SESSION OF 2010

SUPPLEMENTAL NOTE ON
SUBSTITUTE FOR HOUSE BILL NO. 2345

As Amended by Senate Committee on
Financial Institutions and Insurance

Brief*

Sub. for HB 2345, as amended, would amend a provision in the Insurance Code to allow the incorporation of long-term care insurance into annuities and would enact new law and amend the Kansas Consumer Protection Act to create provisions applying insurance settlement payments for damages to real property subject to a mortgage.

Under current law, long-term care insurance can be incorporated into life insurance policies, if approved by the Insurance Commissioner. The bill would provide that the Insurance Commissioner is permitted to adopt rules and regulations to implement provisions of the statute that apply to the formation of life insurance companies.

This bill also would enact new law to require that, for insurance policies issued or renewed on or after July 1, 2010, a property insurer shall transmit claims payments directly to the primary policy holder without requiring dual endorsement from any mortgage holder or lien holder for the full amounts payable for personal property and contents, additional living expenses, and other covered items that are not subject to a recorded security interest. Additionally, the bill would amend the Kansas Consumer Protection Act to establish a deceptive act or practice under the Act. The practice would be defined by the bill as failure to release funds representing an insurance settlement payment for damage to real property subject to a mortgage by the mortgage holder to the mortgagor within 30

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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 days after receiving written proof that the damaged property is replaced or otherwise repaired to the satisfaction of the mortgagor and the mortgage holder.

The bill would further provide that any person who submits false information regarding the condition of the property is liable in damages to the mortgage holder or assignee of the mortgage holder for:

- Amount of funds with interest;
- Attorney fees; and
- Any additional damages that the mortgage holder has incurred.

Background

The House Committee on Insurance recommended the introduction of a substitute bill. The substitute incorporates the introduced version of 2010 HB 2490. The original bill contained provisions related to minimum reserve requirements for life insurance plans.

The House Committee of the Whole recommended a technical amendment to update a statutory reference.

The Senate Committee on Financial Institutions and Insurance recommended an amendment to the bill to insert provisions that would allow certain claims payments be transmitted directly to a policyholder without requiring dual endorsement from the mortgage holder or lien holder and would establish a deceptive practice under the Kansas Consumer Protection Act. The amendment incorporates the provisions of 2009 HB 2160 (as amended by HCOW).

HB 2490 was introduced at the request of the Kansas Insurance Department whose representative indicated that the bill would allow insurance companies to sell a hybrid insurance product that includes an annuity and long-term care insurance. The representative noted that the Pension Protection Act of

2006 included a provision that addressed the taxation of combination annuity plans featuring long-term care insurance; effective January 1, 2010, long-term care insurance benefits paid out of these plans, the representative continued, are paid as tax-free, long-term care insurance benefits. There were no other proponents and no opponents present at the time of the Committee hearing.

The fiscal note prepared by the Division of the Budget on HB 2490 states that the Kansas Insurance Department indicates that the bill could be implemented within existing staffing and operating expenditure levels. The fiscal note for the original version of HB 2160 states that the bill would increase the Department's workload; however, the Department indicates it would implement the provisions of the bill within its existing staff and resources.