

SESSION OF 2005

**SUPPLEMENTAL NOTE ON SUBSTITUTE
FOR SENATE BILL NO. 103**

As Amended by House Committee of the Whole

Brief*

Substitute for SB 103 would enact new law relating to property and casualty insurance and health insurance policies issued to Kansas residents deployed in the military service. The bill also would amend a provision of KSA 40-284 relating to underinsured motorist coverage by permitting a person to collect on underinsured motorist coverage to the limits of the bodily injury coverage carried by the owner or operator of the other vehicle.

Specifically, the bill would provide that a Kansas resident activated for military service, and the spouse or dependents of the resident, who become eligible for a federal government health insurance program as a result of activation for military service, not be denied reinstatement into the same individual coverage with the same health plan that the resident had lapsed as a result of activation or coverage by the federal program. The reinstatement provisions also would include:

- right to reinstatement in the same individual coverage without medical underwriting and in the same rating tier held prior to activation or coverage by the federal program, subject to payment of the current premium charged to other persons of the same age and gender under the same individual coverage;
- reinstatement must be, except in the cases of birth or adoption that occur during the period of activation, into the same membership type, or a membership type covering fewer persons, the resident had prior to the lapse of individual coverage. Reinstatement must be at the same or higher deductible level;

*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>

- reinstatement rights are not available to the insured or dependents if the activated person is discharged from the military for other than honorable conditions;
- reinstatement request for coverage under the individual's health plan must be received no later than 30 days following the later of deactivation or loss of coverage under the federal program. The effective date of individual coverage would be the first of the month following receipt of the request;
- a health plan would not be required to reinstate a resident if the health plan requires residency in an enrollment area and those residency requirements are not met after deactivation or loss of coverage under the federal program; and
- all terms, conditions and limitations of the individual coverage into which reinstatement is made would apply equally to all insureds enrolled in such coverage.

The bill also would require health plans provide written notice to the policyholders of the reinstatement provisions of this act. Written notices not included in the individual policy would be required to include either a single written notice to a policyholder initially enrolling into the individual coverage after the effective date of this act, as part of the enrollment process; or the mailing of a written notice to policyholders whose coverage was effective prior to the effective date of this act.

The bill would limit the reinstatement provisions of this act, by providing that the provisions not apply to any policy or certificate providing coverage for any specified disease, accident or accident-only coverage, credit, dental, disability income, hospital indemnity, long-term care, medicare supplement, vision care or other limited-benefit supplemental insurance, as well as any coverage issued as a supplement to liability insurance, including workers compensation.

The bill also would provide that no personal line of insurance issued to a Kansas resident on active military deployment beyond the borders of the United States or the spouse or any dependent of Kansas residents in the active military, would be subject to cancellation, nonrenewal, premium increase or adverse tier placement for the term of the resident's deployment based solely on the resident's military deployment. Personal line of insurance, as defined in the bill, includes

passenger automobile, motorcycle, mobile homeowners, homeowners, renters and non-commercial dwelling fire insurance policies, and boat, personal watercraft, snowmobile and recreational vehicle policies.

The Commissioner of Insurance would be authorized to adopt rules and regulations as may be necessary to carry out the provisions of this act.

The bill also would amend KSA 40-284 to allow that uninsured motorist coverage shall include an underinsured motorist provision. The provision would enable the insured or the insured's legal representative to recover from the insurer the amount of damages to which the insured is legally entitled from the owner or operator of another motor vehicle covered by a combined single limit policy, if:

- ! the recovery by the insured is less than the per person underinsured motorist provision of the insured's policy.

Background

The original version of the bill was requested by the Insurance Commissioner whose representative indicated that the bill would address concerns that Kansas residents who serve in the military could face the possibility of insurance cancellation, non-renewal and premium increases in their individual coverages. The bill was supported by the Kansas State Nurses Association.

The original version of the bill was opposed by Farmers Insurance Group, the Kansas Association of Health Plans, the Kansas Association of Property and Casualty Insurance Companies, and State Farm Insurance Companies, Inc. whose representatives cited concerns about the ability of insurers to identify and track the military and duty status of policyholders and the legality of provisions related to rating requirements.

The substitute bill was presented to the Senate Committee on Financial Institutions and Insurance by the Kansas Insurance Department.

The House Committee on Insurance amendments inserted the provisions of HB 2305 (as recommended by the House Committee on Insurance).

The House Committee of the Whole amendments further amended KSA 40-284 to clarify the underinsured motorist coverage to allow for the insured's recovery of damages for bodily injury or death to which the insured is legally entitled from the owner of operator of another vehicle covered by a combined single limit policy, if the recovery is less than the per person underinsured motorist provision of the insured's policy.

The fiscal note prepared by the Division of the Budget on the original version of the bill indicates that passage of the bill would have no fiscal effect on the budget for the Insurance Department.