

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

Date: Wednesday, February 12, 1969

Committee Members Present: Senator White, Chairman
Senator Hecht

Mr. Wood
Mr. Mello
Mr. Capurro
Mr. Torvinen
Mr. Bowler
Mr. Espinoza

Others Present: Mr. Douglas Erickson, Chief Deputy Commissioner of Insurance
Mr. Earl Nicholson, Actuary for Insurance Division

Meeting called to order at 9:55 A.M.

Senator White announced the same format of the meeting would be the same as had been followed in the meetings of February 10 and 11.

Mr. Nicholson was introduced.

CHAPTER 15 - RATES AND RATING ORGANIZATIONS

This chapter primarily follows the existing law, with but few changes.

Page 139, Section 344. Model language in existence in most states has been used. Lines 6 through 16 are new; here an attempt has been made to define the three applications of rates. There has been a great deal of discussion on this subject and the lines as written give clarification to "excessive," "inadequate," and "under-insured."

Page 140, Section 347, Line 34. Provides filing will be made effective when made. This is an extreme change in approach to rate approval. It follows the approach taken by California some twenty years ago; not all states in agreement - New York, for one. However, the industry feels this approach is right and agents associations and the commissioner are in agreement. Commissioner has authority to subsequently countermand the filing if it is found advisable.

Senator White asked how soon after filing can rate structures be checked. Mr. Erickson said that, in the absence of a Rate Analyst, this has been his responsibility. It takes several days, but added that if no action is taken within 15 days by the commissioner, filing is deemed approved.

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Mr. Parish said he was highly in favor of this form of filing, but urged again that a Rate Analyst be employed and that funds be made available for his employment.

CHAPTER 16 - THE INSURANCE CONTRACT

This is a new chapter, partly a continuation of the present law and partly a modernization of the code. It spells out and separates in a chapter by itself various definitions pertaining to the insurance contract.

Page 158, Section 396. The new requirement here is that the insurer furnish the insured with a proof of loss form at time notice of loss is given. This is definitely in the insured's interest, in that it prevents the possibility of the insurer's taking advantage of the insured's failure to file a proof of loss. Mr. Capurro remarked that he thought this was already pretty generally done. Mr. Erickson replied that proof of loss forms have not always been furnished in the past and complaints have been made to his department.

CHAPTER 17 - LIFE INSURANCE AND ANNUITY CONTRACTS

This chapter follows pretty well the existing law and the standards of the industry

Page 163, Section 407. This is a definition of Industrial Life Insurance. It is not defined in the present law, and a definition was believed necessary, as this form of insurance is being sold throughout the United States.

Page 163, Section 408. Mr. Nicholson commented that the proposed code includes "standard provisions" which were not written into the old law. He said that as Chapter 17, as a whole, was concerned, there was nothing particularly new. It is a general chapter dealing with contracts, including annuity contracts, which were not specifically covered in previous law.

Page 178, Section 442. Mr. Erickson said that this section writes into the code what has been general practice re purchasers sharing in dividends of participating business, as opposed to non-participating.

Page 178, Section 443. Mr. Erickson said this section deals with the new variable annuity contracts which are considered a security by the SEC. To sell, examination approved by SEC is required.

Page 180, Section 444. Mr. Erickson said that there have been some problems in the area of selling charter or franchise policies, because of the possibility of misrepresentation. It is for this reason this section has been written. Mr. Nicholson said that a franchise policy is generally known as a small group policy, sold to an employer under a semi-group arrangement.

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At his request, Mr. Hanna, representing Life Insurance Association of America, was granted time to make comments and present proposed amendments to Sections 155/443, 412/441, and 444. (Copies of proposed amendments are attached.)

Reference Sections 412/441, Mr. Erickson said that on the surface the proposed change appeared to be o.k., but would like to hold decision open. Mr. Torvinen suggested that for casualty insurance a rider be added to the policy to conform to Nevada law. Mr. Hanna registered agreement with Mr. Erickson that action be pended until Mr. Erickson or the commissioner had an opportunity to examine proposed amendment.

Reference Section 444, Mr. Erickson was of the opinion that this proposed change was as agreed upon in hearings in November.

(At this point Mr. Wood requested that any proposals for amendments be supplied the committee in printed form. Mr. Erickson will be responsible for submitting printed amendments to respective subcommittee for study.)

With reference to Section 443, Mr. Erickson said that the "seed money" provision was as agreed upon in the November hearings. If Section 155 nullifies, then the section should be amended as Mr. Hanna recommended. Mr. Erickson will research to determine where it is best to make change.

Mr. Hanna said he had not other comments on this chapter.

CHAPTER 18 - GROUP LIFE INSURANCE

Mr. Nicholson said this chapter is substantially the same as the old law.

There has been added a section on Wholesale Life Insurance, which has been permitted but which wasn't specifically covered in the old law.

Continuing, Mr. Nicholson said that the number of individuals required for group insurance had been reduced from 5 to 4. The new section covering Employee Groups is not new in content; formerly combined with employer section. Section 455, Dependent's Coverage, provides conversion privilege for husband or wife, but not for children; old law provided conversion right for children, as well. Under this same section, percentage of participation required is reduced from 75 to 60.

Section 456, covering Credit Union groups, is a new section, but merely clarifies the present law. For many years, since 1954, credit unions have been permitted to take out insurance on borrowers, but up to this time there has been nothing in the law to cover.

Mr. Wood requested discussion return to Section 455, Dependent's Coverage and asked Mr. Nicholson to repeat the changes incorporated. He then asked what the objection was to giving a dependent child the privilege of conversion. Mr. Nicholson said he did not know the reason. Mr. Erickson introduced Mrs. Edwards and Mrs. Chipman of the Insurance Department; it

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was their feeling the objection came from the industry. Mr. Erickson said he believed that so far as the commissioner was concerned, there would be no objection to giving conversion privilege to children.

Mr. Capurro said he felt the conversion for children was important; that while the amount of money involved might be small, it could possibly be the only insurance individual could secure.

Ask Committee

The question was asked if there would be any objection to deleting Subsection 3 of Section 455. Mr. Erickson suggested that instead it might be amended to include husband, wife, or insured dependent. Mr. Nicholson suggested it not be deleted but changed to "any insured under group contract shall have conversion privilege.

Senator White reverted to Section 456, covering Credit Union groups. Again Mr. Nicholson said this was a new section under the code. It simply permits what is being done now and should offer no problem. Credit unions furnish life insurance at no cost to borrowers. All credit union policies have been approved.

Senator White asked if Section 461, Insurability, is present law. Mr. Erickson said, "Yes." Mr. Nicholson said this is a standard provision; it must be stated under what conditions evidence of insurability is required. Mr. Wood asked if for a group of 100, for example, a policy could be written excluding, say, 3 of the 100. Mr. Bill Wallace, of _____, said this could not be done unless insurance for those few were being written for a larger amount of coverage.

Mr. Wood then asked if there were any change in the grace period (Section 458). Mr. Nicholson said there was no change.

CHAPTER 19 - HEALTH INSURANCE CONTRACTS

Mr. Nicholson said the major change in this chapter is in the over-insured provision. Referring to Section 492.5, he said that the old law adopted in 1953 (?) provided notice had to be given regarding insurance with other insurers and there would be a pro rata scaling down of insurance on that basis. He added that with the different conditions today, this provision is unrealistic and has not been a part of current policies. The National Association of Insurance Commissioners has been working on this for many years and provisions of code as now proposed conforms with that association's recommendations. New code is written to allow insured to recover 100% of expenses, but he cannot make a profit. In answer to Senator White's question regarding no-profit restriction,

Mr. Nicholson said he felt that without this restriction, there could perhaps be malingering. Mr. Erickson added that, in generalities, insurance is meant for compensating for loss; making a profit, particularly in accident and health over-insurance tends to drive up medical costs. As for duplicate coverage, Mr. Nicholson said that purchaser knows at time of insurance purchase that he can recover only 100% of expense and duplicate coverage provides 100% recovery, but nothing in excess. Mr. Nicholson also stated that if policies have no provisions covering over-insurance, policyholder can collect on all policies as written.

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Mr. Espinoza said that Mr. Harold Wandesforde, Vice President of Title Insurance and Trust, Las Vegas, and Mr. Emerson Wilson, President of Land Title Association (serves without compensation), were present and requested time to speak on Chapter 25, Title Insurance Contracts.

(At 11:00 A.M. Chairman White left the meeting to attend a Senate session; meeting was turned over to Mr. Wood.)

Mr. Wilson read to the committee his comments and recommendations for amendment of Chapter 25. (Copy of his written material is attached.)

Following Mr. Wilson's presentation, Mr. Erickson said he has some corrections and plans to be put in amendment form.

Mr. Wilson said he had nothing more to add, but would be available for discussion with Mr. Erickson at any time. It was agreed Mr. Erickson and Mr. Wilson would meet in an effort to iron out difficulties. Mr. Wood suggested that this section covering Title Insurance be made a part of a future agenda.

Meeting adjourned at 11:15 A.M.

APPROVED:

Marvin L. White

Suggested amendments to Senate Bill No. 39

It is suggested that subsection 4 of Section 92 be amended to read as follows:

4. For the purposes of this section "net premiums" and "net consideration" shall include the amount charged by the insurer for the risk premium, as the same is defined in Section 549A.

It is suggested that a new section be added to follow Section 549, to be designated as Section 549A, and to read as follows:

"RISK PREMIUM" DEFINED.

Sec. 549A. "Risk Premium" for title insurance means that portion of the fee charged by a title insurer, or agent of a title insurer to an insured or to an applicant for insurance, for the assumption by the title insurer of the risk created by the issuance of the title insurance policy. *The amount designated as the "Risk Premium" in the schedule of rates filed by each title insurer shall be subject to modification by the commissioner after hearing held pursuant to rules and regulations adopted by the Commissioner.*

It is suggested that Section 550 be amended by adding thereto subparagraph 5 to read as follows:

5. Issuance of contracts of reinsurance by a title insurer not authorized to engage in the business of title insurance in this state, but authorized to engage in the business of title insurance in any of the United States, reinsuring a title insurer authorized to engage in the business of title insurance in this state on real property located in this state, shall not of itself constitute the doing of business in this state by such reinsurer.

It is suggested that a new section be added to follow Section 551 to be known as Section 551A, and to read as follows:

Section 551A. Unless title insurers, underwritten companies, or the business of title insurance is expressly mentioned, no provision of this insurance code, except as contained in this Chapter, shall be applicable to title insurers or underwritten companies, and no law hereafter enacted shall apply to such title insurers or to underwritten companies unless such subsequent enactment expressly states that it shall so apply. In case of conflict between provisions of any other chapter contained in this code and the provisions of this Chapter, the provisions of this chapter shall govern.

Respectfully submitted,

Emerson J. Wilson
Emerson J. Wilson, President
NEVADA LAND TITLE ASSOCIATION

INS Dept

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1. Delete Section 453 (c) in Chapter 18.

2. Insert on page 210 on line 22 the following: No director of a corporate employer shall be eligible for insurance under the policy unless such person is otherwise eligible as a bona fide employee of the corporation by performing services other than the usual duties of a director. No individual proprietor or partner shall be eligible for insurance under the policy unless he is actively engaged in and devotes a substantial part of his time to the conduct of the business of the proprietor or partnership.

3. Delete from Section 514 in Chapter 20 the following:
but the policy may not require that the service be rendered by a particular hospital or person.

Hanna
2/17

Amendment to Insurance Code (Senate Bill 39)

Page 68

Section 155. Special Investments of Special Account Funds.

On lines 13-14 delete the parenthetical phrase "(other than funds of the insurer so allocated or contributed for the purpose of the insurer's participation therein)". Or, on line 13 change "(other than" to "(including".

Reason:

At the public hearing in November on the proposed insurance code, it was generally agreed that a "seed money" provision should be included to permit the insurer to invest some of its surplus funds in the separate account in order to establish it. Such a "seed money" provision was included as part of subsection 6 and subsection 12 of Section 443 on pages 179 and 180 of this bill.

Apparently, the drafters of the code thought that reference should also be made in Section 155, and for that reason included this parenthetical phrase. As drafted, however, this parenthetical phrase completely nullifies the effect of the "seed money" provision of Section 443 and should either be deleted in its entirety or be changed as indicated above.

LIAA/ALC

Amendment to Insurance Code (Senate Bill 39)

Page 164
Section 412. Incontestability.

Delete the last sentence of this subsection beginning with the words "But after" on line 22 and all of lines 23, 24, 25 and 26.

Reason:

At the public hearing in November on the proposed insurance code, it was agreed that the substance of this particular sentence should be included as a substantive provision of law rather than as a required provision in order to avoid requiring most companies to print special policy forms for use in Nevada only. Accordingly, such a substantive provision of law has been included as subsection 3 of Section 441 appearing on page 177. Apparently, the deletion of the last sentence in Section 412 was inadvertently overlooked.

Moreover, the substantive provision in Section 441 is broader, more specific and, for this reason, to some degree conflicting with the last sentence in Section 412. In order to avoid policy form approval problems in the future, the last sentence in Section 412 should also be deleted for this reason.

LJAA/AIC

Amendment to Insurance Code (Senate Bill 39)

Page 181
Section 444. Prohibited Policy Plans.

At the end of subsection 1(f) add a new sentence beginning on line 37 to read: "This provision shall not be deemed to prohibit family policies insuring unspecified members of a family, nor be deemed to prohibit payment to unspecified beneficiaries of a class which has been expressly designated as such by the insured or policy owner."

Reason:

The first part of this additional sentence recognizes the typical family policy now sold by most life insurance companies to cover the parents and all living and after-born children, and the latter, of course, are not specifically named in the policy. The second half of this sentence recognizes that some policy holders leave their insurance proceeds to a class of beneficiaries such as their children or grandchildren without specifically designating them by name.

This sentence is usually included in most modern insurance codes since this subsection is not intended to prohibit either family policies or specific class beneficiary designations. Without this additional sentence, however, a serious question may arise, and it is believed that the omission of this sentence was inadvertent.

LIAA/AIC