

JOINT COMMITTEE ON COMMERCE - SENATE & ASSEMBLYMINUTES - PUBLIC HEARINGS.B. No. 39

Date: Tuesday, February 11, 1969

Committee Members Present: Senator White, Chairman  
Senator Hecht  
Senator Titlow

Mr. Wood  
Mr. T. Hafen  
Mr. Torvinen  
Mr. Bowler  
Mr. Espinoza  
Mr. Capurro

Committee Members Absent: Senator Bunker  
Senator Swobe

Mr. Mello

Visitors: Mr. Douglas Erickson, Chief Deputy Commissioner of Insurance  
Various interested representatives of the insurance industry

Chairman called the meeting to order at 10:00 A.M.

In opening the meeting Chairman White announced the pattern of the hearing would be to examine S.B. 39 chapter by chapter. Testimony would be taken from anyone who wished to comment. Next week the subcommittees will meet and examine the proposed bill line by line to make sure everything is in order.

The Chairman then recognized Mr. Richard Hanna, who introduced himself as the paid representative of the American Reciprocal Insurance Association. Mr. Hanna apologized for not having been prepared to comment on Sections 197 and 22 at the time these sections came up for comment in yesterday's hearing. At that time Mr. Parish protested the expansion of the wording in these two sections, noting that the original drafting of the bill, following the hearings in November, did not coincide. Mr. Hanna said that the exception clause in Subsection 2 was added (1) at the request of the Reciprocal Association and (2) to give continuity and to make clear that in this insurance code there would be some provision written into the code for insurers not operating through agents. There is a substantial amount of business handled by specialists without the use of agents. Senator White said that that is the point in question. Mr. Hanna replied that the reciprocals handle a special kind of coverage, employing specialists, and there is actually no need for the service of an agent, and requirement of signage by an agent imposes a cost upon the public, with no purpose being served. Secondly, Mr. Hanna said that the proposed code as considered in November made provision for this segment of the industry. On Page 33, Section 86, Subsection 6, there is specific reference to this type of direct writing, and we do have direct writing, whether it be by reciprocals or other insurance companies. Mr. Wood

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said he felt that where it was necessary to go outside of the state to procure insurance vital to one's business, countersignature should be required from company domiciled or located in same place as insured.

Mr. Hanna said he found no fault with the countersignature provision and no fault with having countersignature by agent in cases where reciprocals use the agency system. It is just on highly specialized types of insurance - a very small segment of the industry - where it was not necessary, he felt. When the code was first drafted, this language was not included, but it was added after discussion with experts (as to specialized insurance) and it was discussed and debated by agents at that time. They were overruled, but Mr. Parish is now back, making the same request. Inclusion is felt necessary for smooth flow and administration of business in this state. The reciprocals are not trying to undermine the agency business. Mr. Hanna presented to Chairman White his letter of February 11, confirming his oral presentation. (February 11 letter attached.)

Regarding Section 197, Mr. Parish said this was discussed at the hearing and action was reserved. It was contemplated that the entire section would be removed. Addition of this wording was never discussed at the hearings held in November. He strongly felt reciprocals should be licensed. (Mr. Parish is Chairman of the Legislative Committee of the Nevada Independent Insurance Agents.)

Mr. Capurro asked if these service representatives - so-called experts - are licensed in other states. Mr. said they were not - they are salaried employees of reciprocal companies; they are technicians or specialists in particular industries - such as in the lumber industry, as an example. Mr. Capurro commented that he felt this was circumnavigating the agents and the public should be protected. Mr. Hanna replied that these companies are all licensed and authorized to do business and there is no circumvention of the public.

Chairman White asked that the hearing proceed to Section 222. Mr. Hanna said that the language Mr. Parish objected to yesterday was the exception commencing on Line 48, Page 93, from ",," and ending with "system". Mr. Hanna said this language was included to give continuity and it recognizes the fact that we do have a segment of the insurance industry which does not operate through an agency system.

Mr. Parish said his thought was there is no place in the code where an agency system is defined as such. This might clarify, but we still go back to the fact that there should be agency representation. Going to Section 85, he said he felt that the wording starting with the work "unless" on Line 38 through the end of the paragraph should be stricken and that Subparagraph 6 of Section 86 should be deleted. This was discussed at previous hearings and the changes were made subsequent to those hearings. Mr. Hanna said that the additional language does not take anything from the agents they formerly had; if we follow Mr. Parish's reasoning, the reciprocals feel the public is being deprived of a necessary and useful type of insurance.

Mr. Capurro asked if the committee could get the approximate amount of business these reciprocals are doing. Chairman asked Mr. Erickson to procure this information. Mr. Erickson said he would have to take it from 1967 records. Mr. Capurro commented that he thought it was important to have these figures to show what percentage of business is being handled by reciprocals. (Mr. Hanna does not have the figures.)

Mr. James P. Lorigan, salaried representative of Farmers Insurance, expressed his support of Mr. Houston, General Manager of the reciprocals' association. He said an agent could not perform the service for which these technicians are trained and that while we are not talking about a large volume of business, it is an important part of the industry.

Mr. Parish responded to the reference to specialized engineers by saying that all insurance companies have qualified engineers in all fields who can adequately service and handle any line of business. To give one company the advantage of the commission without competition doesn't seem to be fair and proper.

Mr. Torvinen commented that assuming, as a premise, that licensing of agents or brokers protects the public and assuming reciprocal business is minor, but important, part of the industry, it seems definition of an insurer not operating under the agency system is very broad - it means any foreign insurance company can operate in state and merely send notification to commissioner that it is not operating under the agency system.

Mr. Torvinen was asked to prepare a definition of the agency system.

#### CHAPTER 10 - LIFE INSURANCE ANALYSTS

Mr. Erickson said Section 239 is entirely new. It is adopted from sections of the California code. Requirement of a license for the Life Insurance Analyst is aimed at a portion of the business not covered now. It is felt the Life Insurance Analyst should be licensed and bonded for protection of the public. The required written examination ties in with the examination for regular agents and brokers. Mr. Parish proposed no change.

#### CHAPTER 11 - ADJUSTERS

Mr. Erickson said that a number of clarifications and additions to the present statutes have been made; present statutes, for example, are almost entirely lacking in specifying requirements for licensing of associate adjusters.

Referring to Line 6, Page 107, Mr. Erickson said a reference to "recent experience" had been substituted for educational requirements. There followed some discussion about the ambiguity of the term "recent". Mr. Wood said he believed the word "recent" should be stricken; Mr. Erickson agreed to its deletion.

Mr. Lorigan mentioned an ambiguity in Section 250. Subsection 2 of that section is ambiguous in its definition of associate adjuster.

Mr. Wood said he would like an explanation of Section 250, Subsection 2, Page 105, with reference to an attorney at law. Mr. Erickson said this is a continuance of present statutes. It is felt that simply by his education and license from the bar association, an attorney should be allowed to adjust insurance claims. Mr. Wood said he had no objection, but pointed out that an attorney then could be assigned to a specific loss claim in preference to an adjuster.

Section 257. Mr. Erickson said there were actually no changes here; merely clarifications. This chapter has also been tied in with the chapter on agents.

#### CHAPTER 12 - SURPLUS LINES

Mr. Erickson said they had tied the licensing of surplus line brokers in with the section on licensing agents and brokers.

With reference to Section 276, Page 113, Mr. Erickson said Subsection 5 is new - not covered under present law.

He further commented that surplus line insurance, such as Mexican auto insurance, is handled through surplus line brokers. Surplus line insurance is known as export insurance and surplus line brokers are very definitely needed for procuring certain types of insurance.

Under Section 280, Page 114, provision has been made that the insurance commissioner may declare lines of coverage eligible for export. Other states have looked to us for guidance and have followed suit in our method of handling.

Mr. Erickson said we have made one important clarification in this statute by making it permissible for trade organizations to voluntarily check every policy written here in Nevada to see that its coverage that cannot be obtained in the normal manner. If this were to be handled by the State Insurance Department, one experienced insurance man would have to be employed full time.

Section 293 - Failure to File Statement, Pay Tax: Penalties - this limits the penalty assessed against the surplus line broker.

Section 295 - Rules and Regulations; Brokers' Association - relates to a voluntary trade association handling this kind of insurance. It is self-supporting, costs the state nothing.

Mr. \_\_\_\_\_, President of Surplus Line Association, had no questions. He said he was in agreement with the law as written.

Mr. Wood said he does not understand Section 280, Page 114, Subsection 3, beginning with Line 9. Mr. Erickson said the whole purpose of allowing export insurance to be written in Nevada is because domestic companies cannot write certain types of insurance - it is not because of lower premiums offered by export insurance. Domestic control as much of market as possible.

CHAPTER 13 - UNAUTHORIZED INSURERS: PROHIBITIONS, PROCESS AND ADVERTISING

Mr. Erickson said this chapter closely follows current statutes. Sections 301 and 302 clarify service of process on unauthorized insurers so they can be sued in the state. Mr. Torvinen registered protest re manner of service of process.

Section 314 - "Twistin" Prohibited. There seemed to be general agreement that this was needed.

CHAPTER 14 - TRADE PRACTICES AND FRAUDS

Chairman White said Harvey Rose, President of the Nevada State Life Underwriters, was present and asked him for problems and background on this chapter, particularly regarding Regulation 42. Mr. Rose said it is very easy to twist the truth; the language of a policy is technical and hard to read. Section 315 of the new code, having to do with replacement of life insurance, will, in essence, tie in with Regulation 42 promulgated by the commissioner. This requires the insurance representative to make a complete and adequate comparison of policy held vs. proposed policy to replace it. Regulations require this comparison be written and that a copy of it be left with the purchaser and with the Insurance Department. Mr. Rose registered his agreement with this section.

Section 329 - Political Contributions Prohibited; Penalty This section prohibits political contributions by insurer. It was generally felt this was a good law for the public.

Section 334 - Fictitious Groups. This is a new section, although it has been in the regulations.

Meeting adjourned at 11:00 A.M.

Approved:

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Marvin L. White

February 11, 1969

*Include in Min Jan 11*

Senator Marvin L. White  
Chairman, Joint Commerce Committee  
Capitol Building  
Carson City, Nevada

Re: S.B. 39 -  
Proposed Insurance Code

Dear Senator White:

The following comments are written with respect to Section 197 and Section 222 of the proposed Insurance Code on behalf of the American Reciprocal Insurance Association.

The language contained in Sections 197 and 222, which was questioned at the hearing of the committee on February 10, 1969, was debated and carefully considered at the hearings held by the Insurance Commissioner in November, 1968. It was at this time that suggested language was added to these sections because it was concluded then that the language of the two sections as it now appears in S.B. 39 is both necessary and proper in the interest of the insurance buying public.

It is recognized in the proposed Code that the several forms of insurers differ in their methods of producing insurance business. This is realistic and desirable because the effect is to adequately regulate, but not to suppress or unduly hinder a particular form of underwriting. By such recognition the insurance buyer - the public - are benefited.

In those specialized operations which do not use resident agents for the solicitation of business, it is essential to provide for the production and underwriting by someone who does represent the insurer and is fully responsible to it and, consequently, to the State. This is the operation intended to be recognized by the proposed Code in its references to insurers who do not use agents for the solicitation of business, but who must have technical underwriters who will usually travel extensive territories, including several jurisdictions. It is this type of operation which is covered by Sections 197 sub-section (b) and the exception clause in Section 222, as well as in other sections of the proposed Code.

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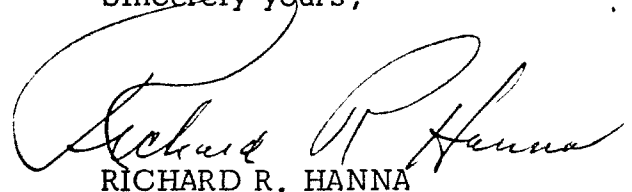
If the provisions under discussion are deleted there will be an added unnecessary cost placed upon the insurance buying public in those specialized cases where all services necessary must be covered by trained and salaried technicians, leaving no real services to be performed by a resident agent. We believe it is not the intent to create a situation of this kind and that, at least in cases where the services are performed in this way, there should be relief from any further requirement which would involve the employment of additional agents and the payment of additional production costs which must, after all, fall upon the citizen - buyer of insurance - in Nevada.

It is to be carefully noted that the sections under consideration relate only to those very specialized situations where the salaried technicians have been used, and the American Reciprocal Insurance Association has made no effort to deal with the broad subject of counter-signature and regulation of agents. On the contrary, the American Reciprocal Insurance Association has accepted the fact that their form of underwriting must conform to all requirements of the agency law wherever it is adaptable to the use of the agency system. It is only where this does not appear practicable that we have suggested the modification in question.

It should be further noted that what is being discussed represents only a very small volume of the insurance business, and the changes which were suggested in November, 1968, and are included in Sections 197 and 222 of S.B. 39 merely tie in with other sections of the proposed insurance Code and do not purport to change the substantive law. These sections merely clarify the expressed intention of the law with respect to operations of reciprocal insurance companies in this State.

For the foregoing reasons we submit that Section 197 and Section 222 of S.B. 39 should be adopted without change.

Sincerely yours,



RICHARD R. HANNA

RRH:jef