

Agency Duties—Insurance Department; University of Kansas Medical Center; Department of Health and Environment; Wichita State University; HB 2246

HB 2246 amends and enacts new law pertaining to the oversight, regulation, programming, and authority of various state agencies. Among the agencies and programs addressed by the bill are:

- The Commissioner of Insurance and Kansas Insurance Department (amendments and new supplemental law, including on appointment of the Securities Commissioner);
- Kansas Department of Health and Environment (the Health Care Access Improvement Program);
- The University of Kansas Medical Center (Cancer Center Research Account); and
- Wichita State University (bonding authority).

The bill takes effect upon publication in the *Kansas Register*.

Commissioner of Insurance and Kansas Insurance Department Regulation

The bill amends and enacts new law supplemental to the Insurance Code and amends law governing the appointment of the Securities Commissioner by the Commissioner of Insurance (Commissioner). Among these changes, the bill:

- Creates law and amends law to allow a reciprocal to convert to a Kansas mutual insurance company in accordance with terms of a conversion plan filed with and approved by the Commissioner;
- Amends penalty provisions governing excess lines coverage and taxation;
- Amends the effective date specified for the risk-based capital (RBC) instructions for property and casualty companies and for life insurance companies;
- Amends provisions of the Long-term Care (LTC) Insurance Act to allow regulation of LTC policies providing coverage for less than 12 months; and
- Amends law governing the Office of the Securities Commissioner and the appointment and removal authority assigned to the Commissioner of Insurance.

Reciprocals and Conversion to Mutual Insurance Companies [New Section 1]

The bill creates law and amends law in the Insurance Code to allow a reciprocal to convert to a Kansas mutual insurance company in accordance with terms of a conversion plan filed with and approved by the Commissioner. A reciprocal, as defined in KSA 40-1623, is an aggregation of subscribers under a common name.

The bill permits the Commissioner to establish reasonable requirements and procedures for the submission and approval of a conversion plan. The bill outlines items that must be included in the conversion plan:

- A provision for converting the existing subscriber interests in the reciprocal into policyholder interests in the resulting mutual insurance company, so that each policyholder's interest in the mutual insurance company is fairly proportionate to such subscriber's interest in the reciprocal;
- A provision amending the existing subscriber's agreement to articles of incorporation that comply with provisions in the Insurance Code governing the authority for formation, votes of members, and charter filing requirements for mutual insurance companies;
- A proposed copy of the articles of incorporation;
- Proof of the approval or adoption of the conversion plan by not less than two-thirds of the subscriber interests entitled to vote;
- A transition plan for the change of governance of the reciprocal from an attorney-in-fact to a board of directors and officers that is governed by Kansas law applicable to mutual insurance companies; and
- Any other information required by the Commissioner.

The bill provides the Commissioner shall approve the conversion plan if the Commissioner finds that the proposed conversion will not:

- Be detrimental to the interests of the reciprocal's subscribers;
- Be detrimental to the interests of the state of Kansas; and
- Render the insurer incapable of fulfilling its contractual obligations.

Upon the approval of a conversion plan, the Commissioner is required to issue a new or amended certificate of authority, which will be deemed the final act of conversion; at such time, the reciprocal concurrently will become a mutual insurance company.

Mutual insurance companies created under the provisions of this bill are required to comply with all statutes in the Insurance Code, including Articles 12 and 40, that are applicable to mutual insurance companies.

The bill amends law allowing a mutual insurance company opting to convert to a reciprocal to request a hearing within 15 days of the Commissioner's approval or denial of the conversion plan, under the Kansas Administrative Procedure Act, to grant this same ability to a reciprocal seeking to convert to a mutual insurance company.

The law created in the bill is made supplemental to Article 16 in Chapter 40 (Insurance Code), which governs reciprocals or interinsurance contracts.

Excess Lines Coverage [Section 2]

The bill amends provisions in the Insurance Code governing excess lines coverage and taxation to allow, rather than require, the Commissioner to collect a penalty from any licensee or individual who fails, refuses, or neglects to transmit the required affidavit or statement for surplus lines insurance or fails to pay the imposed tax for surplus lines insurance. The bill also changes the amount of the penalty from double the amount of tax to up to double the amount.

Risk-based Capital (RBC) Instructions [Section 3]

The bill amends the effective date specified in the Insurance Code for the RBC instructions promulgated by the National Association of Insurance Commissioners for property and casualty companies and for life insurance companies. The bill updates the effective date on the RBC instructions from December 31, 2018, to December 31, 2019.

Long-term Care Insurance Act (LTC)—Duration of Policies [Section 6]

The bill amends provisions of the Long-term Care Insurance Act to modify the definition of “long-term care insurance” and to allow the Kansas Insurance Department (Department) to regulate LTC policies that provide coverage for less than 12 months. Prior law required LTC policies to have a duration of at least 12 consecutive months.

Appointment and Removal of the Securities Commissioner [Section 7]

The bill amends law governing the Office of the Securities Commissioner and the appointment and removal authority assigned to the Commissioner of Insurance.

Under prior law, the Insurance Commissioner was permitted to remove the Securities Commissioner for official misconduct. The bill removes this authority and instead requires the Securities Commissioner to serve at the pleasure of the Insurance Commissioner. Under continuing law, the Securities Commissioner would be subject to the confirmation of the Senate.

The bill removes provisions pertaining to the initial appointment of the Securities Commissioner by the Insurance Commissioner. The bill also removes provisions that would

have required the Securities Commissioner to serve, subject to Senate confirmation, a four-year term to run concurrently with the term of the Insurance Commissioner.

[*Note:* Law enacted in 2017 consolidated the Office of the Securities Commissioner, a stand-alone agency, into the Department as a division within the Department and changed the appointment authority for the Securities Commissioner from the Governor to the Insurance Commissioner.]

University of Kansas Medical Center—Cancer Center Research Grant [New Section 8]

The bill creates in the State Treasury the Cancer Research and Public Information Trust Fund to enhance research at the University of Kansas Cancer Center. It creates a demand transfer of \$10.0 million from the State General Fund to the Cancer Research and Public Information Trust Fund of the University of Kansas Medical Center (KUMC) beginning in fiscal year (FY) 2022. The bill requires the Director of KUMC to submit a report to the Legislature detailing the manner that such appropriated moneys are to be used to enhance cancer research, cancer education, and outreach programs.

Kansas Department of Health and Environment—Healthcare Access Improvement Program [Section 9]

The bill amends law concerning the hospital provider assessment known as the Health Care Access Improvement Program (HCAIP). The bill makes the following changes to the hospital provider assessment:

- The annual assessment on services imposed on each provider will be an amount not less than 1.83 percent of each hospital's net inpatient operating revenue and not greater than 3.0 percent of each hospital's net inpatient and outpatient operating revenue. This will apply to hospitals with a complete 12-month fiscal year; and
- The amount of the annual provider tax will be determined by the healthcare access improvement panel in consultation with the Kansas Department of Health and Environment.

In addition, technical changes were made to replace references to 80(l) of chapter 68 of the 2019 Session Laws of Kansas with section 1 of House Bill No. 2168.

Wichita State University—Bonding Authority [Section 10]

The bill provides Wichita State University authority to secure bonds from the Kansas Development Finance Authority for up to \$25.0 million through FY 2021 for a new business school.