

KANSAS OFFICE of  
**REVISOR of STATUTES**

LEGISLATURE of THE STATE of KANSAS  
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**MEMORANDUM**

To: House Committee on Insurance and Pensions

From: Office of Revisor of Statutes

Date: March 22, 2021

Subject: Bill Brief for SB 37 - Updating producer licensing statutes pertaining to appointment, examinations, fees, licensing, renewal dates, continuing education, suspension, revocation and denial of licensure and reinstatement.

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SB 37 amends K.S.A. 2020 Supp. 40-4902, 40-4903, 40-4905, 40-4909, 40-4912 and 40-4915 of the Uniform Insurance Agents Licensing Act and K.S.A. 40-5505 and 40-5512 of the Public Adjusters Licensing Act. The bill also amends K.S.A. 40-241, pertaining to examination of applicants for licensure as an agent. This is largely the same bill as House Bill 2074, with some additional amendments that the Senate Committee on Financial Institutions and Insurance and the Senate Committee of the Whole made prior to passing the bill. In the interest of clarity, I will describe the amendments in the section in which they all occur. The bill did eventually pass the Senate Committee of the Whole on a vote of 31-6.

**Section 1** amends K.S.A. 40-241, pertaining to examination of individual applicants for agents' licenses. Under current law, if an individual fails to pass the licensure examination, the individual may retake the examination following a waiting period of not less than seven days (2<sup>nd</sup> try). If the applicant again fails the examination, the applicant may again retake the examination following another waiting period of not less than seven days (3<sup>rd</sup> try). If the applicant again fails the applicant may be retaken after a waiting period of not less than six months (4<sup>th</sup> try). If the applicant fails on the applicant's fourth try, the applicant must wait two years and the examination and waiting period cycle resets itself and begins anew. HB 2074 would strike the six-month waiting and the two-year waiting periods before the applicant would be allowed to retake a failed examination and allow the applicant to retake the examination after a waiting period of not less than seven days.

**Section 2** amends K.S.A. 2020 Supp. 40-4902, which is the definitions section of the Uniform Insurance Agents Licensing Act. Here, the substantive amendment was made to the definition of "biennial due date" to specify that it is the last day of the birth month of a licensed agent required to complete C.E.C.s, and the last day of the month of the date of initial licensure for a registered business entity.

**Section 3** amends K.S.A. 2020 Supp. 40-4903, pertaining to the insurance agent's license, renewal fees and requirements. Here, new language has been added to require that an insurance agent pay a biennial renewal application fee of \$4 and apply for renewal on a form prescribed by the commissioner. The number of C.E.C.s required for renewal has been changed. Current law requires a licensed insurance agent who is an individual and holds a property or casualty qualification, or both, or a personal lines qualification to earn a minimum of 12 C.E.C.s in courses certified as property and casualty that include at least one hour in ethics.

Current law also requires a licensed insurance agent who is an individual and holds a life, accident and health, or variable contracts qualification, or any combination thereof to earn a minimum of 12 C.E.C.s in courses certified as life, accident and health or variable contracts that include at least one hour in ethics.

The bill would amend current law to require that on and after January 1, 2022, with certain exceptions listed in paragraphs (3) through (6), each licensed insurance agent would be required to earn 18 C.E.C.s that include at least three hours of ethics and that may also include regulatory compliance.

The Senate Committee of the Whole (SCOW) amended the section to state that any licensed insurance agent who is a member of the national guard or any reserve component of the armed services who serves on active duty for at least 90 days will be granted an extension to complete C.E.C.s until the biennial due renewal date that occurs after the year in which such licensed agent's active-duty status ceases. SCOW also amended the bill to require that a licensed insurance agent who holds a life insurance license solely for selling pre-need funeral insurance be required to provide certification from an officer of each insurance company that has appointed such agent that states that the agent has transacted no other insurance business during the period covered by the report.

If the committee chooses to work this bill, I would request the ability to make a technical amendment to change the (6) to a (7), due to the additional category of licensed insurance agents who may serve on active duty.

**Section 4** amends K.S.A. 2020 Supp. 40-4905, pertaining to applications for resident insurance agent licensure. Amendments to this section relate to disclosures made by licensed persons or entities to the commissioner. On pages 13-14 of the bill, a number of items have been added relating to disciplinary actions on a licensee's license or criminal history, and changes in information of the person or entity that the person or entity must report within 30 days of the occurrence.

**Section 5** amends K.S.A. 2020 Supp. 40-4909, pertaining to the commissioner's power to deny an application or suspend, revoke or refuse to renew a licensee's license if the commissioner finds that the applicant or licensee has engaged in certain behaviors listed on page 16. The bill adds to the list a failure to respond to an inquiry from the commissioner within 15 business days. The bill also adds a number of items that the commissioner shall take into consideration when deciding whether to grant or renew a license, which are also listed on page 16. The bill also states that a licensee whose license has been revoked shall not reapply for a license for a period of five years, or other time period as the Commissioner may prescribe. The Senate Committee on Financial Institutions and Insurance amended that provision to lower the time period to two years and to completely remove the Commissioner's discretion in amending the time period.

**Section 6** amends K.S.A. 2020 Supp. 40-4912, pertaining to appointment of agents. Under current law, certification of other than a licensed insurance agent will automatically include each licensed agent who is an officer, director, partner or employee or otherwise legally associated with the corporation, association, partnership or other legal entity appointed by the company. Effective January 1, 2022, the bill would remove the requirement that these individuals or entities be certified and be required to pay the associated certification fee.

**Section 7** amends K.S.A. 2020 Supp. 40-4915, pertaining to the renewal of insurance agent licenses. The amendment to this statute allows the commissioner to suspend the agent's license for 90 days if the agent does not apply for renewal by the agent's biennial due date and the assessment of a \$100 penalty for each license suspended. If the agent fails to apply for renewal after 90 days, but before 12 months are up and the agent wishes to reinstate the license, the agent will be required to pay a

reinstatement fee of \$100 per license. If, after 12 months have passed, the agent wishes to reinstate the license, the agent will be required to submit proof of C.E. completions and pay the reinstatement fee.

**Section 8** amends K.S.A. 2020 Supp. 40-5505, pertaining to public adjusters licenses. The amendment to this statute grants the commissioner the authority to require the applicant for a public adjuster license to be fingerprinted and submit to a state and national criminal history record check or to submit to a background check, or both, at the applicant's expense.

**Section 9** amends K.S.A. 2020 Supp. 40-5512, pertaining to continuing education credits for public adjuster licensees. Here, amendments have been made to the definition of "biennial due date" and to the C.E.C requirement to be consistent with the changes made to the Uniform Insurance Agents Licensing Act.