

## SENATE BILL No. 193

By Committee on Financial Institutions and Insurance

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AN ACT concerning insurance agents; relating to required errors and omissions coverage; amending K.S.A. 40-241 and repealing the existing section.

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

Section 1. K.S.A. 40-241 is hereby amended to read as follows: 40-241. Any applicant or prospective applicant for an agent's license, if an individual, shall be given an examination by the commissioner or the commissioner's designee to determine whether such applicant possesses the competence and knowledge of the kinds of insurance and transactions under the license applied for, or to be applied for, of the duties and responsibilities of such a license and of the pertinent provisions of the laws of this state. The applicant shall be tested on each class or subclassification of insurance which may be written. An examination fee prescribed in rules and regulations adopted by the commissioner shall be paid by the applicant and shall be required for each class of insurance for each attempt to pass the examination. Such examination fee shall be in addition to the certification fee required under K.S.A. 40-252, and amendments thereto. There shall be four classes of insurance for the purposes of this act:

- (1) Life;
- (2) accident and health;
- (3) casualty and allied lines; and
- (4) property and allied lines.

An insurance license may be issued as a subclassification of casualty and allied lines to any auto rental agency. An auto rental agency may offer or sell insurance only in connection with and incidental to the rental of motor vehicles, whether at the rental office, at the point of delivery of a vehicle, or by preselection of coverage in a master, corporate or group rental agreement, in any of the following general categories: (1) Personal accident insurance covering risks of travel, (2) motor vehicle liability insurance, (3) personal effects insurance providing coverage to renters and other occupants of the motor vehicle, (4) roadside assistance and emergency sickness protection programs, and (5) any other travel or auto-related coverage an auto rental company may offer in connection with

1 and incidental to rental of motor vehicles. No insurance may be issued  
2 by an auto rental agency unless the rental period of the rental agreement  
3 does not exceed 90 consecutive days and brochures and other written  
4 material clearly and correctly explaining insurance coverages offered by  
5 the agency are available for prospective renters and clear and complete  
6 disclosures are provided to prospective renters that such coverage may  
7 be duplicative of other insurance owned by the renter, that purchase of  
8 insurance coverage is not a condition for renting a motor vehicle and  
9 describing the process for filing a claim.

10 Auto rental agencies employing representatives shall conduct a training  
11 program for each representative, providing instruction on the kinds of  
12 insurance coverage offered by the agency.

13 No auto rental agency shall offer or solicit any insurance other than  
14 the coverages described in this section without an insurance license. No  
15 auto rental employee or auto rental agency shall advertise or otherwise  
16 hold themselves out as licensed insurers, insurance agents or insurance  
17 brokers.

18 The commissioner of insurance shall adopt rules and regulations with  
19 respect to the scope, subclassification, type and conduct of such exami-  
20 nation. Examinations shall be given to applicants at least twice a month  
21 in Topeka, Kansas, and at least quarterly in other convenient locations in  
22 the state of Kansas. The commissioner shall publish or arrange for the  
23 publication of information and material which applicants can use to pre-  
24 pare for such examination. One or more rating organizations, advisory  
25 organizations or other associations may be designated by the commis-  
26 sioner to assist in, or assume responsibility for, distribution of the study  
27 manuals to applicants and other interested parties. Persons purchasing  
28 the study manual shall be charged a reasonable fee established or ap-  
29 proved by the commissioner. In the event the publication and distribution  
30 of the study material or the development and conduct of examinations is  
31 delegated to private firms, organizations or associations and the state in-  
32 curs no expense or obligation, the provisions of K.S.A. 75-3738 to 75-  
33 3744, inclusive, and amendments thereto, shall not apply. If the commis-  
34 sioner of insurance finds that the individual applicant is trustworthy,  
35 competent and has satisfactorily completed the examination, the commis-  
36 sioner shall forthwith issue to the applicant a license as an insurance  
37 agent but the issuance of such license shall confer no authority to transact  
38 business in this state until the agent has been certified by a company  
39 pursuant to K.S.A. 40-241i, and amendments thereto and submitted proof  
40 that the agent is covered by an errors and omissions policy required by  
41 this section. If such applicant fails to satisfactorily complete the exami-  
42 nation, the examination may be retaken following a waiting period of not  
43 less than seven days from the date of the last attempt. If the applicant

1 again fails to satisfactorily complete the examination, it may be retaken  
2 following another waiting period of not less than seven days from the date  
3 of the most recent attempt. Thereafter, the examination may be retaken  
4 following a waiting period of not less than six months from the date of  
5 the most recent attempt, except that following a waiting period of two  
6 years from the date of the applicant's last examination attempt an appli-  
7 cant will be treated as a new applicant and new examination and waiting  
8 periods shall apply. While licensed every agent shall be covered by an  
9 errors and omissions policy covering the individual agent in an amount  
10 of not less than \$100,000 total liability limit per occurrence, subject to  
11 not less than \$100,000 annual aggregate for all claims made during the  
12 policy period; or, covering the agent under blanket liability policy or pol-  
13 icies, which policy or policies can include other coverage on an excess  
14 basis over \$100,000 primary, insuring other insurance agents or brokers  
15 in an amount of not less than \$500,000 total liability limit per occurrence  
16 subject to not less than \$500,000 annual aggregate for all claims made  
17 during the policy period. Such policy shall be issued by an authorized  
18 insurance company or as authorized by K.S.A. 40-246b or 40-246c, and  
19 amendments thereto, for errors and omissions of the agent. Self-retention  
20 shall be permitted on liability policies covering the agent. *The errors and*  
21 *omissions policy requirements contained in this section shall not apply to*  
22 *any licensed insurance agent who holds a license for the sole purpose of*  
23 *selling life insurance or annuity products used to fund a prearranged*  
24 *funeral program.*

25 Sec. 2. K.S.A. 40-241 is hereby repealed.

26 Sec. 3. This act shall take effect and be in force from and after its  
27 publication in the statute book.

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