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MEMORANDUM

To: Chairman Sutton and the House Committee on Insurance

From: Office of Revisor of Statutes

Date: January 27, 2025

Subject: **HB 2042 - Requiring title agents to make their audit reports available for inspection instead of submitting such reports annually, requiring the amount of surety bonds filed with the commissioner of insurance to be \$100,000, eliminating the controlled business exemption in certain counties.**

HB 2042 amends K.S.A. 40-1137 and 40-40-1139 pertaining to title insurance agents and also amends K.S.A. 40-2404 pertaining to unfair methods of competition and unfair or deceptive acts or practices in insurance.

Section 1: Under current law, K.S.A. 40-1137 requires a title insurance agent to have an annual audit made of the agent's escrow, settlement, and closing deposit accounts conducted by a certified public accountant or a title insurer for which the agent has a licensing agreement. The title insurance agent is required to submit a copy of the audit report to the commissioner within 30 days of the close of the calendar for which the audit is issued. HB 2042 would no longer require that the audit report be submitted to the commissioner but would only require that the report be available for inspection upon request.

Section 2: Under current law, K.S.A. 40-1139, title insurance agents are required to file a surety bond or irrevocable letter of credit with the commissioner. The amount of the surety bond or irrevocable letter required depends on the location of the property and the population of the county in which the property is located. HB 2042 would standardize the amount of the surety bond or irrevocable letter of credit required at \$100,000.

Section 3: Under current law, K.S.A. 40-2404 no title insurer or title agent may accept an order for business if the agent or insurer knows or has reason to believe that the business will constitute controlled business for them and if 70% or more of the closed title orders for that title insurer or title agent during the past 12 months immediately preceding the month in which the transaction takes place is derived controlled business. Currently, the statute grants an exception for transactions involving real estate that take place in counties with a population of 10,000 or less. HB 2042 would eliminate this exception.