

SESSION OF 2020

SUPPLEMENTAL NOTE ON SENATE BILL NO. 304

As Recommended by Senate Committee on
Financial Institutions and Insurance

Brief*

SB 304 would create law and amend law in the Insurance Code to allow a reciprocal to convert to a Kansas mutual insurance company in accordance with terms of a conversion plan filed with and approved by the Commissioner of Insurance (Commissioner). A reciprocal, as defined in KSA 40-1623, is an aggregation of subscribers under a common name.

The bill would permit the Commissioner to establish reasonable requirements and procedures for the submission and approval of a conversion plan. The bill would outline those items that must be included in the conversion plan:

- A provision for converting the existing subscriber interests in the reciprocal into policyholder interests in the resulting mutual insurance company, so that each policyholder's interest in the mutual insurance company is fairly proportionate to such subscriber's interest in the reciprocal;
- A provision amending the existing subscriber's agreement to articles of incorporation that complies with provisions in the Insurance Code governing the authority for formation, votes of members, and charter filing requirements for mutual insurance companies;
- A proposed copy of the articles of incorporation;

*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>

- Proof of the approval or adoption of the conversion plan by not less than two-thirds of the subscriber interests entitled to vote;
- A transition plan for the change of governance of the reciprocal from an attorney-in-fact to a board of directors and officers that is governed by Kansas law applicable to mutual insurance companies; and
- Any other information required by the Commissioner.

The bill further would provide the Commissioner shall approve the conversion plan if the Commissioner finds that the proposed conversion will not:

- Be detrimental to the interests of the reciprocal's subscribers;
- Be detrimental to the interests of the state of Kansas; and
- Render the insurer incapable of fulfilling its contractual obligations.

Upon the approval of a conversion plan, the Commissioner would be required to issue a new or amended certificate of authority, which would be deemed the final act of conversion; at such time, the reciprocal concurrently becomes a mutual insurance company.

Mutual insurance companies created under the provisions of this bill would be required to comply with all statutes in the Insurance Code, including Articles 12 and 40, that are applicable to mutual insurance companies.

The bill would amend law, which currently allows a mutual insurance company opting to convert to a reciprocal to request a hearing, within 15 days of the Commissioner's approval or denial of the conversion plan, under the Kansas

Administrative Procedure Act. The bill would grant this same ability to a reciprocal seeking to convert to a mutual insurance company.

Finally, the law created in the bill would be made supplemental to Article 16 in Chapter 40 (Insurance Code), which governs reciprocals or interinsurance contracts.

Background

The bill was introduced by the Senate Committee on Financial Institutions and Insurance at the request of the Kansas Association of Property & Casualty Insurance Companies (KAPCIC).

In the Senate Committee hearing, representatives of the Armed Forces Insurance Exchange and Graffin Financial Group appeared as proponents, stating the bill would “level the playing field,” should one of the current three Kansas reciprocals opt to convert to a mutual insurance company. The representative of the Armed Forces Insurance Exchange noted the advantages of the reciprocal structure and a significant limitation: severe restrictions on the ability to raise capital without giving governance or control of the company. The bill would provide financial flexibility to address longer-term concerns. The KAPCIC submitted written-only proponent testimony.

No neutral or opponent testimony was provided.

The Senate Committee recommended the bill be placed on the Consent Calendar.

According to the fiscal note prepared by the Division of Budget on the bill, the Kansas Insurance Department states enactment of the bill would have no fiscal effect.