

SESSION OF 2017

**CONFERENCE COMMITTEE REPORT BRIEF
SENATE BILL NO. 14**

As Agreed to April 7, 2017

Brief*

SB 14 would amend the Insurance Code to create a limited line of insurance for self-service storage unit insurance; enact new law pertaining to this limited line; and amend a provision in the Uniform Insurance Agents Licensing Act concerning application requirements for resident agent licensure to authorize the fingerprinting of resident insurance agent applicants for the purposes of obtaining a state and national criminal history record check. Descriptions of specific bill provisions follow.

Limited Line of Insurance for Self-Storage Units [New Section 1]

Definitions

The bill would establish definitions for the following terms:

- “Licensee” – a person authorized to sell limited line insurance relating to the rental of self-service storage units pursuant to KSA 2016 Supp. 40-4903, and amendments thereto;

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- “Rental agreement” – any written agreement setting forth the terms and conditions governing the use of a storage unit provided by the owner of a self-service storage facility company;
- “Renter” or “occupant” – any person obtaining the use of a storage unit from a self-service storage company under the terms of a rental agreement;
- “Self-service storage company” – any person in the business of renting storage units to the public; and
- “Storage unit” – a semi-enclosed or fully-enclosed area, room, or space, primarily intended for the storage of personal property, which shall be accessible by the renter of the unit pursuant to the terms of the rental agreement.

Sale of Self-Service Storage Unit Insurance

Criteria Required. The bill would require insurance relating to the rental of self-service storage units to be sold only by a licensee and would prohibit the sale of such insurance to any person in this state unless all of the following apply:

- The rental period of the rental agreement does not exceed two years;
- At every self-service storage location where self-service storage insurance agreements are executed, brochures or other written materials are readily available to the prospective renter that:
 - Summarize, clearly and correctly, the material terms of insurance coverage, including the identity of the insurer, offered to renters;
 - Disclose this insurance may provide duplication of coverage already provided by a

- renter's or homeowner's insurance policy or other source of coverage;
- State the purchase by the renter of the limited lines insurance is not required to rent a storage unit;
- Describe the process for filing a claim in the event the renter elects to purchase coverage and in the event of a claim; and
- Contain any additional information on the price, benefits, exclusions, conditions, or other limitations of such policies as the Insurance Commissioner (Commissioner) may prescribe by rules and regulations;
- A sign is posted, approved by the Commissioner, at every self-service storage location where such insurance agreements are executed, with language the same or substantially similar to the following: "State law requires the operator of this facility to inform you that insurance sold by this self-storage company may provide duplication of coverage already provided by a renter's or homeowner's policy or other source of coverage. You are encouraged to contact your primary insurance carrier if you have questions about your existing coverage"; and
- Evidence of coverage is provided to every renter who elects to purchase such insurance.

Renter's Notification. The bill would prohibit a renter or occupant from being required to obtain self-service storage unit insurance as a condition of obtaining a rental agreement for a storage unit. The bill would require the renter to be informed that the insurance offered is not required as a condition of obtaining a rental agreement for a storage unit.

Rules and Regulations. The bill would require the Commissioner to adopt rules and regulations as necessary to

carry out these new provisions relating to self-service storage unit insurance by January 1, 2018.

***Insurance Code Amendments—Limited Line Established
[Section 2]***

On and after January 1, 2018, the bill would amend the law establishing qualifications for licensure in one or more lines of authority. Under current law, agents may receive qualifications for a license in one or more of the following lines of authority: life; accident and health or sickness; property; casualty; variable life and variable annuity products; personal lines; credit; crop insurance; title insurance; travel insurance; pre-need funeral insurance; and bail bond insurance. The bill would add to this list of qualifications by inserting self-service storage unit insurance. This insurance would be defined as:

A limited line insurance relating to the rental of self-service storage units, including:

- Personal effects insurance that provides coverage to renters of storage units at the same facility for the loss of, or damage to, personal effects that occurs at the same facility during the rental period; and
- Any other coverage the Commissioner may approve as meaningful and appropriate in connection with the rental of storage units.

The bill would further provide such insurance may be issued only in accordance with the criteria established by the bill.

***Fingerprinting Requirements for Resident Agent
Licensure [Section 3]***

The bill would amend a provision in the Uniform Insurance Agents Licensing Act concerning application requirements for resident agent licensure to authorize the fingerprinting of resident insurance agent applicants for the purposes of obtaining a state and national criminal history record check.

Under the bill, the Commissioner would be permitted to:

- Require an applicant to be fingerprinted and submit to a state and national criminal history record check. The fingerprints would be used to identify the applicant and to determine whether the applicant has a record of criminal arrests and convictions in Kansas or in other jurisdictions:
 - The Commissioner would be authorized to submit the applicant's fingerprints to the Kansas Bureau of Investigation (KBI) and the Federal Bureau of Investigation for the respective criminal history record checks. As part of this procedure, local and state law enforcement officers and agencies would be required to assist the Commissioner in taking and processing an applicant's fingerprints and release all records of an applicant's arrests and convictions to the Commissioner; and
 - The Commissioner would be authorized to conduct, or have a third party conduct, a background check on the applicant.

The bill would further provide that whenever the Commissioner requires fingerprinting, a background check, or both, any of the associated costs for this process must be paid by the applicant. The bill would also state the Commissioner is permitted to use only the information obtained from a background check, fingerprinting, and the

applicant's criminal history for the purposes of verifying the identification of any applicant and in the official determination of the fitness of the applicant to be issued a license as an insurance agent.

Finally, the bill would specify a person applying for a license who was fingerprinted and submitted to a state and national criminal history record check within the past 12 months in connection with the successful issuance or renewal of any other state-issued license would be permitted to submit proof of good standing to the Commissioner instead of submitting to the new fingerprinting and criminal history record check requirements provided in the bill.

Under current law, the Commissioner is permitted to determine if an applicant has committed delinquent acts. Additionally, the law allows any applicant whose application is denied the opportunity for a hearing in accordance with the provisions of the Kansas Administrative Procedure Act.

Technical Amendments

The bill would also make technical amendments.

Conference Committee Action

The Conference Committee agreed to the provisions of SB 14, as amended by the House Committee of the Whole; agreed to an amendment to SB 14 deleting the requirement of obtaining biennial continuing education credits (CECs) in courses certified as self-service storage unit CECs under the property and casualty category; and agreed to add the contents of HB 2067, as amended by the Senate Committee on Financial Institutions and Insurance.

Background

The bill contains provisions of SB 14 and HB 2067.

SB 14—Limited Line of Insurance for Self-Storage Units

SB 14 was introduced by the Senate Committee on Financial Institutions and Insurance at the request of the Self Storage Association. In the Senate Committee hearing, a representative of the Self Storage Association testified in favor of the bill, noting similar legislation has been approved in 25 states. The representative stated the bill would enhance the Commissioner's ability to regulate limited line insurance providers and provide greater service to the consumers of self-storage facilities.

Opponent testimony was provided by a representative of the Kansas Association of Insurance Agents (KAIA) and the owner of Heritage Insurance Group, Inc. The opponents generally stated the bill would not adequately protect the interests of consumers by having an insurance product sold by self-storage employees with little or no knowledge of insurance.

No neutral testimony was provided.

The Senate Committee amended the bill to add a requirement that a sign be posted at every self-service storage location where self-service storage agreements are signed and to include a limitation on the amount of coverage per customer per storage unit.

In the House Committee on Insurance hearing, a representative of the Self Storage Association appeared in support of the bill, addressed similar legislation in other states, and requested an amendment to clarify information that would be required to be posted at self-service storage locations.

A representative of KAIA presented opponent testimony and stated concerns about the lack of regulation, training, and continuing education for those who would sell insurance under this bill. The representative stated, currently, pursuant to statute, all agents are required to take the initial licensing test and certain limited line licenses require specific continuing education classes.

No neutral testimony was provided.

The House Committee amended the bill to clarify language associated with signage to be posted at self-service storage locations.

The House Committee of the Whole amended the bill to create a separate limited line of insurance in the Insurance Code and modify definitions and requirements contained in the prior bill versions that would have created certification and application requirements and prescribed disciplinary actions (similar to those prescribed in current law for limited line licensees), as well as specific requirements for a training program and the segregation of funds to be held for payment of insurance premiums. The House Committee of the Whole amendment did not retain a requirement from a prior version of the bill (as amended by Senate Committee) that would have restricted the insurance policies issued by a self-service storage company to a specified coverage amount (\$5,000 per customer per storage unit). [Note: The Conference Committee retained the amendment to create a separate limited line of insurance in the Insurance Code, but deleted CEC requirements.]

According to the fiscal note prepared by the Division of the Budget on SB 14, as introduced, the Kansas Insurance Department (Department) states any costs incurred regulating this new limited licensure would be recovered by fees, which would be set by the Commissioner and would be negligible. Any fiscal effect associated with enactment of SB 14 is not reflected in *The FY 2018 Governor's Budget Report*.

HB 2067—Fingerprinting Requirements for Resident Agent Licensure

HB 2067 was introduced by the House Committee on Insurance at the request of the Department. In the House Committee hearing, the Deputy Insurance Commissioner stated the bill would give the Department additional resources to make certain newly licensed insurance agents are properly vetted. He indicated current law only permits a criminal background check (e.g. access to arrest records and convictions in Kansas). Information later provided by Department officials to the House Committee indicated 27 states and the District of Columbia have similar fingerprinting requirements in law. A representative of the KAIA noted the fingerprint provisions in the bill are permissive and, if the Commissioner chooses to require fingerprinting, it will be accessible and affordable. The representative also indicated the bill is a positive measure in sustaining a commitment to the values of honesty and integrity for professional agents and brokers and could prevent bad actors from obtaining an insurance license. No other testimony was provided.

The House Committee modified the language authorizing the fingerprinting of agents for the purposes of conducting a national criminal history record check to include similar language permitting state background checks. The amendment was requested by the Department.

In the Senate Committee on Financial Institutions and Insurance hearing, the Deputy Insurance Commissioner testified in favor of the bill. Written-only proponent testimony was submitted by KAIA. No other testimony was provided.

The Senate Committee amended the bill to provide an option for resident insurance agent applicants to either:

- Comply with the fingerprinting and state and national criminal history check requirements specified in the bill; or

- Submit proof of good standing to the Commissioner, if the applicant has been fingerprinted and submitted to a state and national criminal history record check within the past 12 months in connection with the successful issuance or renewal of any other state-issued license. [Note: The Conference Committee retained this amendment.]

According to the fiscal note prepared by the Division of the Budget on HB 2067, as introduced, the KBI states the cost to process the fingerprints and return the results to the Department would be covered by the record check fee paid by the applicant. The Department estimates 750 applications for insurance agent licenses would be submitted each year, and the KBI estimates a record check fee of \$47 would be charged to the applicant. With enactment of the bill, additional revenues to the Record Check Fee Fund of the KBI totaling \$35,250 would occur each year along with additional corresponding expenditures. Any fiscal effect associated with HB 2067 is not reflected in *The FY 2018 Governor's Budget Report*.

limited lines insurance; self-storage units; fingerprinting of resident insurance agents

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