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MEMORANDUM

To: House Committee on Judiciary

From: Jason Thompson, Senior Assistant Revisor of Statutes

Date: February 4, 2019

Subject: Bill Brief for HB 2072

House Bill 2072 amends the Uniform Arbitration Act of 2000 (Revised Uniform Arbitration Act) to address validity of an agreement to arbitrate in a contract of insurance. The Kansas Bar Association requested introduction of the uniform act in 2017 (House Bill 2186) and the Legislature enacted the uniform act in 2018 (House Bill 2571).

K.S.A. 2018 Supp. 5-428(a) resembles the prior Uniform Arbitration Act provision found in K.S.A. 5-401(a), providing that an agreement contained in a record to submit to arbitration any existing or subsequent controversy arising between the parties to the agreement is valid, enforceable and irrevocable, except upon a ground that exists at law or in equity for the revocation of a contract. However, K.S.A. 5-401(c) also contained an exclusion from this rule for: “(1) Contracts of insurance, except for those contracts between insurance companies, including reinsurance contracts; (2) contracts between an employer and employees, or their respective representatives; or (3) any provision of a contract providing for arbitration of a claim in tort.” This exclusion is not found in the Revised Uniform Arbitration Act.

The bill enacts a modified version of K.S.A. 5-401(c)(1) to create an exception to K.S.A. 5-428(a): “An agreement contained in a contract of insurance to submit to arbitration any existing or subsequent controversy arising between the parties to the agreement, except for those contracts between insurance companies, including reinsurance contracts, shall not be valid, enforceable or irrevocable.”