible yet properly regulated rating system. (Attachment 8)

The Chair closed the hearing on SB 271.

Action on:

**SB 208 - concerning criminal history records; authorizing access by the insurance department to criminal history record information for certain purposes.**

Senator Barnett moved to amend SB 208 and designate it as a substitute bill. Senator Steineger seconded. Motion carried.

The meeting adjourned at 10:30 a.m.

**FINANCIAL INSTITUTIONS & INSURANCE COMMITTEE GUEST LIST**

**DATE:** 2-15-07

NAME	REPRESENTING
Alex Kotyantz	P. I. A.
John Meetz	KID
Natalie Haag	Security Benefit
Kelly Bonerdot	Polsinelli
John Campbell	KID
Rick Wilkovic	Farmers Alliance
Lori Church	KAPCIC
David Hanson	KAPCIC/Ks Life & Health Assn

**SENATE COMMITTEE ON FINANCIAL INSTITUTIONS AND INSURANCE**

***Testimony on Senate Bill 219***

***February 15, 2007***

***By: Chris Swickard, Second Vice President and Assistant General Counsel  
Security Benefit Life Insurance Company***

Thank you for the opportunity to be here today. My name is Chris Swickard and I am Second Vice President and Assistant General Counsel for Security Benefit Life Insurance Company ("Security Benefit"). I am here to testify in favor of Senate Bill No. 219.

**SB 219 Testimony**

Senate Bill 219 proposes to amend K.S.A. § 40-3303, which is part of the Kansas law that governs insurance holding company systems. The bill would amend K.S.A. § 40-3303 to make clear that, within certain prescribed parameters, subsidiary companies of an insurer do not need to comply with the investment statutes otherwise applicable to insurance companies.

In 1974, Kansas adopted most of the NAIC model holding company act, including the provision of the model act that indicates an insurer can organize or acquire subsidiary companies. However, Kansas did not adopt the portion of the NAIC model that made clear such subsidiaries need not comply with the investment statutes otherwise applicable to insurance companies. The proposed amendment K.S.A. § 40-3303, which tracks the NAIC model act, closes the loop so to speak, by establishing the parameters for domestic insurance companies to create and/or acquire subsidiary companies without having to comply with the investment statutes.

By way of background, Articles 2a (applicable to insurers other than life insurers) and 2b (applicable to life insurers) of Chapter 40 set forth the criteria for investments of insurers. A subsidiary company of an insurer, even though it is permitted by permitted to be formed or acquired by K.S.A. § 40-3303, may nonetheless fail to meet the requirements set forth in Article 2a or 2b. For example, the stock of such subsidiary is unlikely to be registered on a national securities exchange as required by Article 2a and 2b. By contrast, in states that have adopted all of the section of the NAIC model holding company act dealing with subsidiaries (which is most of the states), subsidiaries of an insurer are not considered "investments" and do not have to comply with the state's investment laws.

The proposed amendment, which is straight from the NAIC model holding company act, will allow insurance companies to invest in one or more subsidiaries in an amount not to exceed the lesser of 10% of the insurer's assets or 50% of the insurer's surplus without having to comply with Article 2a or 2b of Chapter 40. This provision of the NAIC model act has been adopted by 32 other states. The Kansas Insurance Department has reviewed the proposed amendment and is supportive of it.

Thank you. I would be happy to address any questions you may have at this time.

*FI&I  
2-15-07  
Attachment 1*



# Kansas Insurance Department

Sandy Praeger

COMMISSIONER OF INSURANCE

Senate Financial Institutions & Insurance Committee  
Testimony in Support of Senate Bill 219

February 15, 2007

Madam Chairperson, members of the Committee, my name is John Campbell, I am the General Counsel for the Kansas Insurance Department. I am here today representing Insurance Commissioner Sandy Praeger in support of Senate Bill 219.

SB 219 will permit our domestic insurance companies to invest in their subsidiaries. There are limits to these investments with safeguards to insure policy holders are protected. The bill is based on the National Association of Insurance Commissioners (NAIC) Model Insurance Holding Company System Regulatory Act. Such model acts are developed in a long and deliberative process that serves as a firm foundation to high quality legislation.

The Department's Financial Surveillance Division has thoroughly reviewed the proposed statute and is of the opinion that it can be safely implemented. The Commissioner is of the opinion that allowing our domestic companies to use the same financial investment rules enjoyed by the insurance companies of other states and the world, SB 219 will make our companies more competitive and will ultimately benefit policies holders.

We ask the Committee to favorably act on Senate Bill 219.

*FI&I  
2-15-07  
Attachment 2*

# KANSAS INSURANCE ASSOCIATIONS

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

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

## 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

## Testimony on Senate Bill 220

February 15, 2007

TO: **Senate Financial Institutions and Insurance Committee**

RE: **Senate Bill No. 220**

Madam Chair and Members of the Committee:

Thank you for this opportunity to appear before the Committee. I am David Hanson and am appearing on behalf of the Kansas Association of Property and Casualty Insurance Companies and the Kansas Life and Health Insurance Association, whose members are domestic insurers here in Kansas.

In the latter part of 1997, representatives of several of our member companies were invited to join with legislative leaders, the Insurance Commissioner and business development leaders in a task force to explore ways to improve the business climate for insurance in Kansas. The task force recognized the positive impact that insurers have on the economy and sent a clear message to insurers that Kansas wants insurers to bring the jobs and other benefits that only an increased competitive environment in insurance, like any industry, can bring.

Consequently, we try to alert you to positive enhancements, as well as to unduly burdensome or unnecessary restrictions. The provisions contained in this Bill will help modernize and simplify our statutory provisions relating to our domestic company organizational requirements. The amendments we are proposing essentially do away with outdated requirements that have remained in some of our statutes since 1927, while other statutory provisions have been updated and no longer contain these requirements.

Specifically, our amendments eliminate the complex requirement for boards of directors to be divided into groups with elections of not less than 1/5 nor more than 1/3 of the members each year to serve not more than five years nor more than three years respectively, which in some scenarios is impossible to comply with. Election of directors will also be simplified by allowing voice voting, unless written balloting is required by the company bylaws and directors will no longer have to be policyholders, unless the company requires it in its bylaws. Election of officers would also

## Kansas Life 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

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Attachment 3

be simplified by only requiring election of a president and such other officers as the company designates in its bylaws and officers would not have to be members of the board of directors. These changes are more consistent with the general corporation code in Kansas, as well as with the provisions of K.S.A. 40-305 relating to stock insurance companies, which were updated in 1971 and 1997, and K.S.A. 40-12a02 relating to healthcare provider liability insurance companies, the provisions for which were passed in 1988.

These requirements are essentially outdated and unnecessarily burdensome in many cases and not required for other types of companies in Kansas or in other states. If needed, our companies can easily adopt similar measures in their bylaws, rather than having them mandated by statute. Certainly, our companies will continue to have annual meetings as required and elect their directors and officers. If directors and officers are to serve more than one year terms, the company can provide for that, but will no longer be required to have multiple year terms or rotating terms. The current statutory restrictions that we are proposing amendments for are no longer necessary and are unduly burdensome and also no doubt discourage out of state companies from considering redomesticating to Kansas.

We would urge your favorable consideration of these amendments.

Respectfully,

DAVID A. HANSON



**SENATE COMMITTEE ON FINANCIAL INSTITUTIONS AND INSURANCE**

*Testimony on Senate Bill 220*

*February 15, 2007*

*By: Chris Swickard, Second Vice President and Assistant General Counsel  
Security Benefit Life Insurance Company*

Thank you for the opportunity to be here today. My name is Chris Swickard and I am Second Vice President and Assistant General Counsel for Security Benefit Life Insurance Company ("Security Benefit"). I am here to testify in favor of Senate Bill No. 220.

**SB 220 Testimony**

Senate Bill 220 proposes to amend K.S.A. § 40-502. K.S.A. § 40-502, which was originally adopted in 1927, currently requires, among other things, that at least one fifth of the board of directors of a mutual life insurance company (or mutual holding company by virtue of K.S.A. § 40-4003a(c)(3)) be elected to not more than five years terms, but that no more than one third of the board of directors be elected to three year terms. This provision is outdated and cumbersome. It is also inconsistent with the provisions applicable to stock insurance companies.

K.S.A. § 40-305, which applies to stock insurance companies, is the rough equivalent of K.S.A. § 40-502 (which, as noted above, applies to mutual life insurance companies and mutual holding companies). However, K.S.A § 40-305 contains no provisions specifying a minimum and maximum percentage of directors that must be elected each year. Instead, stock insurance companies are governed by the provisions of the Kansas general corporation code. K.S.A. § 17-6001(c) of the general corporation code says that corporations organized under a special statutory regulation (such as insurance companies) are subject to the provisions of the general corporation code when the specific provisions of the special statutory structure are not applicable. Since K.S.A. § 40-305 contains no provision regarding a minimum and maximum number of directors that must be elected each year, stock insurance companies default to KSA § 17-6301(d) of the general corporation code, which specifies that directors can be divided into no more than three classes with terms of no more than three years.

As currently drafted, K.S.A. § 40-502 creates a couple of problems for Kansas-based mutual insurers and mutual holding companies. First, meeting both the one fifth and one third tests of §40-502(a) in any year can be problematic for a mutual company depending on the number of directors on the board at the time. This causes companies to determine the appropriate number of directors based on what works with the statute, rather than being determined based on its business needs and the available pool of qualified candidates. The other problem the statute creates is that it prevents synchronizing the terms of common boards of directors of a mutual insurer (or mutual holding company) and stock companies in the same group of companies. For example, if you have a mutual holding company and a stock company with a common board of ten directors, it is not possible to synchronize the terms of the two boards and maintain compliance with both

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Senate Committee on Insurance  
Testimony on SB 220  
Chris Swickard  
Security Benefit  
Page 2 of 2

K.S.A. § 40-502 (which applies to the mutual organization) and the Kansas general corporation code (which applies to the stock company). In today's business environment, we do not believe there is any sound policy reason for maintaining the one fifth and one third requirement. In addition, our research of many other states' insurance codes, the NAIC model laws and the Model Business Corporation Act reveals that the one fifth and one third requirement of K.S.A. § 40-502 is unique to Kansas.

The proposed amendment to K.S.A. § 40-502 removes the one fifth and one third requirement. If SB 220 is adopted, the election and terms of directors of mutual companies would be governed in accordance with the Kansas general corporation code. This means that policy holders will continue to elect members of the Board of Directors of mutual companies at the annual meeting based upon the number of directors whose terms have expired, and, by virtue of K.S.A. § 17-6301(d), directors would have to stand for election at least every third year.

The Kansas Insurance Department has reviewed and approved these changes.

Thank you. I would be happy to address any questions you may have at this time.

# Farmers Alliance

Insuring Rural America Since 1888

To: Senate Financial Institutions and Insurance Committee

From: Richard E. Wilborn

Re: Senate Bill No. 220

Date: February 15, 2007

Madam Chairman and Members of the Committee, I appreciate this opportunity to share our views relating to corporate structure modernization.

My name is Rick Wilborn. I am Vice President of Government Affairs for the Farmers Alliance Mutual Insurance Companies. Farmers Alliance is a Kansas domestic property and casualty company that has been operating in and committed to the State of Kansas since 1888. We also write property and casualty insurance in eight other contiguous states.

We appreciate the cooperation of Security Benefit Group and the Kansas Insurance Department in developing the language contained in S.B.220.

We are simply attempting to modernize the statute that governs corporate structure of mutual insurance companies. These changes are more in line with the provisions of the corporate code. The changes should make it more attractive for insurance companies to move to Kansas. In addition, the changes should help companies attract quality people to serve on their Board of Directors.

Thank you for your consideration and we urge your support of S.B.220.

I would be glad to answer any questions you might have.

1122 N. Main, P.O. Box 1401 • McPherson, KS 67460  
620.241.2200 • fax 620.241.5482 • www.fami.com  
Farmers Alliance Mutual Insurance Company  
Alliance Indemnity Company • Alliance Insurance Company, Inc.

*FI&I*  
*2-15-07*  
*Attachment 5*



# 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

Senate Financial Institutions & Insurance Committee  
Testimony in Support of Senate Bill 220

February 15, 2007

Madam Chairperson, members of the Committee, my name is John Campbell, I am the General Counsel for the Kansas Insurance Department. I am here today representing Insurance Commissioner Sandy Praeger in support of Senate Bill 220.

Senate Bill 220 will allow mutual life insurance companies to determine the method used to elect the board of directors and officers of the board as well as the titles and duties of the officers of the board under the provisions of the general corporation code. The bill will also require that a quorum consist of a majority of the board of directors. The bill would update the governance of mutual insurance companies to 21<sup>st</sup> Century standards.

This bill has been reviewed by the Department's Directors of the Accident & Health Division, the Life Division, the Property & Casualty Division and the Financial Surveillance Division. They are all of the opinion that the bill has sufficient protection for policyholders. The Commissioner is of the opinion that the bill represents an important modernization of our insurance laws and urges the Committee to act favorably on the bill.

*FI&I  
2-15-07  
Attachment 6*



Testimony on Senate Bill 271  
Before the Senate Financial Institutions and Insurance Committee  
By Larry Magill  
February 15, 2007

Thank you madam Chair and members of the committee for the opportunity to appear today in support of SB 271, a measure we requested the Committee introduce that adds greater rating flexibility and efficiency to workers compensation and regulates the use of certificates of insurance. My name is Larry Magill and I represent the Kansas Association of Insurance Agents. We have approximately 435 member agencies across the state and another 100 branch offices that employ a total of over 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.

Attached to my testimony are balloon amendments to the bill that respond to concerns raised by the Department and other interested parties. I'll explain them as I go through my presentation.

**Workers Compensation Rating Flexibility**

Under Kansas' current insurance laws and regulations, an insurer with multiple insurance company licenses in its group, is free to file a different loss cost multiplier for each company in the group. Travelers has 73 companies in its group. Although all may not be licensed in Kansas, a good many of them are actively operating in our state. They can also file different loss sensitive dividend plans in the various insurers. The insurers are then free to use underwriting judgment to determine which plan they offer a potential insured or which renewal terms they offer an existing insured. The Kansas Insurance Department cannot really dictate to them that they have to have one mutually exclusive rate for each risk, as they do with tiered rating within one company for auto insurance, for example.

Loss cost multipliers are supposed to reflect the expense portion of the workers compensation rate while the loss cost portion is what makes up the base rates for payroll classes filed by NCCI and approved each year by the Department. However, in reality they reflect not just expense differences but also anticipated differences in losses. Insurers frequently develop special expertise in industries, or have underwriting guidelines they believe will allow them to select the better than average risks and generate better than average loss experience. In return, they charge less for this group of insureds through a lower loss cost multiplier.

But a regional mutual insurer may only have one company license. They would like to be able to offer the same choices to the businesses as the large stock companies but do not want the expense of maintaining a number of insurance company licenses, separate books, and separate rate and form filings plus all the other details that go along with maintaining separate companies. This bill allows them to do what the large insurer groups do by allowing them to file up to four loss cost multipliers in one insurer and to use underwriting judgment to determine which rate is used.

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Attachment 7

## **Compromise on Dividend Plans**

The Kansas Insurance Department is concerned about one carrier that is able to offer both multiple loss cost multipliers and dividend plans and asked, as a compromise, to delete the authority for multiple dividend plans in one insurer. The number of options and range of rates would be substantially greater if you could vary both the LCM and the dividend option. In the absence of this change, a single carrier could actually have greater flexibility than a group because they could mix and match both rating factors where a group would have to designate one dividend plan for all business for that member insurance company of the group.

## **Filing of Certificates of Insurance Forms**

Non-standard certificate of insurance forms have been a countrywide problem for years. Often the party requesting the certificate drafts the form and attempts to create coverage by the language of the certificate. Our national association just published a 52-page report on certificates that details the efforts states have undertaken to address the problems. Specifically the states of Alabama, Kentucky, Texas, Florida, Georgia, Louisiana, Minnesota, New York, North Carolina, Pennsylvania and Wisconsin have either passed legislation or have insurance department regulations or bulletins that address our concerns. A lot more are considering it.

As the report also points out, certificates are a significant source of errors and omissions claims against agents. During the past year E&O claims involving certificates have increase 28% according to the report.

A certificate of insurance is simply supposed to give a snapshot of the coverage that a business has purchased. It is intended to grant no rights to the requester and merely verifies that certain policies with certain limits are in force for the insured. Insurance companies today tell their agents not to send them copies of the certificates. We tell our members to send them to the company regardless to protect the agent from the carrier later attempting to say the agent did not have the authority to issue the certificate. Of course, the more standard the form, the less problem with certificate provisions that purport to change the underlying coverage or grant rights to the certificate holder that the insurer will not fulfill.

Consider the fact that every certificate gives information about a company's limits of liability coverage. Then consider that once the policy is in force, it is quite possible that outstanding claims have impaired the limits shown on the certificate. It is also possible that neither the insured nor their agent know what the reserves are on outstanding claims or maybe even what has been paid on liability claims that have been closed. Our point is simply that a certificate is only able to convey a limited amount of information about the policies in question. When they are used to do that, they serve a useful purpose in commerce.

Consider a bank holding a mortgage on a property or a loan on a car. They do not rely on a certificate. They ask to be named as a mortgagee or loss payee on the underlying policy that gives them certain rights. If they obtain a certificate, it has to show that and all parties realize that the certificate is merely reporting what the underlying policy shows.

Our amendment would make it clear that a certificate "neither affirmatively nor negatively amends, extends or alters the coverage afforded by policy number..." This makes a long-standing insurance department position clear that certificates of insurance cannot amend a contract of insurance; only endorsements that are filed and approved by the Department can do that.



Hopefully our language would encourage the use of standard certificates of insurance such as the ACORD forms attached to our testimony. These are accepted by all carriers and create few E&O problems for agents.

**Conclusion**

We urge the Committee to adopt the balloon amendments agreed to with the Department and other interested parties and pass the bill out favorably. Thank you for your consideration.



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**ACORD™ CERTIFICATE OF LIABILITY INSURANCE** DATE (MM/DD/YY)

PRODUCER	THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.
INSURED	INSURERS AFFORDING COVERAGE
	INSURER A:
	INSURER B:
	INSURER C:
	INSURER D:
	INSURER E:

**COVERAGES**

THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS
	GENERAL LIABILITY <input type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS MADE <input type="checkbox"/> OCCUR  GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC				EACH OCCURRENCE \$ FIRE DAMAGE (Any one fire) \$ MED EXP (Any one person) \$ PERSONAL & ADV INJURY \$ GENERAL AGGREGATE \$ PRODUCTS - COMP/OP AGG \$
	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> NON-OWNED AUTOS				COMBINED SINGLE LIMIT (Ea accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
	GARAGE LIABILITY <input type="checkbox"/> ANY AUTO				AUTO ONLY - EA ACCIDENT \$ OTHER THAN EA ACC \$ AUTO ONLY: AGG \$
	EXCESS LIABILITY <input type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS MADE  <input type="checkbox"/> DEDUCTIBLE RETENTION \$				EACH OCCURRENCE \$ AGGREGATE \$ \$ \$ \$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY				WC STATU-TORY LIMITS   OTH-ER E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$
	OTHER				

DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES/EXCLUSIONS ADDED BY ENDORSEMENT/SPECIAL PROVISIONS  
 Certificate Holder its subsidiaries and affiliates are shown as primary noncontributory additional insured on the General Liability (including completed operations) and Automobile Liability coverages. Waivers of subrogation in favor of Certificate Holder its subsidiaries and affiliates are included on the General Liability, Automobile Liability, (See Attached Descriptions)

CERTIFICATE HOLDER	ADDITIONAL INSURED; INSURER LETTER: _____	<b>CANCELLATION</b>
		SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL _____ DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO DO SO SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES.
		AUTHORIZED REPRESENTATIVE

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# 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

## TESTIMONY ON SB 271

### SENATE FINANCIAL INSTITUTIONS AND INSURANCE February 15, 2007

Madam Chair and Members of the Committee:

Thank you for the opportunity to speak to you regarding SB 271. This is a bill that has been proposed by Larry Magill at the Kansas Association of Insurance Agents (KAIA) and its changes serve two purposes.

The first purpose is to prevent a fraudulent act that occurs when insured's attempt to modify insurance coverage's with a certificate of insurance. The insurance department will now approve these certificates and file them so that a record may be kept and checked against the insured's certificate in the event of a claim.

The second allows insurers to file up to four workers compensation loss cost multipliers within a single insurer under the condition that the insurer obtains prior approval by the Insurance Commissioner for each multiplier over one.

This legislation has been scrutinized by the Insurance Department, specifically by our Director of the Fire and Casualty Division Dick Cook, and after some deliberation and cooperation with the KAIA we have reached an agreement on the bill that should protect agents and provide for a more flexible yet properly regulated rating system.

Thank you for your time and I would be happy to answer any questions you may have.

John Meetz  
Government Affairs Liaison

*FI&I  
2-15-07  
Attachment 8*