

MINUTES OF MEETING - JOINT COMMITTEE ON COMMERCE - 55TH NEVADA SESSION -
FEBRUARY 12, 1969

Present: Assemblymen Wood, K. Hafen, Torvinen, Capurro, Mello
Bowler and Espinoza

Senators White and Hecht

Absent: Senators Bunker, Titlow, Lamb and Swobe

Also Present: Mr. Douglas Erickson, Chief Deputy Commissioner of Insurance
for Nevada; Mr. Earl Nicholson, Actuary for the Insurance
Division; interested parties of the insurance industry.

Chairman White convened the meeting at 10:00 a.m. and proceeding with Chapter
15 of S.B. 39, Insurance Code, Mr. Erickson introduced Mr. Nicholson to the
committee.

Chapter 15: Mr. Erickson noted that Chapter 15, Rates and Rating Organizations
is existing law with the following exceptions:

Section 344, Making of Rates: Provision, Lines 6 through 16
are new and define three applications of rates. Purpose is to define what is
excessive, adequate or unfairly discriminatory.

Section 347, Disapproval of Filing, Mr. Erickson stated that
this section is presently existing law. He noted the insertion of lines 34,
"A filing shall be effective when made" and line 37, "If the commissioner at
any time finds that a filing does not meet the requirements of this chapter".
The agents association and the commissioner felt we should follow this approach.
This requires that the commission take steps to remedy the situation in the
event of nonfiling by an insurer. The legislature has never allowed the commis-
sion a rate analyst. He noted however, that at present time should the
commission not act after 15 days, the filing is deemed to be approved anyway,
and will not affect the rates.

Mr. Parish, Independent Insurance Agent, stated that his group was highly in
favor of the filing procedures but that they felt also that there was a great
need for a rate analyst.

Chapter 16: The Insurance contract. Mr. Erickson stated that this was mostly
existing law but incorporated into this chapter is Section 376, a new section
included for the purpose of directing the insurer to furnish forms immediately
upon receiving notice of a claim of loss. It was noted that most insurance
companies do this now, but some companies only furnish this form when dispute
is liable to occur.

Chapter 17: Life insurance and Annuity contracts. This chapter also follows
existing law and Mr. Erickson noted that Section 407, Industrial Insurance
defined, was amended for clarification.

Sections 442, 443 and 444 were also noted as dealing with par-
ticipating and non-participating contracts which were amended for clarification.

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Mr. Hannah asked to be heard on this chapter. Regarding Section 412, Incontestability, he suggested that the last sentence thereof be deleted in its entirety. He stated that at the public hearing in Nov. they had agreed that the substance contained referred to Nevada policy only and if retained, the companies would need special printed forms for Nevada. It was his opinion that the deletion of the sentence was simply overlooked when it was reprinted.

Mr. Erickson stated that he would look into the matter further but felt that the deletion was probably all right. Mr. Torvinen suggested that the policy add a rider to the affect that it applies to Nevada policies only. Mr. Hannah suggested that until the Commissioner and Mr. Erickson had been given the opportunity of studying this further, the section be deferred.

With regards to Section 444, Mr. Hannah suggested that at the end of sub-section 1(f) the following be added: "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~~ ^{EXPRESSLY} designated as such by the insured or policy ~~holder~~." ✓

This is to take care of the usual family policies covering all living and after-born children, when the child cannot be named in the policy. The second part of that sentence would have to do with a class of beneficiaries such as grandchildren. ✓

Mr. Wood suggested that in the future, any proposals for amendments be presented to the committee in written form at the time they are heard. Mr. Erickson stated that he would take the responsibility of getting these proposals to the committee.

In connection with Section 443, Mr. Hannah stated that is provision for a ~~seeb~~ money account and it was agreed by the industry and the commissioner that this should be included to permit the insurer to have this separate account. The way it is drafted in Section 155, however it eliminates the provision for ~~seeb~~ money account. He stated that he felt this too was an oversight when being re-drafted. Mr. Erickson stated that he was in agreement and that it should be amended as follows: Section 155, line 13 should read "by the insurer, (including funds.....)" Mr. Erickson stated that would be the best way to amend the section. ✓

Chapter 18: Group life insurance. Mr. Nicholson presented this chapter to the committee and noted that they had added the section dealing with wholesale life insurance which has been permitted but was not specific in the old law. The number of individuals for group insurance is decreased from 5 to 4 and there is a new section dealing with employee groups. However, they have merely separated the section dealing with employees from the one dealing with the employer in Section 453, Public Employee groups.

Section 455, Dependents coverage. The old code did provide for this, however, the percentage of participation has been decreased from 65% to 60%
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Section 456 is a new section dealing with credit union groups merely clarifying present law. One point was that in the past, credit unions have been issuing life insurance on borrowers. The new code allows this.

Back to the dependent coverage, the present code limits them to \$1000. It is now increased to \$2000 or 50% of the amount of insurance on the life of the employee.

Mr. Nicholson then read paragraph 3 of Section 455 which refers to conversion rights. The new code precludes a child from the conversion rights although the old code provided it. Discussion was held as to the reason for this amendment to the code and Mr. Nicholson was asked what the main objection had been. He said he was not aware of the particular reason and asked Mrs. Edwards to explain to the committee. She stated that the main objection had been from the industry. They felt the amount involved was too small in comparison to the work involved. Mr. Wood asked Mr. Nicholson if the commission did not have a responsibility to the consumer on this and Mr. Erickson stated that the new code had been drafted in the public interest.

Mr. Capurro suggested that perhaps at the time of conversion, a small amount is all that could be afforded, but it is still important to the individuals.

Cal Western Life Insurance representative stated that most policies are written in equal amounts on dependent children. The child on conversion has the same amount as the spouse.

Chairman White asked if there was any objection to deleting paragraph 3 of the section and Mr. Erickson suggested the balance of the paragraph be retained but that the following be deleted. "3. A husband or wife, but not a child," and in its place the word "3. Any" should be inserted.

Section 456 is a new section and simply permits what is being done now. Mr. Nicholson stated that the credit unions are required to be licensed for the purpose of issuing life insurance to borrowers. Mr. Torvinen noted that a credit union is a quasi-federal corporation and because of this they are somewhat exempt from state law.

Mr. Wood asked if Section 461 were existing law and was informed that it was. This section applies in such instances where perhaps a group performing hazardous occupation, the insurer may require evidence and may check on something before the policy is issued. The contract must state under what conditions they are going to require evidence of insurability..

Mr. Wood asked if this would apply should a group plan for 100 be requested for 97 instead. Mr. Nicholson stated that it would have to be shown in the contract. Mr. Wallace, Nevada State Association, commented that in order to do this, the other three persons must be getting insurance in a larger amount than the others. The risk insuring 3 or 4 is not as great as when insuring many.

Chapter 19: Health Insurance contracts. The major change made in this chapter is in the over-insurance Section 492. This provides that should a person have

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identical coverage on the same illness by more than one company, the expenses would be paid on a pro-rata basis to the amount of 100% of all expenses, but that the insured would be precluded from making a profit. This provision has not been used by insurance companies for years because the companies do not want it in the policies just as they don't like to provide for giving notice of other insurance. He stated that the National Association of Insurance Commissioners had been working on this for some time.

Chairman White: If a guy pays insurance premiums for several years on two policies and then has the sickness that requires payment from both, what is the objection of the commission? Why are they concerned when they have been paying premiums for years?"

Nicholson: The idea is that it deals with malingering. If it is advantageous to have this illness, he will be inclined to linger with it.

Erickson: Insurance is to make a person whole, to compensate for a loss. Over-insurance tends to drive up the costs involved. For instance, a doctor may know how to handle it should he learn of this over-insurance. He may tend to feel he is more entitled to the extra than the insured and adjust his costs accordingly. Also, all policies do not cover every illness so they carry different policies.

Mr. Erickson was questioned as to those costs not recoverable such as drugs, loss of work, etc. and he stated that these are usually covered through other methods. A person pays premiums on the covered items only.

Hecht: I have insurance on my employees and with the women, their husbands work and have insurance and they work and have coverage, but the cost of hospitalization is going up in Las Vegas so fast that they are taking out a third policy to ensure proper coverage. Do you have to declare to the companies how many policies you have?

Nicholson: No. Not unless required in the policy.

White: Why should the policies not stand on its own merits?

NICHOLSON: This is only on individual policies, not on group. (speaking to Hecht)

Hecht: We now need many policies, one or two won't do it. The man is still paying the premiums.

Erickson: But, if the insured is aware of this before he buys, he will know he can only be entitled to an amount of 100% of his expenses paid.

Mr. Wood cited his own insurance policies and he stated that there was no way possible for him to ever make a profit by using both policies.

Mr. Nicholson said this would only take effect if the provision were in the policy. The insurer may insert this provision in the policy and if it is inserted, it would be effective in the event of a claim by the insured.

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Further discussion was held and study deferred.

At that time, Mr. Espinoza requested the chairman to move ahead to Chapter 25 for the benefit of Mr. Emerson Wilson, Nevada Land Title Association and Mr. H.W. Wandesford, Vice President of Title Insurance and Trust Company in Las Vegas.

Mr. Wilson addressed the committee and stated that they had tried to limit their requests to four items, Subsection 4 of Section 92; establishment of a new section to be designated 549A; section 550; and a new section to be designated 551A. His suggested amendments are as follows:

Section 92, subsection 4 to be amended 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.

Mr. Wilson noted that there is no definition of risk insurance in Chapter 25, however, in Section 550, there is reference to provide that the required schedule shall include not only the price for title risk insurance, but also the charge made by the title insurer, or by an underwritten title company for the title search, title examination, certificate or abstract of title upon the basis of which such policy is issued.

Subsection 549A to be established as follows:

"Risk Premium" Defined.

Section 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.

Subparagraph 5 of Section 550 to be added 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.

At this time, Chairman White turned the meeting over to Mr. Wood and he and Mr. Hecht were excused.

Mr. Wilson continued by stating that there are many title insurance companies operating in the United States not authorized in the state of Nevada but who reinsure title risks written by other title companies. These reinsurance groups consist of some 9 insurance groups and included among them are the Chicago Title Insurance and Trust Co. and First American Title Insurance & Trust Co. These title companies maintain no agent or office in Nevada and they engage only in the reinsurance program.

Section 551A to be established 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.

Mr. Wilson discussed the possibilities of having a separate code for title insurance and in support thereof, he stated that almost everywhere in the insurance code, the terms "title insurance" or "escrow", etc. are specifically set out.

He stated that there is an amendment proposed that should be out soon regarding Section 550, subsection 1, wherein the words "and for escrow and other services performed by it" would be deleted.

Upon further discussion, Mr. Erickson stated that the committee was getting into a very involved situation. He noted that in the past, title insurance companies were treated the same as any other insurers. The taxes are paid on the premiums and the agents must be licensed and that is the way it is at the present time. He suggested that the section on title insurance be made a part of the agenda at a future date.

Mr. Wood adjourned the meeting to 9:45 a.m. on February 13, 1969.