

**CONFERENCE COMMITTEE REPORT BRIEF  
HOUSE BILL NO. 2090**

As Agreed to April 4, 2023

**Brief\***

HB 2090 would make several changes to the Insurance Code to decrease the premium tax rate assessed for certain surplus lines business, modify reporting and fee requirements relating to prepaid service plans, and amend the Uniform Insurance Agents Licensure Act and the Public Adjusters Licensing Act to allow the Commissioner of Insurance (Commissioner) to set certain fees lower than the established statutory maximum amounts and also amend fingerprinting criteria for resident agents.

***Surplus Lines, Premium Tax Rates***

The bill would amend a provision in the Insurance Code pertaining to the premium tax assessed for surplus lines business that is transacted on behalf of insureds (policyholders) whose home state is Kansas.

Under current law, on March 1 of each year, licensed agents are required to collect and pay to the Commissioner a tax of 6.0 percent on the total gross premiums charged, less any return premiums. The bill would amend this rate to 3.0 percent, commencing with the tax year beginning January 1, 2024.

***Prepaid Service Plans***

The bill would modify requirements for reporting individuals who solicit memberships on behalf of prepaid service plans from semi-annually to annually. The bill would also discontinue payment of annual registration fees.

Under current law, each prepaid service plan authorized to do business in the state is required to register each individual who solicits memberships on their behalf, pay an annual registration fee of \$2 per individual, and provide a list of those individuals to the Kansas Insurance Department (Department) biannually, on January and July 1 of each year.

---

\*Conference committee report briefs are prepared by the Legislative Research Department and do not express legislative intent. No summary is prepared when the report is an agreement to disagree. Conference committee report briefs may be accessed on the Internet at <http://www.kslegislature.org/kIRD>

The bill would:

- Discontinue the annual registration fee of \$2 per individual who solicits memberships on behalf of the prepaid service plan;
- Change the list reporting requirements from a biannual to an annual basis at the time the prepaid service plan files to continue its certificate of registration;
- Include the amendments to the registration requirements into KSA 40-4209; and
- Repeal the former location of the reporting requirements in KSA 40-4203.

### ***Commissioner of Insurance, Fees Established in Law***

The bill would amend provisions in the Uniform Insurance Agents Licensure Act and the Public Adjusters Licensing Act to allow the Commissioner to set fees in an amount lower than the maximum amount of the fees established in law. The bill would also amend fingerprinting criteria for resident agents.

#### *Resident Agents and Non-resident Agents*

**Resident agents.** Under current law, an applicant for a resident agent license must pay a nonrefundable fee of \$30 to the Commissioner. The bill would instead require each applicant to pay the fee in an amount not to exceed \$30. The bill would require the Commissioner, no later than December 1, to annually set and publish the application fee for the next calendar year in the *Kansas Register*.

The bill would also amend law permitting the Commissioner to use information from an applicant's background check, fingerprinting, and criminal history for the purpose of verifying identification and fitness of the applicant to be issued a license to require, rather than allow, the Commissioner to use this information in determining whether a license should be issued.

**Non-resident agents.** Under current law, an applicant for a non-resident agent license must pay a nonrefundable application fee of \$30 and a biennial fee of \$50. The bill would instead require non-resident agents to pay the respective fees in an amount not to exceed \$30 and \$50. The bill would also require the Commissioner to annually set and publish this application fee for the next calendar year.

#### *Public Adjusters*

Under current law, an applicant for public adjuster licensure must pay an application fee of \$100. The bill would instead require the applicants to pay a fee in an amount not to exceed \$100. The bill would also require the Commissioner to annually set and publish this application fee for the next calendar year.

## **Conference Committee Action**

The Conference Committee agreed to the provisions of HB 2090, as amended by the House Committee on Insurance; agreed to insert contents pertaining to prepaid service plans (HB 2089); agreed to insert contents pertaining to the premium tax rate on surplus lines insurance and set the rate at 3.0 percent (SB 25); and agreed to make all provisions of the bill effective upon publication in the statute book.

## **Background**

The bill contains provisions of HB 2090, HB 2089, and SB 25.

### ***HB 2090 (Commissioner of Insurance, Certain Fees)***

The bill was introduced by the Senate Committee on Financial Institutions and Insurance at the request of the Department. [Note: A companion bill, SB 27, has passed the House and is in conference.]

#### *House Committee on Insurance*

In the House Committee hearing, a representative of the Department provided **proponent** testimony, stating the bill would grant the Commissioner the flexibility to lower certain fees that are set in statute to an amount not to exceed what is currently provided in statute. The representative indicated the Commissioner would publish fees for the next year, so that businesses would have time to plan budgets for the next year.

No other testimony was provided.

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

#### *Senate Committee on Financial Institutions and Insurance*

In the Senate Committee hearing, an overview of the bill was provided and **proponent** testimony submitted by the Department was made available.

The Senate Committee amended the bill to change the effective date to upon publication in the *Kansas Register*. [Note: The Conference Committee did not retain this amendment.]

### ***HB 2089 (Prepaid Service Plans)***

The bill was introduced by the House Committee on Insurance at the request of the Department. [Note: A companion bill, SB 17, has passed the House and is in conference.]

### *House Committee on Insurance*

In the House Committee hearing, **proponent** testimony was provided by a representative of the Department. The conferee stated prepaid service plans were established in Kansas in 1987, and no new prepaid plans have been registered with the Department since 2016. As of 2023, there are seven prepaid legal plans and four prepaid dental plans registered with the Department. The Department has determined the fee is not necessary to complete the duties outlined in statute.

No other testimony was provided.

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

### *Senate Committee on Financial Institutions and Insurance*

In the Senate Committee hearing, an overview of the bill was provided and **proponent** testimony submitted by the Department was made available.

The Senate Committee amended the bill to change its effective date to upon publication in the *Kansas Register*. [*Note: The Conference Committee did not retain this amendment.*]

### ***SB 25 (Surplus Lines Insurance, Premium Tax Rate)***

SB 25 was introduced by the Senate Committee on Financial Institutions and Insurance at the request of the Kansas Association of Insurance Agents (KAIA).

### *Senate Committee on Financial Institutions and Insurance*

In the Senate Committee hearing, a representative of the KAIA provided **proponent** testimony, stating the bill would reduce the current rate of 6.0 percent, which presents an unnecessary burden on Kansas small businesses and consumers. The present rate is tied for the highest in the nation and in discussion, the average tax rate among states was an estimated 3.59 percent. The representative noted the reasons insurance must be placed with non-admitted carriers, including the flexibility to adjust policy terms and pricing for non-standard risks because of their size, operations type, complexity, loss history, or line of business.

Written-only proponent testimony was submitted by representatives of the Fee Insurance Agency, SPS Companies, and the Wholesale & Specialty Insurance Association.

The Senate Committee amended the bill to change the premium tax rate from 3.0 percent to 4.0 percent. [*Note: The Conference Committee did not retain this amendment. The Conference Committee retained the rate specified in the bill, as introduced.*]

## *Senate Committee of the Whole*

The Senate Committee of the Whole amended the bill to update the title to reflect the tax rate specified in the Senate Committee on Financial Institutions and Insurance amendment (4.0 percent). [Note: The Conference Committee did not retain this amendment.]

## *House Committee on Insurance*

In the House Committee hearing, a representative of the KAIA provided **proponent** testimony. Written-only proponent testimony was submitted by representatives of the Fee Insurance Agency, the Kansas Association of Property and Casualty Insurance Companies (KAPCIC), SPS Companies, and the Wholesale & Specialty Insurance Association. In addition to the testimony previously presented, testimony submitted by KAPCIC noted the reduction in this tax rate would reduce the cost for many insured consumers in the state.

The House Committee amended the bill to change the premium tax rate from 4.0 percent to 2.0 percent. [Note: The Conference Committee did not retain this amendment. The Conference Committee retained the rate in the bill, as introduced.]

## **Fiscal Information**

### ***HB 2090 (Commissioner of Insurance, Fees)***

According to the fiscal note prepared by the Division of the Budget on HB 2090, as introduced, the Department states the bill would allow the Commissioner to increase and decrease fees annually as deemed necessary to finance program operations and, therefore, the Department cannot provide a fiscal effect.

### ***HB 2089 (Prepaid Service Plans)***

According to the fiscal note prepared by the Division of the Budget on HB 2089, as introduced, the Department indicates that enactment of the bill would reduce revenues into its Insurance Department Service Regulation Fund because the bill would no longer require individuals to pay an annual fee of \$2 to solicit memberships. The Department estimates the reduction would be approximately \$128 per year starting in FY 2024.

### ***SB 25 (Surplus Lines Insurance, Premium Tax Rate)***

According to the fiscal note prepared by the Division of the Budget on SB 25, as introduced and included in the Conference Committee Report for HB 2090, the Department states that in FY 2024 it expects to collect \$33.5 million in surplus lines tax revenues, which would then be deposited into the State General Fund (SGF). The Department estimates that surplus lines insurance tax collections would increase 10.0 percent in FY 2025, totaling \$36.9 million. The bill, as introduced, would decrease the tax from 6.0 percent to 3.0 percent; therefore, the Department estimates it would collect \$18.4 million (\$36.9 million X 0.5). This would decrease SGF revenues by \$18.4 million in FY 2025.

Any fiscal effect associated with these bills is not reflected in *The FY 2024 Governor's Budget Report*.

Insurance; surplus lines; premium tax receipts; prepaid service plans; fees; Uniform Agents Licensure Act; Public Adjusters Licensing Act; Kansas Insurance Department; Insurance Commissioner

ccrb\_hb2090\_01\_0000.odt