

MINUTES OF THE SENATE COMMITTEE ON FINANCIAL INSTITUTIONS AND INSURANCE.

The meeting was called to order by Chairperson Sandy Praeger at 9:30 a.m. on February 7, 2001 in Room 234-N of the Capitol.

All members were present except:

Committee staff present: Dr. Bill Wolff, Kansas Legislative Research Department
 Ken Wilke, Office of the Revisor of Statutes
 JoAnn Buntun, Committee Secretary

Conferees appearing before the committee:

Bob Alderson, National Association of Public Insurance Adjusters
Pat Bickford, Adjusters International, Golden, Colorado
Melissa Wangemann, Secretary of State's Office
Steven Rarrick, Consumer Protection Division, Attorney General's Office
Linda DeCoursey, Kansas Insurance Department
Gary White, Kansas Trial Lawyers Association
Pam Scott, Executive Director, Kansas Funeral Directors and Embalmers Association
Larry Magill, Kansas Association of Insurance Agents
John C. Gann, Kansas Association of Insurance and Financial Advisors

Others attending: See attached list.

Hearing on SB 181 - Enacting the Public Adjusters Licensing Act

Bob Alderson, National Association of Public Insurance Adjusters, testified before the Committee in support of **SB 181** which would enact the Public Adjusters Licensing Act. This bill creates definitions related to public adjusting and sets standards for licensure and examinations of these individuals. Mr. Alderson stated that passage of the bill is needed in order to codify a definition of public adjusting, one which would limit a public adjuster to the performance of services which do not constitute the unauthorized practice of law and give some measure of control over persons engaged in public adjusting. (Attachment 1)

Pat Bickford, Adjusters International, spoke in support of the bill and explained to the Committee the requisites of public insurance adjusting and identified the situations that typically give rise to an insured's use of a public insurance adjuster to resolve a claim. Mr. Bickford also provided the Committee with a packet of information about his company and list of clients. (Attachment 2)

Melissa Wangemann, Secretary of State's Office, offered an amendment to **SB 181** that would make the Secretary of State the "agent and representative" for service of process instead of "true and lawful attorney" as indicated in the bill on page 6, line 24. Ms. Wangemann noted that **SB 181** does not direct the Secretary of State to forward the process to the licensed public adjuster and questioned how the licensed public adjuster would receive notice of pending lawsuits and administrative actions if the process was not provided to the adjuster. She suggested the Committee may want to consider an amendment directing the Secretary of State to forward the process to the adjuster and would provide a fiscal note. (Attachment 3)

Steven Rarrick, Consumer Protection Division, Attorney General's Office, stated they have concerns with language in the bill that relates to the definition of "public adjusting" and committing the unauthorized practice of law. Mr. Rarrick has met with proponents of the bill, and the proponents agreed to the AG's proposed amendments. He pointed out that if the amendments are adopted, as shown in the attached balloon of the bill, the Attorney General would take no position on the bill as they believe public adjusting services are legal under current Kansas law. (Attachment 4) Mr. Rarrick noted that they would leave it to the Committee's discretion as to the amount of commission the adjuster should be allowed which is usually 10% to 15%.

Linda DeCoursey, Kansas Insurance Department, expressed her concern with the bill noting that the state of Kansas has not licensed adjusters of any kind in its many decades of existence as the Kansas Insurance Department currently

CONTINUATION SHEET

has a mechanism in place to handle the claim disputes on behalf of Kansas consumers. She believes that the bill needs further study and would prefer the Committee allow the department to examine the bill more thoroughly as outlined in her written testimony. (Attachment 5)

Gary White, Kansas Trial Lawyers Association, spoke in opposition to **SB 181** because he felt it effectively requires a layperson to practice law without the requisite training and safeguards of a license and fails to protect Kansas consumers in the handling of first-party claims. He suggested that the adjustor may not take appropriate steps to preserve the rights of clients on third party claims that may arise. (Attachment 6)

The Chair noted that because of the number of concerns and amendments associated with the bill, it was suggested **SB 181** be studied during the interim and taken up at a later date.

Hearing on: SB 193 - Insurance; exemption from errors and omissions coverage

Pam Scott, Executive Director, Kansas Funeral Directors and Embalmers Association, testified in support of **SB 193** which would exempt from the errors and omissions requirements insurance agents who hold a life insurance license solely for the purpose of selling life insurance or annuities to fund a prearrange funeral program. She noted that many funeral directors hold this limited insurance agent's license, and a shortfall sometimes results when an insurance policy does not keep pace with inflation and the cost of the merchandise rises faster than the value of the insurance policy. The end result is that if the policy proceeds are not paid, the funeral home is the one that stands to lose because they will not be paid for their services. (Attachment 7)

Larry Magill, Kansas Association of Insurance Agents, testified in opposition to the bill noting that it would set a precedent and inevitable pressure on the legislature to exempt other limited licenses such as crop hail and title insurance. Mr. Magill also pointed out that funeral directors already enjoy a very limited continuing education requirement of two hours every two years and a limited testing requirement. The E&O requirement is only for \$100,000 limit of liability for an individual or \$500,000 for a firm. Reducing these limits further would not save any appreciable amount of money given their likely premium volume, and it was suggested their association step in and obtain a group policy. (Attachment 8)

John C. Gann, Kansas Association of Insurance and Financial Advisors, also testified in opposition to **SB 193** because he felt any licensed insurance agent who holds a license for the sole purpose of selling life insurance or annuity products used to fund a prearranged funeral program is the same as any other licensed agent under the definition of current law, and to allow this exemption would open the door for other agents to ask for a similar request. (Attachment 9)

Committee discussion related to professional liability insurance obtained through an association and what that potential cost would be.

Adjournment

The meeting was adjourned at 10:30 a.m. The next meeting of the Committee is scheduled for February 8, 2001.