



**SB91 Testimony Presented to
Financial Institutions and Insurance Committee
By Scott Casebolt
Key Construction, Inc.
Wednesday, February 15, 2017**

Introduction

Chairman Longbine, members of the committee, good morning and thank you for the opportunity to speak today. My name is Scott Casebolt and I am a Vice President at Key Construction.

Key is a commercial building general contractor based in Wichita and performs work in Kansas, as well as throughout the country. I'm here to speak to you about the proposed amendment to Statute 40-5403 that governs the use of what are commonly referred to as OCIP (Owner Controlled Insurance Program), CCIP (Contractor Controlled Insurance Program), or WRAP insurance programs. These are programs in which the Sponsor (Project Owner or General Contractor) purchases an insurance policy to cover all participants in the project, mainly subcontractors. This is unlike a standard situation where each individual party would provide their own insurance. Benefits of these programs include increased coverages, less exclusions, elimination of disagreements between different insurance carriers, and in certain cases, decreased project insurance costs.

Key encourages this committee to support the adoption of SB91 and shares the following:

Background

1. Key Construction has purchased Contractor Controlled Insurance Programs (CCIP) for General Liability (GL), not Workers Compensation, policies for projects in Kansas twice. Both policies were for condominium projects in Wichita and all subcontractors were enrolled in the program. Key acted as the "Sponsor" for the program.
2. The policies were purchased due to the history of litigious situations in condominium construction across the country. Typical general contractor and subcontractor GL policies have condominium exclusions due to the insurance industry's history with this type of project. In most cases, the subcontractors were not aware that their policies had this exclusion.

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3. Costs were deducted from the respective subcontractors for their standard insurance premiums to cover a portion of the CCIP cost. These deducts covered approximately 40% of the policy cost, with Key Construction paying the remaining premium. Key has not benefitted financially from the subcontractors participation, but in some situations these programs can be used as a cost savings tool for a project.
4. The policy provided condominium coverage that most didn't have and the coverage limits were much higher than most participants' standard coverage.
5. One project had a significant claim that was resolved in a very positive manner due to the policy and the fact that all stakeholders were covered by the same policy, with cross claims not an issue. The claim was settled with policy funds and all participants were defended by the insurance carrier.
6. From the research we have done, it appears that the current statute is quite unique, as there are no other states that govern the programs in this detail. While we believe most of the statute is valuable in its original form, we feel the deductible limitation is unfair and inequitable.

Current Issue

1. Per the current statute, an enrolled party, that is not the sponsor, cannot be charged in excess of \$2,500 for any deductible on the policy. Key feels this item in the statute is unfair because all enrolled parties are benefitting from the increased coverage and limits. It should not be the sponsor's responsibility to cover the shortfall on the deductible amount if the loss was caused by another party.
2. There must be deductibles on these policies to prevent abuse of the insurance with petty claims. Unlike a standard year over year policy a company may carry, WRAP policy claims would not affect the next year's premiums, as claims would in a standard situation.

Proposed Solution

1. We suggest that the current statute be modified to state that any enrolled party cannot be charged in excess of \$25,000, not the present \$2,500 amount, for any deductible on the policy. The sponsor could still be liable for any amount over \$25,000.
2. This change could be stated to only apply to the GL portion of the programs.
3. Some will contend that most of the subcontractors would not have any deductible on their normal GL policies, thus making the deductible issue inequitable. However, you have to consider the benefit they receive from the increased coverage and limits of the program policies.
4. If those other than the sponsor do not find the deductible to be acceptable, they can choose not to participate in the project.

Conclusion

Key encourages you to support SB91 as written by the Insurance Commissioner's Office.