

SESSION OF 2012

SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2519

As Amended by House Committee on Insurance

Brief*

HB 2519 would add applicants for licensure to engage in the business of insurance to the list of individuals who must disclose information about prior expungements and would amend the Uniform Insurance Agents Licensing Act to require the Insurance Commissioner to determine an applicant is a citizen of the United States or is an alien lawfully present in the United States.

Disclosure of Prior Expungements

Specifically, the bill would amend statutory disclosure requirements for arrests, convictions, or diversions that have been expunged by the court to individuals applying for a license to engage in the business of insurance. The bill would add these individuals to the list of persons who must disclose information about prior expungements, if asked, on an application for a license to engage in the business of insurance. The bill also makes a number of technical reconciling amendments to statutes with expungement provisions in the Criminal Code (KSA 21-6614) and Code for Criminal Procedure (KSA 22-2410) amended by the 2011 Legislature. (The reconciling amendments are printed as italicized text.)

Amendments to the Uniform Insurance Agents Licensing Act

The bill also would add to the list of determinations the Insurance Commissioner must verify prior to approving an

*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>

applicant for a resident insurance agent license. Under the bill, the Commissioner must determine that the applicant is a citizen of the United States or is an alien lawfully present in the United States. Further, the bill would permit the Commissioner to rely upon any document submitted by the applicant, which has been specified in the proof of citizenship requirements for voter registration. Following are four of the thirteen documents that must be used to satisfy the voter registration requirements in existing law (any one document would satisfy the proof of citizenship requirement):

- Driver's license or nondriver's ID card issued by the appropriate agency in any state in the United States, if the agency indicates on the license or nondriver's ID card that the person has provided satisfactory proof of U.S. citizenship;
- Birth certificate that verifies U.S. citizenship to the satisfaction of the county election officer or Secretary of State;
- Pertinent pages of a U.S. valid or expired passport; and
- Naturalization documents or the number of the naturalization certificate, with further instructions if only the number is provided.

The bill also would require the Insurance Commissioner, for the purposes of determining whether an alien is lawfully present in the United States, to make a reasonable attempt, when practicable, to determine the immigration status of the applicant. The determination must be made by contacting the federal government pursuant to 8 U.S.C. § 1373(c) and relying on the verification provided by the federal government.

The Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) of 1996, amended, and codified as 8 U.S.C. § 1373(c), requires the United State Citizenship and Immigration Services (successor agency to the INS) to

respond to inquiries by federal, state, and local agencies seeking to verify or determine citizenship or immigration status of an individual.

Under current law, an applicant for a resident insurance agent license is required to declare under penalty of perjury that the statements made in the application are true, correct, and complete to the best of the applicant's knowledge and belief.

Background

The bill was introduced at the request of the Kansas Insurance Department whose representative indicated a vital component of the application process for an insurance agent license is the screening of the applicants' criminal history. The representative noted it is difficult to gauge the scope of the problem (applicant's criminal record) because the Department is unable to access expunged records. The Department is aware of a number of instances where it became aware of an expunged criminal record through internal records, but could not obtain the record from a court or law enforcement agency. Allowing access to expungements, the representative stated, is appropriate because insurance agents, like attorneys and investment advisers, acquire a seal of approval by the State of Kansas, along with the trust of its citizens, when they receive a license to engage in their profession.

There were no opponents to the bill at the time of the House Committee hearing.

The House Insurance Committee amendments insert a provision in the Uniform Insurance Agents Licensing Act to require the Insurance Commissioner determine whether an applicant for a resident insurance agent license is either a U.S. citizen or is an alien lawfully present in the United States. The Committee amendment also prescribes the methods the Commissioner could utilize for determining a person's citizenship or immigration status.

The fiscal note prepared by the Division of the Budget on the original bill states the bill, if implemented, would have no fiscal effect. The fiscal note does not account for amendments made to the Uniform Insurance Agents Licensing Act.