



Kansas Insurance Department

Sandy Praeger, Commissioner of Insurance

TESTIMONY ON SUBSTITUTE FOR SB 71

SENATE FINANCIAL INSTITUTIONS AND INSURANCE COMMITTEE January 26, 2012

Madam Chair and Members of the Committee:

I am Kris Kellim with the Kansas Insurance Department, and with me today is Tom Whalen, Director of our Producers Division, who oversees our agent licensing. Thank you for the opportunity to testify in support of this substitute amendment for SB 71.

Last session, SB 71 was introduced, proposing comprehensive changes to the C.E.C. requirements for licensed insurance agents. The Department offered conceptual amendments to SB 71, but no language. This substitute bill would strike the original language of SB 71, and replace it with language based on the conceptual amendments the Department previously offered. Those changes include three distinct pieces. The first changes the definitions and C.E.C. requirements for certain limited-lines insurance. The second establishes fingerprinting and national criminal history checks for resident insurance agent license and resident public adjuster license applicants. And the third adds clarifying language to a subsection dealing with a certain factor for denial of applications.

Limited-Lines:

The limited-lines amendments have two parts. The first adds five new definitions of limited-lines insurance, including crop insurance, title insurance, travel insurance, pre-need funeral insurance, and bail bond insurance. The second part amends the C.E.C. requirements for certain limited-lines.

The Department is seeking to add these five limited-lines insurance definitions for multiple reasons. The first and most basic reason is the need to have standard meanings for the types of insurance that we regulate. This need is exemplified by the fact we have C.E.C. requirements for certain lines of insurance that are not currently defined. All but one of the definitions we want to add has associated C.E.C. requirements. The definitions are also needed to meet uniform licensing standards for insurance agent reciprocity with other states.

The amendments would also change the C.E.C. requirements for two limited-lines. The first would remove the current two-C.E.C. requirement for agents who hold life insurance licenses solely for the purpose of selling pre-need funeral insurance or annuity products. The second would provide that agents who hold only a bail bond qualification do not have to obtain C.E.C.'s. These changes are needed to meet the uniform licensing standards for agent reciprocity as well.

Fingerprinting and National Criminal History Checks:

The Department's current resident agent application process requires an applicant to file an application with the Department, including a \$30 application fee, and successfully complete all required insurance examinations for the license being sought. The resident agent license application requires that an applicant indicate whether the applicant has ever been convicted of a crime, had a judgment withheld or deferred, or is currently charged with a crime. An affirmative answer to this question can be cause for denial or deferment of approval of an application. The types of crimes that will disqualify an applicant from receiving a license, generally speaking, are "breach-of-trust" and "violent" crimes.

To ensure the accuracy of the criminal history information provided on an application, the Department currently submits the applicant's name and social security number to the KBI for a criminal history search, but the search only includes criminal history records from Kansas. With such limited information, the Department cannot detect applicants' out-of-state criminal history, unless they volunteer the information.

We want to close this gap in our ability to identify resident agent applicants with out-of-state criminal histories. This requires replacing our current state-limited KBI search with a nationwide background check through the KBI and FBI based on an applicant's fingerprints. It is important to note that fingerprinting would only be required of new, resident agent applicants as of January 1, 2013. It would not apply to a person applying for renewal, continuation, or adding additional lines of authority to an existing resident or non-resident agent.

There are multiple methods for obtaining and processing applicants' fingerprints. The main differences between these methods are whether a vendor is used and the timing of fingerprinting in the application process. The language offered would give the Department regulatory control over these issues.

We have discussed applicant fingerprinting with KBI representatives. Our understanding is that the KBI will not have a problem processing the additional fingerprint jobs, which we estimate will be between 2,500 and 3,750 per year. We anticipate the fingerprinting fee will be \$50, although it could increase with time.

The current criminal background check system is not only inadequate because it does not provide vital national criminal history information. It is also difficult to verify an applicant's identity based on a name search only. Fingerprinting will help confirm the identities of resident agent applicants. Another problem is that some states might be reluctant to extend reciprocity to a Kansas resident agent without a national criminal history check.

The value of fingerprinting insurance agent applicants is also reflected in the national trend. Currently, 20 states have implemented fingerprinting and 5 states have passed legislation and are in the implementation process. Fingerprinting is also an increasing trend in Kansas, where numerous regulatory agencies have recognized the need to confirm applicants' identities and to detect those with criminal histories outside Kansas.

The Department recognizes that the majority of agent applicants will be upstanding professionals with no disqualifying criminal history. Nonetheless, fingerprinting is necessary to protect Kansas insurance consumers, who entrust insurance agents with their personal information and money, from persons who are unworthy of that trust and of being licensed insurance agents.

“Demonstrated any trait”:

This amendment is basically a clarification of existing language. Both the insurance agent and public adjuster applicant statutes require the Commissioner, before approving an application, to determine that the applicant has not committed any “act” that is grounds for denial or suspension or revocation under K.S.A. 40-4909. However, mental incapacity is potential grounds for denial, suspension, or revocation, but is not an “act” per se. The Department would like to add “or demonstrated any trait” to make clear that such a situation is covered.

For these reasons, we would ask the Committee to recommend this substitute amendment for SB 71 favorable for passage.

Thank you for the opportunity to appear in support of this amendment. I will be happy to stand for questions at the appropriate time.

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