

SESSION OF 2017

**SUPPLEMENTAL NOTE ON SENATE BILL NO. 14**

As Amended by House Committee on Insurance

**Brief\***

SB 14, as amended, would enact new law pertaining to limited lines insurance for self-storage units. Descriptions of specific bill provisions follow.

***Definitions***

The bill would establish definitions for the following terms:

- “Commissioner” – Commissioner of Insurance of the State of Kansas;
- “Limited license” – a person authorized to sell certain coverages relating to the rental of self-service storage units pursuant to the provisions of the bill;
- “Rental agreement” – any written agreement setting forth the terms and conditions governing the use of a storage unit provided by the owner of a self-service storage facility company;
- “Renter” or “occupant” – any person obtaining the use of a storage unit from a self-service storage company under the terms of a rental agreement;
- “Self-service storage company” – any person in the business of renting storage units to the public; and

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\*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>

- “Storage unit” – a semi-enclosed or fully-enclosed area, room, or space, primarily intended for the storage of personal property, which shall be accessible by the renter of the unit pursuant to the terms of the rental agreement.

### ***Commissioner Authorization for the Issuance of a Limited License***

The bill would authorize the Commissioner to issue a limited license to a self-service storage company or a franchisee of a self-service storage company. The limited license would authorize the limited licensee to act as an agent of any insurer authorized to write such kinds of insurance in Kansas.

### ***Requirements for the Issuance of a Limited License***

The bill would require a license issued under the bill to be subject to the same license and fee requirements as limited line producers. Additional requirements for the issuance of a limited license would include:

- A written application, on a form prescribed by the Commissioner, signed by an officer of the applicant;
- Submission of any additional information or documentation required by the Commissioner;
- Payment of any applicable fees; and
- A certificate by the insurer, named in the limited license, stating the insurer is satisfied the named applicant is trustworthy and competent to act as its insurance agent for this limited purpose and the insurer will appoint the applicant to act as the agent for this limited lines insurance, if the limited license applied for is issued by the Commissioner.

Additionally, the bill would require the certificate to be subscribed by an officer or managing agent of the insurer and affirmed as true under the penalties of perjury.

***Types of Insurance for which the Self-Service Storage Company or Franchisee May Act as an Agent***

The bill would authorize the self-service storage company or franchisee licensed under the bill to act as an agent for an authorized insurer only in connection with the rental of storage units and only with respect to personal effects insurance providing coverage to renters of storage units at the same facility for the loss of, or damage to, personal effects occurring at the same facility during the rental period; and any other coverage the Commissioner is permitted to approve as meaningful and appropriate in connection with the rental of storage units.

***Requirements Prior to the Issuance of Insurance***

The bill would require the following criteria to be met before insurance may be issued under the provisions of the bill:

- The rental period of the rental agreement does not exceed two years;
- At every self-service storage location where self-service storage agreements are executed, brochures or other written materials are readily available to the prospective renter that:
  - Summarizes, clearly and correctly, the material terms of insurance coverage, including the identity of the insurer, offered to renters;
  - Discloses the policies offered by the self-service storage company may provide

duplication of coverage already provided by a renter's or homeowner's insurance policy or other source of coverage;

- States the purchase by the renter of the limited lines insurance is not required to rent a storage unit;
  - Describes the process for filing a claim in the event the renter elects to purchase coverage and in the event of a claim; and
  - Contains any additional information on the price, benefits, exclusions, conditions, or other limitations of such policies as the Commissioner may prescribe by rules and regulations;
- A sign is posted, approved by the Kansas Insurance Department (Department), at every self-service storage location where self-service storage agreements are executed, with language the same or substantially similar to the following: "State law requires the operator of this facility to inform you that insurance sold by this self-storage company may provide duplication of coverage already provided by a renter's or homeowner's policy or other source of coverage. You are encouraged to contact your primary insurance carrier if you have questions about your existing coverage."
  - The insurance policy issued by the self-service storage company in an amount that does not exceed \$5,000 of coverage per customer per storage unit; and
  - Evidence of coverage is provided to every renter who elects to purchase the coverage.

### ***Requirements for Self-Service Storage Company Employees***

The bill would require each licensed self-service storage company or franchisee to conduct an employee training program. The training program must be submitted to and approved by the Commissioner before use. Each trainee would be required to receive basic instruction about the kinds of insurance offered for purchase by prospective renters of storage units. Additionally, each trainee would be instructed to acknowledge to a prospective renter of a storage unit the purchase of any insurance provided for in the bill is not required in order for the renter to rent a storage unit and the renter may have insurance policies providing the coverage offered by the self-service storage company.

The bill would state any limited license issued under the bill would also authorize any employee of the limited licensee who is trained through the employee training program to act individually on behalf and under the supervision of the limited licensee.

### ***Receiving Funds in a Fiduciary Capacity***

Limited licensees acting under the bill would be required to comply with all provisions of the bill. A limited licensee would not be required to treat premiums collected from renters purchasing insurance when renting storage units as funds received in a fiduciary capacity, notwithstanding any other provision of the bill or any rule or regulation adopted by the Commissioner, provided the following requirements are met:

- The insurer represented by the limited licensee has consented in writing, signed by the insurer's officer, that premiums need not be segregated from funds received by the self-service storage company on account of storage unit rental; and

- The charges for insurance coverage are itemized but not billed to the renter separately from the charges for storage units.

***Prohibition of Advertising, Representing, or Holding Out as Licensed Insurance Agents or Brokers***

The bill would prohibit a limited licensee from advertising, representing, or otherwise holding itself or employees out as licensed insurance agents or brokers. Further, the bill would prohibit a renter or occupant from being required to obtain insurance as a condition of obtaining a rental agreement for a storage unit. The renter would be informed the insurance offered is not required as a condition of obtaining a rental agreement for a storage unit.

***Suspension or Revocation of a Limited License***

The bill would authorize the Commissioner to take the following actions with regard to violations of the bill by a limited licensee:

- Revoke or suspend a limited license in accordance with provisions of KSA 2016 Supp. 40-4909 (the ability of the Commissioner to deny, suspend, revoke, or refuse renewal of any license issued under the Uniform Insurance Agents Licensing Act); or
- After notice and hearing, impose such other penalties, including, but not limited to, suspending the transaction of insurance at specific rental locations where violations of the bill have occurred, as the Commissioner deems necessary or convenient to carry out the provisions of the bill.

## **Background**

The bill was introduced by the Senate Committee on Financial Institutions and Insurance at the request of the Self Storage Association. In the Senate Committee hearing, a representative of the Self Storage Association testified in favor of the bill, noting similar legislation has been approved in 25 states. The representative stated the bill would enhance the Commissioner's ability to regulate limited line insurance providers and provide greater service to the consumers of self-storage facilities.

Opponent testimony was provided by a representative of the Kansas Association of Insurance Agents (KAIA) and the owner of Heritage Insurance Group, Inc. The opponents generally stated the bill would not adequately protect the interests of consumers by having an insurance product sold by self-storage employees with little or no knowledge of insurance.

No neutral testimony was provided.

The Senate Committee amended the bill to add a requirement that a sign be posted at every self-service storage location where self-service storage agreements are signed and to include a limitation on the amount of coverage per customer per storage unit.

In the House Committee on Insurance hearing, a representative of the Self Storage Association appeared in support of the bill, addressed similar legislation in other states, and requested an amendment to clarify information that would be required to be posted at self-service storage locations.

A representative of KAIA presented opponent testimony and stated concerns about the lack of regulation, training, and continuing education for those who would sell insurance under this bill. The representative stated, currently, pursuant to statute, all agents are required to take the initial licensing

test and certain limited line licenses require specific continuing education classes.

No neutral testimony was provided.

The House Committee amended the bill to clarify language associated with signage to be posted at self-service storage locations.

According to the fiscal note prepared by the Division of the Budget on the bill, as introduced, the Department states any costs incurred regulating this new limited licensure would be recovered by fees, which would be set by the Commissioner and would be negligible. Any fiscal effect associated with enactment of the bill is not reflected in *The FY 2018 Governor's Budget Report*.