

Substitute for SENATE BILL No. 71

By Committee on Financial Institutions and Insurance

2-15

1 AN ACT concerning insurance; pertaining to line of insurance and
2 reporting requirements; pertaining to fingerprints and criminal record
3 checks for certain insurance agents and public adjusters; amending
4 K.S.A. 2011 Supp. 40-4903, 40-4905, 40-5504 and 40-5505 and
5 repealing the existing sections.
6

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

8 Section 1. K.S.A. 2011 Supp. 40-4903 is hereby amended to read as
9 follows: 40-4903.(a) Unless denied licensure pursuant to K.S.A. 2011
10 Supp. 40-4909, and amendments thereto, any person who meets the
11 requirements of K.S.A. 2011 Supp. 40-4905, and amendments thereto,
12 shall be issued an insurance agent license. An insurance agent may receive
13 qualifications for a license in one or more of the following lines of
14 authority:

15 (1) Life—insurance coverage on human lives including benefits of
16 endowment and annuities, and may include benefits in the event of death
17 or dismemberment by accident and benefits for disability income.

18 (2) Accident and health or sickness—insurance coverage for sickness,
19 bodily injury or accidental death and may include benefits for disability
20 income.

21 (3) Property—insurance coverage for the direct or consequential loss
22 or damage to property of every kind.

23 (4) Casualty—insurance coverage against legal liability, including
24 that for death, injury or disability or damage to real or personal property.

25 (5) Variable life and variable annuity products—insurance coverage
26 provided under variable life insurance contracts, variable annuities or any
27 other life insurance or annuity product that reflects the investment
28 experience of a separate account.

29 (6) Personal lines—property and casualty insurance coverage sold
30 primarily to an individual or family for noncommercial purposes.

31 (7) Credit—limited line credit insurance.

32 (8) *Crop insurance—limited line insurance for damage to crops from*
33 *unfavorable weather conditions, fire, lightning, flood, hail, insect*
34 *infestation, disease or other yield-reducing conditions or any other peril*
35 *subsidized by the federal crop insurance corporation, including multi-peril*
36 *crop insurance.*

1 (9) *Title insurance—limited line insurance that insures titles to*
2 *property against loss by reason of defective titles or encumbrances.*

3 (10) *Travel insurance—limited line insurance for personal risks*
4 *incidental to planned travel, including, but not limited to:*

5 (A) *Interruption or cancellation of trip or event;*

6 (B) *loss of baggage or personal effects;*

7 (C) *damages to accommodations or rental vehicles; or*

8 (D) *sickness, accident, disability or death occurring during travel.*

9 *Travel insurance does not include major medical plans, which provide*
10 *comprehensive medical protection for travelers with trips lasting six*
11 *months or longer, for example, persons working overseas including*
12 *military personnel deployed overseas.*

13 (11) *Pre-need funeral insurance—limited line insurance that allows*
14 *for the purchase of a ~~single premium~~ life insurance or annuity contract by*
15 *or on behalf of the insured solely to fund a pre-need contract or*
16 *arrangement with a funeral home for specific services.*

17 (12) *Bail bond insurance—limited line insurance that provides surety*
18 *for a monetary guarantee that an individual released from jail will be*
19 *present in court at an appointed time.*

20 ~~(8)~~ (13) Any other line of insurance permitted under the provisions of
21 chapter 40 of the Kansas Statutes Annotated, and amendments thereto, and
22 any rules and regulations promulgated thereunder.

23 (b) Unless suspended, revoked or refused renewal pursuant to K.S.A.
24 2011 Supp. 40-4909, and amendments thereto, an insurance agent license
25 shall remain in effect as long as education requirements for resident
26 individual agents are met by such insurance agent's biennial due date.

27 (c) On and after the effective date of this act: (1) Each licensed
28 insurance agent who is an individual and holds a property or casualty
29 qualification, or both, or a personal lines qualification shall biennially
30 obtain a minimum of 12 C.E.C.'s in courses certified as property and
31 casualty which shall include at least one hour of instruction in insurance
32 ethics *which also may include regulatory compliance*. No more than three
33 of the required C.E.C.'s shall be in insurance agency management.

34 (2) Each licensed insurance agent who is an individual and holds a
35 life, accident and health, or variable contracts qualification, or any
36 combination thereof, shall biennially complete 12 C.E.C.'s in courses
37 certified as life, accident and health, or variable contracts which shall
38 include at least one hour of instruction in insurance ethics *which also may*
39 *include regulatory compliance*. No more than three of the required
40 C.E.C.'s shall be in insurance agency management.

41 (3) Each licensed insurance agent who is an individual and holds *only*
42 a crop ~~only~~ qualification shall biennially obtain a minimum of two
43 C.E.C.'s in courses certified as crop *C.E.C.'s* under the property and

1 casualty category.

2 (4) Each licensed insurance agent who is an individual and is licensed
3 only for title insurance shall biennially obtain a minimum of four C.E.C.'s
4 in courses certified by the board of abstract examiners as title under the
5 property and casualty category.

6 (5) Each licensed insurance agent who is an individual and holds a
7 life insurance license solely for the purpose of selling *life pre-need funeral*
8 *insurance or annuity products used to fund a prearranged funeral program*
9 *and whose report of compliance required by subsection (g) is accompanied*
10 *by a certification from an officer of each insurance company represented*
11 *by such agent certifying that such agent transacted no other insurance*
12 *business during the period covered by the report shall biennially obtain a*
13 *minimum of two C.E.C.'s in courses certified as life or variable contracts*
14 *under the life, accident and health or variable contracts category shall file*
15 *a report on or before such agent's biennial due date affirming that such*
16 *agent transacted no other insurance business during the period covered by*
17 *the report. Upon request of the commissioner, an agent shall provide*
18 *certification from an officer of each insurance company which has*
19 *appointed such agent that the agent transacted no other insurance*
20 *business during the period covered by the report. Agents who have offered*
21 *to sell or sold only pre-need funeral insurance are exempt from the*
22 *requirement to obtain C.E.C.'s.*

23 (6) *Each licensed insurance agent who is an individual and holds*
24 *only a bail bond qualification is exempt from the requirement to obtain*
25 *C.E.C.'s.*

26 (d) On and after the effective date of this act, each individual
27 insurance agent who holds a license with both a property or casualty
28 qualification, or both, and a life, accident and health or variable contracts
29 qualification, or any combination thereof, and who ~~earn~~ earns C.E.C.'s
30 from courses certified by the commissioner as qualifying for credit in any
31 class, may apply, at such insurance agent's option, such C.E.C.'s toward
32 either the property or casualty continuing education requirement or to the
33 life, accident and health or variable contracts continuing education
34 requirement. However, no C.E.C. shall be applied to satisfy both the
35 biennial property or casualty requirement, or both, and the biennial
36 requirement for life, accident and health or variable contracts, or any
37 combination thereof.

38 (e) An instructor of an approved subject shall be entitled to the same
39 C.E.C. as a student completing the study.

40 (f) (1) An individual insurance agent who has been licensed for more
41 than one year, on or before such insurance agent's biennial due date, shall
42 file a report with the commissioner certifying that such insurance agent has
43 met the continuing education requirements for the previous biennium

1 ending on such insurance agent's biennial due date. Each individual
2 insurance agent shall maintain a record of all courses attended together
3 with a certificate of attendance for the remainder of the biennium in which
4 the courses were attended and the entire next succeeding biennium.

5 (2) If the required report showing proof of continuing education
6 completion is not received by the commissioner by the individual
7 insurance agent's biennial due date, such individual insurance agent's
8 qualification and each and every corresponding license shall be suspended
9 automatically for a period of 90 calendar days or until such time as the
10 producer satisfactorily demonstrates completion of the continuing
11 education requirement whichever is sooner. In addition the commissioner
12 shall assess a penalty of \$100 for each license suspended. If such insurance
13 agent fails to furnish to the commissioner the required proof of continuing
14 education completion and the monetary penalty within 90 calendar days of
15 such insurance agent's biennial due date, such individual insurance agent's
16 qualification and each and every corresponding license shall expire on
17 such insurance agent's biennial due date. If after more than three but less
18 than 12 months from the date the license expired, the insurance agent
19 wants to reinstate such insurance agent's license, such individual shall
20 provide the required proof of continuing education completion and pay a
21 reinstatement fee in the amount of \$100 for each license suspended. If
22 after more than 12 months from the date an insurance agent's license has
23 expired, such insurance agent wants to reinstate such insurance agent's
24 license, such individual shall apply for an insurance agent's license,
25 provide the required proof of continuing education completion and pay a
26 reinstatement fee in the amount of \$100 for each license suspended. Upon
27 receipt of a written application from such insurance agent claiming
28 extreme hardship, the commissioner may waive any penalty imposed
29 under this subsection.

30 (3) On and after the effective date of this act, any applicant for an
31 individual insurance agent's license who previously held a license which
32 expires on or after June 30, 2001, because of failure to meet continuing
33 education requirements and who seeks to be relicensed shall provide
34 evidence that appropriate C.E.C.'s have been completed for the prior
35 biennium.

36 (4) Upon receipt of a written application from an individual insurance
37 agent, the commissioner, in cases involving medical hardship or military
38 service, may extend the time within which to fulfill the minimum
39 continuing educational requirements for a period of not to exceed 180
40 days.

41 (5) This section shall not apply to any inactive insurance agent during
42 the period of such inactivity. For the purposes of this paragraph, "inactive
43 period" or "period of inactivity" shall mean a continuous period of time of

1 not less than two years and not more than four years starting from the date
2 inactive status is granted by the commissioner. Before returning to active
3 status, such inactive insurance agent shall:

4 (A) File a report with the commissioner certifying that such agent has
5 met the continuing education requirement; and

6 (B) pay the renewal fee. If the required proof of continuing education
7 completion and the renewal fee is not furnished at the end of the inactive
8 period, such individual insurance agent's qualification and each and every
9 corresponding license shall expire at the end of the period of inactivity. For
10 issuance of a new license, the individual shall apply for a license and pass
11 the required examination.

12 (6) Any individual who allows such individual's insurance agent
13 license in this state and all other states in which such individual is licensed
14 as an insurance agent to expire for a period of four or more consecutive
15 years, shall apply for a new insurance agent license and pass the required
16 examination.

17 (g) (1) Each course, program of study, or subject shall be submitted to
18 and certified by the commissioner in order to qualify for purposes of
19 continuing education.

20 (2) Each request for certification of any course, program of study or
21 subject shall contain the following information:

22 (A) The name of provider or provider organization;

23 (B) the title of such course, program of study or subject;

24 (C) the date the course, program of study or subject will be offered;

25 (D) the location where the course, program of study or subject will be
26 offered;

27 (E) an outline of each course, program of study or subject including a
28 schedule of times when such material will be presented;

29 (F) the names and qualifications of instructors;

30 (G) the number of C.E.C.'s requested; ~~and~~

31 (H) a nonrefundable C.E.C. qualification fee in the amount of \$50 per
32 course, program of study or subject or \$250 per year for all courses,
33 programs of study or subjects submitted by a specific provider or provider
34 organization; and

35 (I) a nonrefundable annual provider fee of \$100.

36 (3) Upon receipt of such information, the commissioner shall grant or
37 deny certification of any submitted course, program of study or subject as
38 an approved subject, program of study or course and indicate the number
39 of C.E.C.'s that will be recognized for each approved course, program of
40 study or subject. Each approved course, program of study or subject shall
41 be assigned by the commissioner to one or both of the following classes:

42 (A) Property and casualty; or

43 (B) life insurance (, including annuity and variable contracts), and

1 accident and health insurance.

2 (4) Each course, program of study or subject shall have a value of at
3 least one C.E.C.

4 (5) Each provider seeking approval of a course, program of study or
5 subject for continuing education credit shall issue or cause to be issued to
6 each person who attends a course, program of study or subject offered by
7 such provider a certificate of attendance. The certificate shall be signed by
8 either the instructor who presents the course, program of study or course or
9 such provider's authorized representative. Each provider shall maintain a
10 list of all individuals who attend courses offered by such provider for
11 continuing education credit for the remainder of the biennium in which the
12 courses are offered and the entire next succeeding biennium.

13 The commissioner shall accept, without substantive review, any course,
14 program of study or subject submitted by a provider which has been
15 approved by the insurance supervisory authority of any other state or
16 territory accredited by the NAIC. The commissioner may disapprove any
17 individual instructor or provider who has been the subject of disciplinary
18 proceedings or who has otherwise failed to comply with any other state's
19 or territory's laws or regulations.

20 (6) The commissioner may grant or approve any specific course,
21 program of study or course that has appropriate merit, such as any course,
22 programs of study or course with broad national or regional recognition,
23 without receiving any request for certification. The fee prescribed by
24 paragraph (2) of subsection (g) shall not apply to any approval granted
25 pursuant to this provision.

26 (7) The C.E.C. value assigned to any course, program of study or
27 subject, other than a correspondence course, computer based training,
28 interactive internet study training or other course pursued by independent
29 study, shall in no way be contingent upon passage or satisfactory
30 completion of any examination given in connection with such course,
31 program of study or subject. The commissioner shall establish, by rules
32 and regulations criteria for determining acceptability of any method used
33 for verification of the completion of each stage of any computer based or
34 interactive internet study training. Completion of any computer based
35 training or interactive internet study training shall be verified in
36 accordance with a method approved by the commissioner.

37 (h) Upon request, the commissioner shall provide a list of all
38 approved continuing education courses currently available to the public.

39 (i) An individual insurance agent who independently studies an
40 insurance course, program of study or subject which is not a *an* agent's
41 examination approved by the commissioner and who passes an
42 independently monitored examination, shall receive credit for the C.E.C.'s
43 assigned by the commissioner as recognition for the approved subject. No

1 other credit shall be given for independent study.

2 (j) Any licensed individual insurance agent who is unable to comply
3 with license renewal procedures due to military service or some other
4 extenuating circumstances may request a waiver of those procedures from
5 the commissioner. Such agent may also request from the commissioner a
6 waiver of any examination requirement or any other fine or sanction
7 imposed for failure to comply with renewal procedures.

8 Sec. 2. K.S.A. 2011 Supp. 40-4905 is hereby amended to read as
9 follows: 40-4905. (a) Subject to the provisions of K.S.A. 2011 Supp. 40-
10 4904, and amendments thereto, it shall be unlawful for any person to sell,
11 solicit or negotiate any insurance within this state unless such person has
12 been issued a license as an insurance agent in accordance with this act.

13 (b) Any person applying for a resident insurance agent license shall
14 make application on a form prescribed by the commissioner. The applicant
15 shall declare under penalty of perjury that the statements made in the
16 application are true, correct and complete to the best of the applicant's
17 knowledge and belief.

18 (c) *On and after January 1, 2013, as part of an application for a*
19 *resident insurance agent license, the commissioner shall require the*
20 *applicant to be fingerprinted and to submit to a state and national*
21 *criminal history record check. This section shall not apply to a person*
22 *applying for renewal, continuation or adding additional lines of authority*
23 *to an existing home state insurance agent or a nonresident insurance*
24 *agent license. The commissioner is authorized to submit the fingerprints to*
25 *the Kansas bureau of investigation and the federal bureau of investigation*
26 *for a state and national criminal history record check. The commissioner*
27 *may use the information obtained from fingerprinting and the criminal*
28 *history for purposes of verifying the identification of the person and*
29 *making the official determination of the qualifications and fitness of the*
30 *person to be issued a license.*

31 (d) *The procedure for collecting fingerprints shall be established by*
32 *the commissioner and shall comply with the requirements of the federal*
33 *bureau of investigation.*

34 (e) *The commissioner, and any contractor or other designee of the*
35 *commissioner, shall treat and maintain an applicant's fingerprints and any*
36 *criminal history record information obtained under this act as confidential*
37 *and shall apply security measures consistent with the criminal justice*
38 *information services division of the federal bureau of investigation*
39 *standards for the electronic storage of fingerprints and necessary*
40 *identifying information and limit the use of records solely to the purposes*
41 *authorized in this act.*

42 (f) *The commissioner may fix a nonrefundable fee in an amount equal*
43 *to the costs of fingerprinting and the criminal history record check and*

1 *establish procedures for payment of fees.*

2 (g) Before approving the application, the commissioner shall
3 determine that the applicant:

4 (1) Is at least 18 years of age;

5 (2) has not committed any act that is grounds for denial pursuant to
6 this section or suspension or revocation pursuant to K.S.A. 2011 Supp. 40-
7 4909, and amendments thereto;

8 (3) has paid a nonrefundable fee in the amount of \$30 *and has paid*
9 *any additional fee required for fingerprinting and a criminal history*
10 *record check; and*

11 (4) has successfully passed the examination for each line of authority
12 for which the applicant has applied.

13 ~~(e)~~ (h) If the applicant is a business entity, then the commissioner
14 shall make the following additional determinations in addition to those
15 required by subsection (a):

16 (1) The name and address of a licensed agent who shall be
17 responsible for the business entity's compliance with the insurance laws of
18 this state and the rules and regulations promulgated thereunder;

19 (2) that each officer, director, partner and employee of the business
20 entity who acts as an insurance agent is licensed as an insurance agent;

21 (3) that the business entity has disclosed to the department all of its
22 officers, directors and partners whether or not such officers, directors,
23 partners and employees are licensed as insurance agents; and

24 (4) that the business entity has disclosed to the department each
25 officer, director, partner and employee who is licensed as an insurance
26 agent.

27 ~~(d)~~ (i) Any business entity which acts as an insurance agent and holds
28 a direct agency appointment from an insurance company shall be required
29 to obtain an insurance agent license.

30 ~~(e)~~ (j) The commissioner may require the applicant to furnish any
31 document or other material reasonably necessary to verify the information
32 contained in an application.

33 ~~(f)~~ (k) Each insurer that sells, solicits or negotiates any form of
34 limited line credit insurance shall provide a program of instruction that
35 may be approved by the commissioner to each individual employed by or
36 acting on behalf of such insurer to sell, solicit or negotiate limited line
37 credit insurance.

38 ~~(g)~~ (l) (1) Each licensed insurance agent shall notify the
39 commissioner of any officer, director, partner or employee of such
40 insurance agent who:

41 (A) Is licensed as an individual insurance agent; and

42 (B) was not disclosed in such insurance agent's application for a
43 license or any renewal thereof.

1 (2) Each licensed insurance agent shall notify the commissioner of
2 any of its officers, directors, partners or employees who:

3 (A) Have terminated such relationship as an officer, director, partner
4 or employee of such insurance agent; and

5 (B) ~~has~~ have been previously disclosed in such insurance agent's
6 application for a license or any renewal thereof.

7 (3) Each licensed insurance agent shall notify the commissioner
8 within 30 working days of occurrence of any event required to be reported
9 under paragraphs (1) or (2) of this subsection. Failure to provide the
10 commissioner with the information required by this subsection shall
11 subject the licensee to a monetary penalty of \$10 per day for each working
12 day the required information is late subject to a maximum of \$50 per
13 person per licensing year.

14 ~~(h)~~ (m) Any applicant whose application for a license, is denied shall
15 be given an opportunity for a hearing in accordance with the provisions of
16 the Kansas administrative procedure act.

17 Sec. 3. K.S.A. 2011 Supp. 40-5504 is hereby amended to read as
18 follows: 40-5504. (a) An individual applying for a public adjuster license
19 shall make application to the commissioner on the appropriate uniform
20 application or other application prescribed by the commissioner.

21 (b) The applicant shall declare under penalty of perjury and under
22 penalty of refusal, suspension or revocation of the license, that the
23 statements made in the application are true, correct and complete to the
24 best of the applicant's knowledge and belief.

25 (c) In order to make a determination of license eligibility, the
26 commissioner shall require a criminal history record check on each
27 applicant who is not exempt from pre-licensing examination pursuant to
28 K.S.A. 2011 Supp. 40-5507, and amendments thereto. *On and after*
29 *January 1, 2013, as part of an application for a resident public adjuster*
30 *license, the commissioner shall require the applicant to be fingerprinted*
31 *and to submit to a state and national criminal history record check. This*
32 *section shall not apply to a person applying for renewal or continuation to*
33 *an existing resident public adjuster or nonresident public adjuster license.*
34 *The commissioner is authorized to submit the fingerprints to the Kansas*
35 *bureau of investigation and the federal bureau of investigation for a state*
36 *and national criminal history record check. The commissioner may use the*
37 *information obtained from fingerprinting and the criminal history for*
38 *purposes of verifying the identification of the person and making the*
39 *official determination of the qualifications and fitness of the person to be*
40 *issued a license.*

41 (d) *The procedure for collecting fingerprints shall be established by*
42 *the commissioner and shall comply with the requirements of the federal*
43 *bureau of investigation.*

1 (e) *The commissioner, and any contractor or other designee of the*
2 *commissioner, shall treat and maintain an applicant's fingerprints and any*
3 *criminal history record information obtained under this act as confidential*
4 *and shall apply security measures consistent with the criminal justice*
5 *information services division of the federal bureau of investigation*
6 *standards for the electronic storage of fingerprints and necessary*
7 *identifying information and limit the use of records solely to the purposes*
8 *authorized in this act.*

9 (f) *The commissioner may fix a nonrefundable fee in an amount equal*
10 *to the costs of fingerprinting and the criminal history record check and*
11 *establish procedures for payment of fees.*

12 Sec. 4. K.S.A. 2011 Supp. 40-5505 is hereby amended to read as
13 follows: 40-5505. (a) Before issuing a public adjuster license to an
14 applicant under this act, the commissioner shall find that the applicant:

15 (1) Is eligible to designate this state as the applicant's home state or is
16 a nonresident who is not eligible for a license under K.S.A. 2011 Supp. 40-
17 5508, and amendments thereto;

18 (2) has not committed any act that is a ground for denial, suspension
19 or revocation of a license as set forth in K.S.A. 2011 Supp. 40-5510, and
20 amendments thereto;

21 (3) is trustworthy, reliable and of good reputation, evidence of which
22 may be determined by the commissioner;

23 (4) is financially responsible to exercise the rights and privileges
24 under the license and has provided proof of financial responsibility as
25 required in K.S.A. 2011 Supp. 40-5511, and amendments thereto;

26 (5) has paid ~~an~~ a nonrefundable application fee of \$100 and any
27 additional fee for fingerprinting and a criminal history record check; and

28 (6) maintains an office in the home state with public access during
29 regular business hours or by reasonable appointment.

30 (b) In addition to satisfying the requirements of subsection (a), an
31 applicant shall:

32 (1) Be at least 18 years of age; and

33 (2) have successfully passed the public adjuster examination.

34 (c) The commissioner may require any documents reasonably
35 necessary to verify the information contained in the application.

36 Sec. 5. K.S.A. 2011 Supp. 40-4903, 40-4905, 40-5504 and 40-5505
37 are hereby repealed.

38 Sec. 6. This act shall take effect and be in force from and after its
39 publication in the statute book.