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MEMORANDUM

To: House Committee on Insurance
From: Office of Revisor of Statutes
Date: February 1, 2023
Subject: Bill Brief, HB 2097

HB 2097 amends K.S.A. 40-247, pertaining to penalties that an agent or broker would face for failing to pay premiums that are held in trust over to the insurers who make the insurance contracts for which the premiums were collected.

Under current law, the failure of an agent or broker to pay premiums owed (less commissions or deductions) to an insurer after written demand has been made is considered prima facie evidence¹ that the agent or broker has used or applied the premium for a purpose other than paying such moneys over to the company. Such failure would then subject the agent or broker to the penalties listed in subsection (b).

HB 2097 would remove the requirement of the written demand in establishing prima facie evidence .

¹ Evidence sufficient to establish a fact or to raise a presumption of fact unless rebutted.