

SESSION OF 2005

SUPPLEMENTAL NOTE ON SENATE BILL NO. 176

As Amended by House Committee of the Whole

Brief*

SB 176 would amend existing law to replace reference to "agent" or "broker" in insurance law with the term "producer." The bill also would amend existing law, KSA 40-905, to allow that improvements on real property shall not be required to be insured for more than the replacement reasonably estimated. The bill also would include written notice requirements for the closing of a block of business and a change of date to allow for HIPAA compliance.

Producer

The bill would amend existing law to replace references to "agent" or "broker" in insurance law. The bill would replace the terms with "producer." Producer is defined as including any other person, firm, association or corporation, when, for any compensation, commission or other things of value, such person, firm, association or corporation acts or aids in any manner in soliciting, negotiating or procuring the making of any insurance contract on behalf of an insured other than the person, firm, association or corporation. The bill also would amend KSA 40-37a02 to define a captive insurer as an insurance company owned by another organization whose only purpose is to insure risks of the parent organization and affiliated companies or in the case of groups and associations, an insurance organization owned by the insureds to insure risks to member organizations or group members. (Sections 1-8)

*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>

Improvements on Real Property

The bill also would amend existing law, KSA 40-905, to allow that improvements on real property would not be required to be insured for more than the replacement cost reasonably estimated. The bill also would provide that a policy or endorsement to a policy would not be prohibited from containing an inflation guard provision. The bill would not permit the amended section relating to improvements on real property and replacement cost to be deemed to create a private cause of action. Improvements on real property are defined in the bill as a fixture, building, or other structure attached to real property and intended as a permanent addition to such real property. (Section 9)

Closing a Block of Business

The bill also would amend existing law to require carriers to provide written notice of the carrier's decision to close a block of business to each existing policyholder or contract holder affected and to offer each affected policy or contract holder an opportunity to purchase a policy or contract from any block of business that is not closed. The bill would provide that policy or contract holders affected by the carrier's decision to close a block of business be permitted to purchase a policy from a block of business that is not closed during the 30-day period commencing on the day following the date of written notice. A block of business is defined as a particular individual policy form or contract providing hospital, medical, or surgical expense, long-term care, or Medicare supplement coverage issued by a carrier to one or more individuals which includes distinct benefits, services, and terms. (Section 10)

HIPAA Compliance

The bill also would change from December 31, 2004 to December 31, 2005 the sunset date contained in the law requiring parity between health and mental health benefits in all group health insurance policies except for small groups. (Section 11)

Background

The bill, as introduced, was requested by the Insurance Commissioner whose representative indicated that clarification of current law terminology was necessary since the terms, agent or broker, are no longer appropriate for this area of insurance law. The representative stated that these changes would bring the law into compliance with the Uniform Insurance Agent Licensing Act.

The House Committee on Insurance recommended an amendment to the bill to include the provisions of SB 140 (as amended by the Senate Committee of the Whole) and further amended by the House Committee, SB 102 (as recommended by the Senate Committee on Financial Institutions and Insurance), and SB 100 (as recommended by the Senate Committee on Financial Institutions and Insurance). The provisions relating to improvements on real property were amended to include a definition for the improvements and to clarify the provision regarding reasonably estimated replacement costs.

The House Committee of the Whole amendment replaced the 60-day period that would commence after written notice regarding the closing of a block of business with a 30-day period.

The fiscal note prepared by the Division of the Budget on the introduced version of the bill indicates that passage of the bill would have no fiscal effect.