

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 12, 2008 in Room 136-N of the Capitol.

All members were present.

Committee staff present:

Melissa Calderwood, Kansas Legislative Research Department
Ken Wilke, Office of Revisor of Statutes
Bev Beam, Committee Secretary
Jill Shelley, Kansas Legislative Research Department
Cody Gorges, Kansas Legislative Research Department

Conferees appearing before the committee:

Representative Peck
Dave Corbin, Kansas Dept. Of Revenue
John Meetz, Kansas Insurance Dept.

Others attending:

See attached list.

In the absence of the Chair, Vice Chair, Wysong, called the meeting to order.

Hearing on:

HB 2675 - concerning licensing of insurance agents; pertaining to certain state's license revocation for nonpayment of income tax

Representative Peck testified in support of HB 2675. He said in 2006, the House passed HB 2771 dealing with the issue of non-resident insurance agents having to pay income taxes to Missouri. He said, however, that after it passed the House, he was asked to stand down to give Missouri time to remedy the problem. Therefore, he did not push it through the Senate, he said. He said effective for the tax year 2007, Missouri does not allow the property taxes paid in another state to be deducted when filing Missouri state income taxes. Rep. Peck said he asked the House Insurance and Financial Institutions committee to sponsor HB 2675 because Kansas insurance agents are paying income tax dollars to Missouri that belong to Kansas. He said this bill is a reciprocal bill that would only affect states, currently Missouri, which require insurance agents to pay income taxes to them. He said if states take money away from us, we're going to take money back from them. He said this bill has a positive fiscal note. (Attachment 1)

Dave Corbin, Kansas Department of Revenue, presented neutral testimony on HB 2675. Mr. Corbin stated this bill focuses solely on taxpayer compliance by non-resident licensed insurance agents. It requires the Secretary of Revenue and Insurance Commissioner to exchange information on non-resident licensed insurance agents, identify those with income tax delinquency, and mail notices to those non-resident agents with income tax delinquencies. He noted the bill would further authorize the Insurance Commissioner to deny, revoke or suspend the license of a non-resident agent with an income tax delinquency. He said authorizing the state to revoke or deny a professional license when the licensee has delinquent taxes can be a very effective tax compliance tool. He noted tax compliance would be enhanced if the proposal were expanded to encompass other types of professional licenses and applied to resident and non-resident licensees. He continued, stating that the bill appears to require a manual process between the Secretary of Revenue and Insurance Commissioner for notifying tax delinquent non resident licensees, which would be inefficient and costly. He said the Department of Revenue recommends that the bill provide for electronic notification of delinquency, and that one agency be responsible for the notification in order to streamline the process. (Attachment 2)

The Vice Chair closed the hearing on HB 2675.

CONTINUATION SHEET

MINUTES OF THE Senate Financial Institutions and Insurance Committee at 9:30 A.M. on March 12, 2008 in Room 136-N of the Capitol.

Hearing on

HB 2686 - concerning insurance; requiring market conduct studies for certain insurance companies

John Meetz, Government Affairs Liaison, Kansas Insurance Department, testified in support of HB 2686. Mr. Meetz said currently under Kansas law, market regulation examinations are treated the same as financial examinations. He said financial exams must be performed on companies every five years, while market exams are conducted on a need basis. He said HB 2686 is an attempt to distinguish between the two exams. (Attachment 3)

There being no questions, the Vice Chair closed the hearing on HB 2686.

The meeting adjourned at 10:15 a.m.

**SENATE FINANCIAL INSTITUTIONS & INS. COMMITTEE
GUEST LIST**

DATE: 3-12-08

NAME	REPRESENTING
Alex Kotyantz	P.I.A.
John Meetz	KID
Jim Welch	KID
James Jones	UH6
Terri Spielman	KAIA
Larry Magill	KAIA
David Hanson	Rs Insur Assns

STATE OF KANSAS

VIRGIL PECK, JR.

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COMMITTEE ASSIGNMENTS:
VICE-CHAIRMAN: TRANSPORTATION
VICE-CHAIRMAN: LEGISLATIVE POST AUDIT
MEMBER: INSURANCE AND FINANCIAL
INSTITUTIONS
TAXATION

HOUSE OF REPRESENTATIVES

MISSOURI - BACK OFF!

Testimony Regarding HB 2675

March 12, 2008

Madam Chairwoman and Committee Members I appreciate the opportunity to appear before you today. Kansas is giving up revenue to our neighbor to the east (Missouri) and I don't like it.

In November 2005 I had a meeting with the Sr. Vice-President/Marketing Director from one of the insurance companies I am licensed with. During our conversation he asked if I was aware of what Missouri is doing to non-resident agents. I replied I did not. He proceeded to tell me that he had received a letter from the Missouri Department of Insurance (see attached) informing him that since he had not filed a Missouri income tax return and had not paid Missouri income taxes, they were going to suspend his insurance license. They said he had fifteen (15) days to comply. There is no other state asking non-resident insurance agents to pay income taxes to them; only Missouri.

In 2006 we passed a bill (HB 2771) on the House side to deal with this issue. However, after it passed the House I was asked to stand down to give Missouri time to remedy this problem. Therefore, I did not push it through the Senate. Now I wish I had.

We are all aware of the most recent grab of Kansas tax dollars by the Missouri Legislature. Effective for the tax year 2007 Missouri does not allow the property taxes paid in another state to be deducted when filing Missouri state income taxes. What will they think of next?

I asked the House Insurance and Financial Institutions committee to sponsor **HB 2675** because Kansas insurance agents are paying income tax dollars to Missouri that belong to Kansas. This bill is a reciprocal bill that would only affect states, currently Missouri, which require our insurance agents to pay income taxes to them. Simply put, if states take money away from us we're going to take money back from them. This bill has a positive fiscal note.

You may hear testimony regarding NAIC uniformity standards. I don't believe we should bow at the altar of the NAIC if it will keep the Kansas Legislature from doing what is best for Kansas.

There was an amendment discussed on the House side that would have allowed the Kansas Insurance Department to revoke, suspend, or non-renew the license of insurance agents from all states. I would strongly oppose such an amendment. That would only create more expense and

*FI&I Committee
March 12, 2008
Attachment 1*

hassle for Kansas insurance agents because I believe other states would soon start their own reciprocity process. No state would then benefit.

Again, there is only one reason for this bill; to get Missouri to stop taking income tax dollars that belong in Kansas.

State of Missouri

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



Matt Blunt, Governor

W. Dale Finke, Director

October 12, 2005

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

Dear Nathan [REDACTED]

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

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

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

Sincerely,

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

Mike Duffeck
Licensing Manager

Testimony to the Senate Financial Institutions and Insurance

Dave Corbin

March 12, 2008

Department Concerns with House Bill 2675

Senator Teichman, Chair, and Members of the Committee:

House Bill 2675 focuses solely on taxpayer compliance by non-resident licensed insurance agents. The bill requires the Secretary of Revenue and Insurance Commissioner to exchange information on non-resident licensed insurance agents, identify those with income tax delinquency, and mail notices to those non-resident agents with income tax delinquencies. The bill would further authorize the Insurance Commissioner to deny, revoke or suspend the license of a non-resident agent with an income tax delinquency. Authorizing the State to revoke or deny a professional license when the licensee has delinquent taxes can be very effective tax compliance tool. Tax compliance would be enhanced if the proposal were expanded encompass other types of professional licenses, and it applied to resident and non-resident licensees.

Commerce Clause Issue

The Commerce Clause of the United State Constitution prohibits a state from enacting laws that discriminate against interstate commerce. By authorizing license revocation for income tax delinquency only for non-resident agents, the bill may raise a Commerce Clause issue. Out-of-state agents may argue that this bill would unfairly hamper their ability to conduct business in Kansas when resident agent licensees are not subject to the same restriction. The Commerce Clause issue would be resolved if the bill applied to both resident and non-resident licensees.

Confidentiality

The bill requires the exchange of confidential taxpayer information between the Department of Revenue and the Insurance Commissioner, but does not propose to amend K.S. A. 79-3234, the confidentiality statute specifically governing disclosure of income tax information. K.S.A. 79-3234 should be amended as part

of this proposal, if the Department is going to be required to provide confidential taxpayer information to the Insurance Commissioner.

Current Compliance Processes

The Department of Revenue currently uses W2s, 1099s, Department of Labor, and IRS data to ensure individuals, such as non-resident insurance agents, are paying their Kansas income taxes. Individuals found to have Kansas source income that has not properly filed and paid tax are referred for tax discovery and collection/civil tax enforcement actions.

The Department also operates the Professional Licensee Discovery Matching program with a number of state licensing agencies, including the Insurance Commissioner. This program matches professional license holders to the Kansas master tax files. Individuals found to be non-compliant are referred for tax discovery and collection/civil tax enforcement actions. This compliance program includes resident and non-resident insurance agents. Since the implementation of this program in 2005, the Department has recovered over \$12.2 million in delinquent tax liabilities from professional licensees.

Administrative Provisions

The bill appears to require a manual process between the Secretary of Revenue and Insurance Commissioner for notifying tax delinquent non resident licensees, which would be inefficient and costly. The Department recommends that the bill provide for electronic notification of delinquency, and that one agency be responsible for the notification, in order to streamline the process.

2008 House Bill 2675b Fiscal Note

Introduced as a House Bill

Brief of Bill

House Bill 2675, as introduced, provides that the commissioner of insurance provide a list of all insurance agents licensed in Kansas from states that withhold nonresident license renewal for Kansas insurance agents pending proof of filing income tax returns by such Kansas insurance agents in the nonresident state.

The commissioner and the secretary of revenue shall review the listed licensees for income tax delinquency and shall mail notice of income tax delinquency to the delinquent licensee and the commissioner of insurance. The secretary shall notify the commissioner whenever any listed licensee has satisfied the income tax delinquency.

Section 2 amends K.S.A. 40-4906, to add suspended, revoked or refused renewal as reasons a nonresident person should not receive a nonresident agent license.

Section 3 amends K.S.A. 40-4909 to allow the commissioner to deny, suspend, revoke or refuse renewal of a license to a nonresident agent licensee when the commissioner receives a notice of income tax delinquency from the secretary of revenue.

The effective date of this bill is on publication in the statute book.

Fiscal Impact

Passage of this bill would have a positive impact on state general fund revenues.

The Kansas insurance department indicates that there are about 52,000 nonresident agents licensed in Kansas. Nearly 7,700 nonresident insurance agents are Missouri residents. We believe Missouri is the only state that denies a nonresident insurance agent a license if that nonresident has an income tax delinquency.

Current experience indicates about an 8% noncompliance rate for resident taxpayers that are required to have a license to practice business in Kansas. Assuming 8% of Missouri taxpayers with a Kansas insurance agents license have not filed a Kansas income tax return, that their total income averages about \$50,000, with about 10% of that gross income from Kansas sources, and an average Kansas tax rate of 3.5%, the additional Kansas income tax would be about \$107,800 ($7,700 \times .08 \times \$50,000 \times 10\% \times 3.5\%$).

Administrative Impact

None.

Administrative Problems and Comments

Taxpayer/Customer Impact

Legal Impact

The bill may raise a Commerce Clause issue, in that it imposes a license restriction (compliance with tax liability) that applies only to non-residents.



Kansas Insurance Department

Sandy Praeger, Commissioner of Insurance

TESTIMONY ON HB 2686

SENATE FINANCIAL INSTITUTIONS AND INSURANCE March 11, 2008

Madam Chair and Members of the Committee:

Currently under Kansas law market regulation examinations are treated the same as financial examinations. Financial exams must be performed on companies every 5 years while market exams are conducted on a need basis. House Bill 2686 is an attempt to distinguish between the two exams.

First let me explain the difference between these two procedures. A financial examination is a critical piece of insurance regulation. A regulator must determine the financial viability of a company in order to ensure that Kansans are not purchasing products from a company that may go belly up. The purpose of a financial exam is to determine if a company has the appropriate amount of reserves to pay claims even in a disastrous event.

On the other hand, a market regulation exam does not need to be conducted nearly as often. A market regulation exam deals with a company's marketing practices rather than its financial condition. A market regulation exam is the primary resource that the department uses if a company has displayed questionable conduct, specifically in the areas of sales and claims. This type of examination is only necessary if misconduct is suspected. Furthermore, market regulation exams are usually more expensive than financial exams due to the fact that they require interviews and investigation of the companies practices, rather than simply reviewing a company's financial statement.

For the reasons stated above, we would like to ask the committee to recommend House Bill 2686 favorable for passage to clarify the differences between two critical types of examinations that are central to our regulatory capacity.

Thank you for the opportunity to appear today and I would now stand for any questions.

John Meetz
Government Affairs Liaison

*FI&I Committee
March 12, 2008
Attachment 3*