

SESSION OF 2009

SUPPLEMENTAL NOTE ON SENATE BILL NO. 105

As Amended by Senate Committee on
Financial Institutions and Insurance

Brief*

SB 105, as amended, would enact the Public Adjusters Licensing Act, an act governing the qualifications and procedures for the licensing of public adjusters. The Act would specify the duties of and restrictions on public adjusters, which would include limiting their licensure to assisting insureds in first party claims under commercial insurance contracts.

The bill would further specify the qualifications for licensure and those parties that would not require licensure, including a person who negotiates or settles claims arising under a life or health insurance policy or an annuity contract. The bill would require the Insurance Commissioner to license public adjusters through an application process outlined in the bill. The Commissioner, in order to determine eligibility for licensure, would require criminal history record checks on applicants who are not exempt from the pre-licensing examination. The criminal history record check would be conducted by the Kansas Bureau of Investigation.

Prior to issuing the license, the Commissioner would make a number of findings, including financial responsibility and the proof thereof, that the applicant has successfully passed the public adjuster examination, and that the applicant has paid an application fee of \$100. The renewal fee also would be \$100. The Commissioner would be given the authority to suspend, revoke or refuse to issue or renew the license for causes specified in the bill. Additionally, the Commissioner would be allowed to take disciplinary action, including censure and the

*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>

issuance of fines for violations. Any administrative fines collected by the Commissioner would be required, by the bill, to be deposited in the State General Fund.

The bill also would specify continuing education requirements for licensees, including twelve hours of coursework (eleven hours in Property & Casualty or general continuing education and one hour of ethics) on a biennial basis. Additionally, public adjusters would be prohibited from charging, agreeing to or accepting as compensation any payment, commission, fee or other item of value equal to more than 10 percent of any insurance settlement or proceeds. The Act also would specify requirements for contracts issued by public adjusters and recordkeeping. Finally, the Insurance Commissioner would be required to promulgate rules and regulations as are necessary, by July 1, 2010, to carry out the provisions of the Act.

Background

The bill was requested by the National Association of Public Insurance Adjusters (NAPIA) whose representative indicated that a comprehensive licensing bill is warranted in Kansas and would serve the dual goal of preventing the unauthorized practice of law (third-party claims work) and protecting the commercially insured, by giving them access to trained claims professionals who can present their claims, while making sure that unscrupulous public adjusters do not operate in the state. Other proponents appearing in support of the bill included a NAPIA member from Denver, Colorado, and a representative of Femco, Inc., McPherson. There were no opponents to the bill at the time of the Committee hearing.

The Senate Committee on Financial Institutions and Insurance recommended amendments to the bill to direct collected administrative fines to be deposited into the State General Fund and to specify a time frame for promulgation of rules and regulations by the Insurance Commissioner.

The fiscal note prepared by the Division of the Budget on the original bill states that the Kansas Insurance Department indicates the passage of the bill would have a fiscal effect on its operations. The Department states that one-time costs associated with implementing the bill would be approximately \$10,000. The additional expenditures would include information technology updates and development of forms for the new class of license. Ongoing expenditures would be related primarily to criminal history background checks performed by the Kansas Bureau of Investigation (KBI). The Kansas Insurance Department would be responsible for paying the KBI for its services, though it is unclear, the fiscal note continues, as to whether the applicant is responsible for this cost in addition to the license fee or if the cost is included in the applicant's license fee.

The Insurance Department also estimates that it would issue between 100 and 150 public adjuster licenses with application fees of \$100 per license, for total receipts between \$10,000 and \$15,000. The Department states that the bill could be implemented within its current approved staffing level.

The Kansas Bureau of Investigation indicates that it would incur additional workload and expense to process these record checks and to prepare and distribute responses. However, since the KBI's fee structure is set to recover the costs of providing these record check services, the fees would provide the funding necessary for the KBI to support the additional workload.