Session of 2025

HOUSE BILL No. 2049

By Committee on Insurance

Requested by Eric Turek, Kansas Insurance Department

1-21

AN ACT concerning insurance; relating to licensing requirements for insurance agents and public adjusters; pertaining to suspension, revocation, denial of licensure and licensure renewal; amending K.S.A. 40-5510 and K.S.A. 2024 Supp. 40-4909 and repealing the existing sections.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 2024 Supp. 40-4909 is hereby amended to read as follows: 40-4909. (a) The commissioner may deny, suspend, revoke or refuse renewal of any license issued under this act if the commissioner finds that the applicant or license holder has:

(1) Provided incorrect, misleading, incomplete or untrue information in the license application.

(2) Violated:

(A) Any provision of chapter 40 of the Kansas Statutes Annotated, and amendments thereto, or any rules and regulations promulgated thereunder;

(B) any subpoena or order of the commissioner;

(C) any insurance law or regulation of another state; or

(D) any subpoena or order issued by the regulatory official for insurance in another state.

(3) Obtained or attempted to obtain a license under this act through misrepresentation or fraud.

(4) Improperly withheld, misappropriated or converted any moneys or properties received in the course of doing insurance business.

(5) Intentionally misrepresented the provisions, terms and conditions of an actual or proposed insurance contract or application for insurance.

(6) Been convicted of a misdemeanor or felony.

(7) Admitted to or been found to have committed any insurance unfair trade practice or fraud in violation of K.S.A. 40-2404, and amendments thereto.

(8) Used any fraudulent, coercive, or dishonest practice, or demonstrated any incompetence, untrustworthiness or financial irresponsibility in the conduct of business in this state or elsewhere.

(9) Had an insurance agent license*, public adjuster license, securities*

registration, or ~~its~~ *their* equivalent, denied, suspended or revoked in any state, district or territory.

(10) Forged another person's name to an application for insurance or to any document related to an insurance transaction.

(11) Improperly used notes or any other reference material to complete an examination for an insurance license issued under this act.

(12) Knowingly accepted insurance business from an individual who is not licensed.

(13) Failed to comply with any administrative or court order imposing a child support obligation upon the applicant or license holder.

(14) Failed to pay any state income tax or comply with any administrative or court order directing payment of state income tax.

(15) Except as otherwise permitted by law, rebated the whole or any part of any insurance premium or offered in connection with the presentation of any contract of insurance any other inducement not contained in the contract of insurance.

(16) Made any misleading representation or incomplete comparison of policies to any person for the purposes of inducing or tending to induce such person to lapse, forfeit or surrender such person's insurance then in force.

(17) Failed to respond to an inquiry from the commissioner within 15 business days.

(b) In addition, the commissioner may deny, suspend, revoke or refuse renewal of any license issued under this act if the commissioner finds that the interests of the insurer or the insurable interests of the public are not properly served under such license.

(c) (1) When considering whether to deny, suspend, revoke or refuse to renew the application of an individual who has been convicted of a misdemeanor or felony, the commissioner shall consider the:

(A) Applicant's age at the time of the conduct;

(B) recency of the conduct;

(C) reliability of the information concerning the conduct;

(D) seriousness of the conduct;

(E) factors underlying the conduct;

(F) cumulative effect of the conduct or information;

(G) evidence of rehabilitation;

(H) applicant's social contributions since the conduct;

(I) applicant's candor in the application process; and

(J) materiality of any omissions or misrepresentations.

(2) In determining whether to reinstate or grant to an applicant a license that has been revoked, the commissioner shall consider the:

(A) Present moral fitness of the applicant;

(B) demonstrated consciousness by the applicant of the wrongful

conduct and disrepute that the conduct has brought to the insurance profession;

(C) extent of the applicant's rehabilitation;

(D) seriousness of the original conduct;

(E) applicant's conduct subsequent to discipline;

(F) amount of time that has elapsed since the original discipline;

(G) applicant's character, maturity and experience at the time of revocation; and

(H) applicant's present competence and skills in the insurance industry.

(d) Any action taken under this section that affects any license or imposes any administrative penalty shall be taken only after notice and an opportunity for a hearing conducted in accordance with the provisions of the Kansas administrative procedure act.

(e) The license of any business entity may be suspended, revoked or refused renewal if the insurance commissioner finds that any violation committed by an individual licensee employed by or acting on behalf of such business entity was known by or should have been known by one or more of the partners, officers or managers acting on behalf of the business entity and:

(1) Such violation was not reported to the insurance commissioner by such business entity; or

(2) such business entity failed to take any corrective action.

(f) None of the following actions shall deprive the commissioner of any jurisdiction or right to institute or proceed with any disciplinary proceeding against such license, to render a decision suspending, revoking or refusing to renew such license, or to establish and make a record of the facts of any violation of law for any lawful purpose:

(1) The imposition of an administrative penalty under this section;

(2) the lapse or suspension of any license issued under this act by operation of law;

(3) the licensee's failure to renew any license issued under this act; or

(4) the licensee's voluntary surrender of any license issued under this act. No such disciplinary proceeding shall be instituted against any licensee after the expiration of two years from the termination of the license.

(g) Whenever the commissioner imposes any administrative penalty or denies, suspends, revokes or refuses renewal of any license pursuant to subsection (a), any costs incurred as a result of conducting an administrative hearing authorized under the provisions of this section shall be assessed against the person who is the subject of the hearing or any business entity represented by such person who is the party to the matters giving rise to the hearing. As used in this subsection, "costs" ~~shall include~~

includes witness fees, mileage allowances, any costs associated with the reproduction of documents that become a part of the hearing record and the expense of making a record of the hearing.

(h) No person whose license as an agent or broker had been suspended or revoked shall be employed by any insurance company doing business in this state either directly, indirectly, as an independent contractor or otherwise to negotiate or effect contracts of insurance, suretyship or indemnity or perform any act toward the solicitation ~~of~~ or transaction of any business of insurance during the period of such suspension or revocation.

(i) In lieu of taking any action under subsection (a), the commissioner may:

(1) Censure the person; or

(2) issue an order imposing an administrative penalty up to a maximum of $500 for each violation but not to exceed $2,500 for the same violation occurring within any six consecutive calendar months from the date of the original violation unless such person knew or should have known that the violative act could give rise to disciplinary action under subsection (a). If such person knew or reasonably should have known the violative act could give rise to any disciplinary proceeding authorized by subsection (a), the commissioner may impose a penalty up to a maximum of $1,000 for each violation but not to exceed $5,000 for the same violation occurring within any six consecutive calendar months from the date of the imposition of the original administrative penalty.

(j) (1) An applicant to whom a license has been denied after a hearing shall not apply *again* for a license ~~again~~ until after the expiration of a period of one year from the date of the commissioner's order.

(2) A licensee whose license was revoked shall not apply *again* for a license ~~again~~ until after the expiration of a period of two years from the date of the commissioner's order.

Sec. 2. K.S.A. 40-5510 is hereby amended to read as follows: 40-5510. (a) The commissioner may suspend, revoke or refuse to issue or renew a public adjuster's license for any of the following causes:

(1) Providing incorrect, misleading, incomplete or materially untrue information in the license application;

(2) violating:

(A) Any provision of chapter 40 of the Kansas Statutes Annotated, and amendments thereto, or any rule and regulation promulgated thereunder;

(B) any subpoena or order of the commissioner;

(C) any insurance law or regulation of another state; or

(D) any subpoena or order issued by the regulatory official for insurance in another state;

(3) obtaining or attempting to obtain a license through misrepresentation or fraud;

(4) misappropriating, converting or improperly withholding any monies or properties received in the course of doing insurance business;

(5) intentionally misrepresenting the terms of an actual or proposed insurance contract or application for insurance;

(6) having been convicted of a misdemeanor or felony;

(7) having admitted or committed any insurance unfair trade practice or insurance fraud;

(8) using fraudulent, coercive or dishonest practices or demonstrating incompetence, untrustworthiness or financial irresponsibility in the conduct of business in this state or elsewhere;

(9) having an insurance license, *public adjuster license, securities registration* or ~~its~~ *their* equivalent, denied, suspended or revoked in any other state, province, district or territory;

(10) forging another's name to an application for insurance or to any document related to an insurance transaction;

(11) cheating, including improperly using notes or any other reference material, to complete an examination for an insurance license;

(12) knowingly accepting insurance business from an individual who is not licensed but who is required to be licensed by the commissioner;

(13) failing to comply with an administrative or court order imposing a child support obligation upon the applicant or license holder; ~~or~~

(14) failing to pay state income tax or comply with any administrative or court order directing payment of state income tax*; or*

(15) failing to respond to an inquiry from the commissioner within 15 days.

(b) In addition, the commissioner may deny, suspend, revoke or refuse renewal of a public adjuster's license if the commissioner finds that the interests of the public are not properly served under such license. Any action taken under this section which affects any license or imposes any administrative penalty shall be taken only after notice and an opportunity for a hearing conducted in accordance with the Kansas administrative procedure act.

(c) In lieu of any action under subsection (a), the commissioner may:

(1) Censure the individual; or

(2) issue an order imposing an administrative penalty up to a maximum of $500 for each violation, but not to exceed $2,500 for the same violation occurring within any six consecutive calendar months from the date of the original violation, unless such person knew or should have known that the violative act could give rise to disciplinary action under subsection (a). If such person knew or reasonably should have known the violative act could give rise to any disciplinary proceeding authorized by

subsection (a), the commissioner may impose a penalty up to a maximum of $1,000 for each violation, but not to exceed $5,000 for the same violation occurring within any six consecutive calendar months from the date of the original violation.

(d) (1) When considering whether to deny, suspend, revoke or refuse to renew the application of an individual who has been convicted of a misdemeanor or felony, the commissioner shall consider the:

(A) Applicant's age at the time of the conduct;

(B) recency of the conduct;

(C) reliability of the information concerning the conduct;

(D) seriousness of the conduct;

(E) factors underlying the conduct;

(F) cumulative effect of the conduct or the information;

(G) evidence of rehabilitation;

(H) applicant's social contributions since the conduct;

(I) applicant's candor in the application process; and

(J) materiality of any omissions or misrepresentations.

(2) In determining whether to reinstate or grant to an applicant a license that has been revoked, the commissioner shall consider the:

(A) Present moral fitness of the applicant;

(B) demonstrated consciousness by the applicant of the wrongful conduct and disrepute that the conduct has brought to the insurance profession;

(C) extent of the applicant's rehabilitation;

(D) seriousness of the original conduct;

(E) applicant's conduct subsequent to discipline;

(F) amount of time that has elapsed since the original discipline;

(G) applicant's character, maturity and experience at the time of revocation; and

(H) applicant's present competence and skills in the insurance industry.

(e) Any action taken under this section that affects any license or imposes any administrative penalty shall be taken only after notice and an opportunity for a hearing conducted in accordance with the provisions of the Kansas administrative procedure act.

~~(d)~~*(f)* The commissioner shall remit all such fines collected under subsection (c) to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the state general fund.

(g) Whenever the commissioner imposes any administrative penalty or denies, suspends, revokes or refuses renewal of any license pursuant to subsection (a), any costs incurred as a result of conducting an

administrative hearing authorized under the provisions of this section shall be assessed against the person who is the subject of the hearing or any business entity represented by such person who is the party to the matters giving rise to the hearing. As used in this subsection, "costs" includes witness fees, mileage allowances, any costs associated with the reproduction of documents that become a part of the hearing record and the expense of making a record of the hearing.

(h) No person whose license as a public adjuster had been suspended or revoked shall be employed by any insurance company doing business in this state either directly, indirectly, as an independent contractor or otherwise to negotiate or effect contracts of insurance, suretyship or indemnity or perform any act toward the solicitation or transaction of any business of insurance during the period of such suspension or revocation.

~~(e)~~*(i)* The commissioner shall retain the authority to enforce the provisions of and impose any penalty or remedy authorized by this act against any individual who is under investigation for or charged with a violation of this act, even if the individual's license or registration has been surrendered or has lapsed by operation of law.

(j) (1) An applicant to whom a license has been denied after a hearing shall not apply again for a license until after the expiration of a period of one year from the date of the commissioner's order.

(2) A licensee whose license was revoked shall not apply again for a license until after the expiration of a period of two years from the date of the commissioner's order.

Sec. 3. K.S.A. 40-5510 and K.S.A. 2024 Supp. 40-4909 are hereby repealed.

Sec. 4. This act shall take effect and be in force from and after its publication in the statute book.