

HOUSE BILL No. 2566

By Committee on Appropriations

1-22

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. (a) 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.

(b) 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.

(c) (1) 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)~~(A) Personal accident insurance covering risks of travel,
- ~~(2)~~(B) motor vehicle liability insurance,
- ~~(3)~~(C) personal effects insurance providing coverage to renters and other occupants of the motor vehicle,

1 ~~(4)(D)~~ roadside assistance and emergency sickness protection pro-
2 grams, and

3 ~~(5)(E)~~ any other travel or auto-related coverage an auto rental com-
4 pany may offer in connection with and incidental to rental of motor ve-
5 hicles. No insurance may be issued by an auto rental agency unless the
6 rental period of the rental agreement does not exceed 90 consecutive
7 days and brochures and other written material clearly and correctly ex-
8 plaining insurance coverages offered by the agency are available for pro-
9 spective renters and clear and complete disclosures are provided to pro-
10 spective renters that such coverage may be duplicative of other insurance
11 owned by the renter, that purchase of insurance coverage is not a con-
12 dition for renting a motor vehicle and describing the process for filing a
13 claim.

14 (2) Auto rental agencies employing representatives shall conduct a
15 training program for each representative, providing instruction on the
16 kinds of insurance coverage offered by the agency.

17 (3) No auto rental agency shall offer or solicit any insurance other
18 than the coverages described in this section without an insurance license.
19 No auto rental employee or auto rental agency shall advertise or otherwise
20 hold themselves out as licensed insurers, insurance agents or insurance
21 brokers.

22 (d) (1) The commissioner of insurance shall adopt rules and regula-
23 tions with respect to the scope, subclassification, type and conduct of such
24 examination.

25 (2) Examinations shall be given to applicants at least twice a month
26 in Topeka, Kansas, and at least quarterly in other convenient locations in
27 the state of Kansas.

28 (3) The commissioner shall publish or arrange for the publication of
29 information and material which applicants can use to prepare for such
30 examination. One or more rating organizations, advisory organizations or
31 other associations may be designated by the commissioner to assist in, or
32 assume responsibility for, distribution of the study manuals to applicants
33 and other interested parties. Persons purchasing the study manual shall
34 be charged a reasonable fee established or approved by the commissioner.
35 In the event the publication and distribution of the study material or the
36 development and conduct of examinations is delegated to private firms,
37 organizations or associations and the state incurs no expense or obligation,
38 the provisions of K.S.A. 75-3738 to 75-3744, inclusive, and amendments
39 thereto, shall not apply.

40 (4) (A) If the commissioner of insurance finds that the individual
41 applicant is trustworthy, competent and has satisfactorily completed the
42 examination, the commissioner shall forthwith issue to the applicant a
43 license as an insurance agent but the issuance of such license shall confer

1 no authority to transact business in this state until the agent has been
2 certified by a company pursuant to K.S.A. 40-241i, and amendments
3 thereto and submitted proof that the agent is covered by an errors and
4 omissions policy required by this section.

5 (B) If such applicant fails to satisfactorily complete the examination,
6 the examination may be retaken following a waiting period of not less
7 than seven days from the date of the last attempt.

8 (C) If the applicant again fails to satisfactorily complete the exami-
9 nation, it may be retaken following another waiting period of not less than
10 seven days from the date of the most recent attempt. Thereafter, the
11 examination may be retaken following a waiting period of not less than
12 six months from the date of the most recent attempt, except that following
13 a waiting period of two years from the date of the applicant's last exami-
14 nation attempt an applicant will be treated as a new applicant and new
15 examination and waiting periods shall apply.

16 (e) *Except as provided in subsection (f)*, while licensed, every agent
17 shall be covered by an errors and omissions policy covering the individual
18 agent in an amount of not less than \$100,000 total liability limit per oc-
19 currence, subject to not less than \$100,000 annual aggregate for all claims
20 made during the policy period; or, covering the agent under blanket li-
21 ability policy or policies, which policy or policies can include other cov-
22 erage on an excess basis over \$100,000 primary, insuring other insurance
23 agents or brokers in an amount of not less than \$500,000 total liability
24 limit per occurrence subject to not less than \$500,000 annual aggregate
25 for all claims made during the policy period. Such policy shall be issued
26 by an authorized insurance company or as authorized by K.S.A. 40-246b
27 or 40-246c, and amendments thereto, for errors and omissions of the
28 agent. Self-retention shall be permitted on liability policies covering the
29 agent.

30 (f) *The errors and omissions policy requirements contained in this*
31 *section shall not apply to any licensed insurance agent who holds a license*
32 *solely for the purpose of selling federal crop insurance, other crop insur-*
33 *ance, hail insurance for growing grain, or any combination thereof.*

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

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

37
38
39
40
41
42
43