

HOUSE BILL No. 2090

By Committee on Insurance

1-19

1 AN ACT concerning insurance; relating to the uniform insurance agents
2 licensure act; public adjusters licensing act; authorizing the
3 commissioner of insurance to set the amount of certain fees; requiring
4 information obtained from background checks, fingerprinting and
5 criminal history records checks be used solely for the purpose of
6 verifying the identification of an applicant and the fitness of an
7 applicant to be issued a license as an insurance agent; amending K.S.A.
8 40-4905, 40-4906 and 40-5505 and repealing the existing sections.
9

10 *Be it enacted by the Legislature of the State of Kansas:*

11 Section 1. K.S.A. 40-4905 is hereby amended to read as follows: 40-
12 4905. (a) Subject to the provisions of K.S.A. 40-4904, and amendments
13 thereto, it shall be unlawful for any person to sell, solicit or negotiate any
14 insurance within this state unless such person has been issued a license as
15 an insurance agent in accordance with this act.

16 (b) Any person applying for a resident insurance agent license shall
17 make application on a form prescribed by the commissioner. The applicant
18 shall declare under penalty of perjury that the statements made in the
19 application are true, correct and complete to the best of the applicant's
20 knowledge and belief. Before approving the application, the commissioner
21 shall determine that the applicant:

22 (1) Is at least 18 years of age;

23 (2) has not committed any act that is grounds for denial pursuant to
24 this section or suspension or revocation pursuant to K.S.A. 40-4909, and
25 amendments thereto;

26 (3) has paid a nonrefundable fee ~~in the amount of~~ *set by the*
27 *commissioner in an amount not to exceed \$30*; and

28 (4) has successfully passed the examination for each line of authority
29 for which the applicant has applied.

30 (c) If the applicant is a business entity, then, in addition to the
31 requirements of subsection (a), the commissioner shall also determine the
32 name and address of a licensed agent who shall be responsible for the
33 business entity's compliance with the insurance laws of this state and the
34 rules and regulations promulgated thereunder.

35 (d) The commissioner may require the applicant to furnish any
36 document or other material reasonably necessary to verify the information

1 contained in an application.

2 (e) Each insurer that sells, solicits or negotiates any form of limited
3 line credit insurance shall provide a program of instruction that may be
4 approved by the commissioner to each individual employed by or acting
5 on behalf of such insurer to sell, solicit or negotiate limited line credit
6 insurance.

7 (f) (1) Each person or entity licensed in this state as an insurance
8 agent shall report the following to the commissioner within 30 calendar
9 days of occurrence:

10 (A) Each disciplinary action on the agent's license or licenses by the
11 insurance regulatory agency of any other state or territory of the United
12 States;

13 (B) each disciplinary action on an occupational license held by the
14 licensee, other than an insurance agent's license, by the appropriate
15 regulatory authority of this or any other jurisdiction;

16 (C) each judgment or injunction entered against the licensee on the
17 basis of a violation of any insurance law or conduct involving fraud, deceit
18 or misrepresentation;

19 (D) all details of any conviction of a misdemeanor or felony other
20 than minor traffic violations. The details shall include the name of the
21 arresting agency, the location and date of the arrest, the nature of the
22 charge or charges, the court in which the case was tried and the disposition
23 rendered by the court;

24 (E) each change of name. If the change of name is effected by court
25 order, a copy of the court order shall be furnished to the commissioner;

26 (F) each change in residence or mailing address, email address or
27 telephone number;

28 (G) each change in the name or address of the agency with which the
29 agent is associated; and

30 (H) each termination of a business relationship with an insurer if the
31 termination is for cause, including the reason for the termination of the
32 business relationship with such insurer.

33 (2) Each person or entity licensed in this state as an insurance agent
34 shall provide to the commissioner, upon request, a current listing of
35 company affiliations and affiliated insurance agents.

36 (3) Each business entity licensed in this state as an insurance agent
37 shall report each change in legal or mailing address, email address and
38 telephone number to the commissioner within 30 days of occurrence.

39 (4) Each business entity licensed in this state as an insurance agent
40 shall report each change in the name and address of the licensed agent who
41 shall be responsible for the business entity's compliance with the insurance
42 laws of this state to the commissioner within 30 days of occurrence.

43 (g) Any applicant whose application for a license is denied shall be

1 given an opportunity for a hearing in accordance with the provisions of the
2 Kansas administrative procedure act.

3 (h) (1) The commissioner may require a person applying for a
4 resident insurance agent license to be fingerprinted and submit to a state
5 and national criminal history record check. The fingerprints shall be used
6 to identify the applicant and to determine whether the applicant has a
7 record of criminal arrests and convictions in this state or other
8 jurisdictions. The commissioner is authorized to submit the fingerprints to
9 the Kansas bureau of investigation and the federal bureau of investigation
10 for a state and national criminal history record check. Local and state law
11 enforcement officers and agencies shall assist the commissioner in the
12 taking and processing of fingerprints of applicants and shall release all
13 records of an applicant's arrests and convictions to the commissioner.

14 (2) The commissioner may conduct, or have a third party conduct, a
15 background check on a person applying for a resident insurance agent
16 license.

17 (3) Whenever the commissioner requires fingerprinting, a
18 background check, or both, any associated costs shall be paid by the
19 applicant.

20 (4) The commissioner ~~may~~ shall use the information obtained from a
21 background check, fingerprinting and the applicant's criminal history only
22 for purposes of verifying the identification of any applicant and in the
23 official determination of the fitness of the applicant to be issued a license
24 as an insurance agent in accordance with this act.

25 (5) A person applying for a resident insurance agent license who has
26 been fingerprinted and has submitted to a state and national criminal
27 history record check within the past 12 months in connection with the
28 successful issuance or renewal of any other state-issued license may
29 submit proof of such good standing to the commissioner in lieu of
30 submitting to the fingerprinting and criminal history record checks
31 described in subsections (h)(1) and (h)(2).

32 (i) *Not later than December 1 of each year, the commissioner shall*
33 *set and publish in the Kansas register the application fee required*
34 *pursuant to subsection (b) for the next calendar year.*

35 Sec. 2. K.S.A. 40-4906 is hereby amended to read as follows: 40-
36 4906. (a) Unless denied licensure pursuant to K.S.A. 40-4909, and
37 amendments thereto, a nonresident person shall receive a nonresident
38 agent license if:

39 (1) Such person is currently licensed as a resident and in good
40 standing in such person's home state;

41 (2) such person has submitted the proper request for licensure and has
42 paid to the commissioner a nonrefundable application fee ~~of not to exceed~~
43 \$30 and a biennial fee ~~of not to exceed~~ \$50;

1 (3) such person has submitted or transmitted to the commissioner of
2 insurance a copy of the application for licensure that such person
3 submitted to such person's home state, or in lieu of the same, a completed
4 application on a form prescribed by the commissioner; and

5 (4) such person's home state awards a nonresident agent license to
6 residents of this state on the same basis.

7 (b) The commissioner may verify the insurance agent's licensing
8 status through the producer database maintained by the NAIC, its affiliates
9 or subsidiaries.

10 (c) (1) Any nonresident agent who is licensed in this state and who
11 moves from one state to another state or a resident agent who moves from
12 this state to another state shall file with the commissioner within 30 days a
13 change of address and provide certification from the new resident state.

14 (2) Any insurance agent who resides in this state and who moves
15 from this state to another state shall file with the commissioner within 30
16 days a change of address and provide certification from the new resident
17 state.

18 (3) No fee or license application shall be required for any filing
19 required by this subsection.

20 (d) Subject to the provisions of subsection (a), any person licensed as
21 a surplus lines agent in such person's home state shall receive a
22 nonresident surplus lines agent license. Except as provided in subsection
23 (a), nothing in this section shall be construed to amend or supersede any
24 provision of K.S.A. 40-246b, and amendments thereto.

25 (e) Subject to the provisions of subsection (a), any person licensed as
26 a limited line credit insurance or other type of limited lines agent in such
27 person's home state shall receive a nonresident limited lines agent license
28 in this state granting the same scope of authority as granted under the
29 license issued by ~~the~~ such insurance agent's home state.

30 (f) *Not later than December 1 of each year, the commissioner shall*
31 *set and publish in the Kansas register the application fee required*
32 *pursuant to subsection (a) for the next calendar year.*

33 Sec. 3. K.S.A. 40-5505 is hereby amended to read as follows: 40-
34 5505. (a) Before issuing a public adjuster license to an applicant under the
35 public adjusters licensing act, the commissioner shall find that the
36 applicant:

37 (1) Is eligible to designate this state as the applicant's home state or is
38 a nonresident who is not eligible for a license under K.S.A. 40-5508, and
39 amendments thereto;

40 (2) has not committed any act that is a ground for denial, suspension
41 or revocation of a license as set forth in K.S.A. 40-5510, and amendments
42 thereto;

43 (3) is trustworthy, reliable and of good reputation, evidence of which

1 may be determined by the commissioner;

2 (4) is financially responsible to exercise the rights and privileges
3 under the license and has provided proof of financial responsibility as
4 required in K.S.A. 40-5511, and amendments thereto;

5 (5) has paid an application fee ~~of~~ *not to exceed* \$100; and

6 (6) maintains an office in the home state with public access during
7 regular business hours or by reasonable appointment.

8 (b) In addition to satisfying the requirements of subsection (a), an
9 applicant shall:

10 (1) Be at least 18 years of age; and

11 (2) have successfully passed the public adjuster examination.

12 (c) The commissioner may require any documents reasonably
13 necessary to verify the information contained in the application.

14 (d) (1) The commissioner may require a person applying for a public
15 adjuster license to be fingerprinted and submit to a state and national
16 criminal history record check or to submit to a background check, or both.

17 (A) The fingerprints shall be used to identify the applicant and to
18 determine whether the applicant has a record of criminal history in this
19 state or another jurisdiction. The commissioner shall submit the
20 fingerprints to the Kansas bureau of investigation and the federal bureau of
21 investigation for a state and national criminal history record check. Local
22 and state law enforcement officers and agencies shall assist the
23 commissioner in the taking and processing of fingerprints of applicants
24 and shall release all records of an applicant's arrests and convictions to the
25 commissioner.

26 (B) The commissioner may conduct or have a third party conduct a
27 background check on a person applying for a public adjuster license.

28 (2) Whenever the commissioner requires fingerprinting or a
29 background check, or both, any associated costs shall be paid by the
30 applicant.

31 (3) The commissioner may use the information obtained from a
32 background check, fingerprinting and the applicant's criminal history only
33 for purposes of verifying the identity of the applicant and in the official
34 determination of the fitness of the applicant to be issued a license as a
35 public adjuster in accordance with the public adjusters licensing act.

36 (e) *Not later than December 1 of each year, the commissioner shall*
37 *set and publish in the Kansas register the application fees required*
38 *pursuant to subsection (a) for the next calendar year.*

39 Sec. 4. K.S.A. 40-4905, 40-4906 and 40-5505 are hereby repealed.

40 Sec. 5. This act shall take effect and be in force from and after its
41 publication in the ~~statute book~~ **Kansas register**.