

SESSION OF 2006

**SUPPLEMENTAL NOTE ON SUBSTITUTE  
FOR SENATE BILL NO. 539**

As Amended by House Committee of the Whole

**Brief\***

Sub. for SB 539 would amend certain rate filing requirements for casualty insurance companies and enact new law for a risk adjustment method. The bill would remove the current policy form filing requirement that certain contracts of commercial insurance or indemnity not be issued or delivered until the form has been filed with the Insurance Commissioner or if the Commissioner gives written notice within 30 days of the filing and demonstrates that the form does not comply with requirements of state law. Exceptions to the new filing requirements, which allow for file and use, include contracts for large risks, basic professional liability coverage for health care providers, and workers compensation. These filings would continue to be subject to prior approval by the Commissioner. The amended filing requirements include:

- Contracts of insurance or indemnity issued or delivered in Kansas would be effective on filing or any subsequent date selected by the insurer, unless the Commissioner disapproves such contract within 30 days after the filing because the rates are determined to be inadequate, excessive, unfairly discriminatory or otherwise fail to meet the requirements of this act.
- Contracts that pertain to large risks, as defined in KSA 40-955(I), noncommercial personal lines, basic professional liability coverages required by KSA 40-3401 *et seq.*, and workers compensation would be exempt from this filing requirement. No form filing for either the basic professional liability coverage for health care providers or workers compensation is to be used in this state by any insurer until such form filing has been approved by the Commissioner.
- Each personal lines contract of insurance or indemnity issued or delivered in this state would be required to be on file for a period

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\*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>

of 30 days before becoming effective unless the Commissioner disapproves such contract if the rates are determined to be inadequate, excessive, unfairly discriminatory or otherwise fail to meet the requirements of this act. Personal lines of insurance are defined in this provision as insurance for noncommercial automobile, homeowners, dwelling, fire and renters insurance policies as defined by the Commissioner by rules and regulations.

The bill also would create a hearing process for filings that have become effective but are found to not comply with this act. The Commissioner would be required to send written notice to every insurer and rating organization making such filing that a hearing concerning the filing will be held in ten or more days. After the hearing, the Commissioner is to issue an order that states the reasons why such filing failed to comply with the act; and the date, within a reasonable time after the date the order is issued, upon which such filing would no longer be effective. A copy of the order is to be sent to every insurer and rating organization that made the filing. No order issued pursuant to this provision is to affect any contract or policy made or issued under such filing prior to the date specified upon which the filing is to no longer be effective.

New law would be created by the bill to allow for a risk adjustment method that would permit insurers to:

- Increase or decrease premiums on a given risk basis without documentation up to 40 percent based on any factor, with the exceptions that the adjustment could not be based upon the race, creed, national origin, or religion of the insured and could not apply to insurance covering:
  - Personal lines: risks of a personal nature, including insurance for homeowners, tenants, private passenger nonfleet automobiles, mobile homes and other property and casualty insurance for personal, family, or household needs;
  - Farms and ranches, including crop insurance;
  - Workers compensation; or
  - The basic professional liability coverage required by KSA 40-3401 *et seq.*

The Commissioner, in accordance with the Rules and Regulations Filing Act, would be permitted to broaden the range of plus or minus 40 percent for any line or type of insurance subject to KSA 40-955, if the Commissioner finds that the utilization of this new

law has produced a significant number of rate modifications at or near the upper limit and at the lower limit of the allowable range of modification; and modifiers at and near the upper limits of the allowable range appear to be predominantly correlated with individual risk factors that relate to expected losses and expenses.

The Commissioner, also in accordance with the Rules and Regulations Filing Act, would be permitted to reduce the range of plus or minus 40 percent for any line or type of insurance subject to KSA 40-955, if the Commissioner finds that modifiers at or near the upper or lower limits of the allowable range are not predominantly correlated with individual risk factors that relate to expected losses and expenses, but the reduction would not be permitted to reduce the range to less than plus or minus 25 percent.

Finally, the bill would allow any insurer aggrieved by the Commissioner's finding be allowed to appeal, pursuant to the Kansas Administrative Procedure Act.

## **Background**

SB 539 was introduced by the Financial Institutions and Insurance Committee at the request of the American Insurance Association whose representative indicated that the bill would continue the modernization of Kansas insurance rate and filing laws by reducing prior approval barriers and allow for schedule rating which would permit insurers to raise or lower rates for individual risks to more closely match the risk presented. At the time a substitute bill was presented to the Committee, representatives of the Kansas Insurance Department, the Kansas Association of Insurance Agents, and the State Farm Insurance Companies testified in support of the substitute. A representative of the Health Care Stabilization Fund testified in opposition to the original bill regarding the removal of the prior approval requirements for basic professional liability insurance policies.

The Senate Committee on Financial Institutions and Insurance amended the bill to clarify commercial form filing requirements and the exceptions to those requirements; to create a hearing process for effective filings that have been found not to comply with this act; to return to current law provisions on other rate filings including personal lines of insurance and the factors required for determination of a large risk; and to create specific exceptions for workers compensation and the basic professional liability coverage for health care providers.

The House Committee on Insurance amended the bill to create an exception to the modification of individual risks, as allowed in KSA 40-954, by the risk adjustment method created by the bill. Excepted insurance would include personal lines, farm and ranch (including crop insurance), workers compensation, and medical malpractice liability coverage. The amendment was proposed by the Kansas Insurance Department.

The House Committee of the Whole amendment removes the provisions of KSA 40-954 from the bill. One amendment had been proposed in the original substitute and was further amended by the House Committee to KSA 40-954, for rate modification for individual risk.

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.