

Insurance Producer Licensing Requirements; SB 37

SB 37 amends provisions governing agent licensing and renewal licensure requirements in the Uniform Agents Licensing Act and in the Public Adjusters Licensing Act and also amends a statute governing the examination of applicants for agent licensure. The bill also provides for an exemption and extension in complying with the continuing education requirements of licensed insurance agents serving on active duty in the National Guard or armed services of the United States for a specified period of time. The bill further requires certification by pre-need-only insurance agents that the agent transacted no other insurance business.

Examination for Applicant Agent Licensure

The bill modifies the requirement of examination for applicants and prospective applicants for an agent's license to remove a six-month waiting period for the retaking of an examination after a third or subsequent failure.

Uniform Insurance Agents Licensing Act

Definitions

The bill modifies the definition of "biennial due date" as the term applies to both agents (the last day of the agent's birth month) and to registered businesses (the last day of the month of the business' initial licensure).

Biennial Renewal Fee and Continuing Education Requirements for Licensure

Biennial renewal fee. In addition to the current criteria specified for residential agents to meet educational requirements in the biennial license period, the bill requires agents to submit an application for renewal on a form prescribed by the Commissioner of Insurance (Commissioner) and, on and after January 1, 2022, to pay a \$4.00 biennial renewal application fee.

Continuing education credits. Under current law, licensed agents holding only a property and casualty (P&C) or a life, accident, and health (L&H) qualification are required to obtain biennially a minimum of 12 continuing education credits (CECs), including at least 1 hour in insurance ethics and no more than 3 CECs in insurance agency management. If an agent holds both the P&C and L&H certifications, the agent is required to obtain a minimum of 24 CECs biennially.

On and after January 1, 2022, the bill amends the CEC requirement for agents to require each licensed agent to earn 18 CECs biennially, permit at least 3 hours of instruction in ethics, and remove the required insurance agency management hours.

The bill updates the CEC requirements for specified lines of insurance to add exemptions for insurance agents licensed to hold only a qualification in either self-service storage unit or travel insurance.

Pre-need agent reporting requirement. The bill requires that, at the biennial due date, a licensed insurance agent, who is an individual and holds a life insurance license only for the purpose of selling pre-need funeral insurance or annuity products, provide certification from an officer of each insurance company that has appointed such agent that the agent transacted no other business during the period covered by the report. Under current law, the certification is required only upon request of the Commissioner.

Exemption and extension for licensed agents in active duty armed services. The bill exempts a licensed agent who is a member of the National Guard or any reserve component of the armed services of the United States who serves on active duty for at least 90 consecutive days from continuing education requirements during the time such insurance agent is on active duty. The bill requires the Commissioner to grant an extension to any such licensed agent until the biennial due date that occurs in the year next succeeding the year in which such active duty ceases.

Appointment of Agents; Notification

Appointment of agents. The bill removes affiliation requirements for business entities (insurance companies). Under current law, each officer, director, partner, and employee of the business entity who acts as an insurance agent must be licensed as an insurance agent. The business entity is required to disclose to the Kansas Insurance Department (Department) the names of all of its officers, directors, partners, and employees, regardless of whether such persons are licensed as insurance agents. The current notification requirement and licensure of the business entity's representatives include an associated time frame for notification to the Department and penalties for failure to notify. The bill removes the notification time frames and penalties.

The bill, on and after January 1, 2022, also removes a required annual certification and related certification fee for a licensed insurance agent who is an officer, director, partner, or employee or is otherwise legally associated with a corporation, association, partnership, or other legal entity appointed by an insurance company. Under current law, an annual certification fee must be paid for each licensed agent certified by the company at the time the company files its premium tax returns.

Notification. The bill creates reporting requirements on each person or entity licensed in the state as an insurance agent. The bill requires the following information to be reported to the Commissioner within 30 calendar days of an occurrence:

- Each disciplinary action on the agent's license or licenses by the regulatory agency of another state or territory of the United States;
- Each disciplinary action on an occupational license held by the licensee, other than an insurance agent's license;
- Each judgment or injunction entered against the licensee on the basis of conduct involving fraud, deceit or misrepresentation, or a violation of any insurance law;

- All details of any conviction of a misdemeanor or felony (details are specified in the bill; minor traffic violations may be omitted);
- Each change in name (if the change is effected by court order, a copy of such order must be provided to the Commissioner);
- Each change in residence or mailing address, email address, or telephone number;
- Each change in the name or address of the agency with which the agent is associated; and
- Each termination of a business relationship with an insurer if the termination is for cause, including the reason for the termination.

In addition, each person or entity licensed in Kansas as an insurance agent is required to provide to the Commissioner, upon request, a current listing of company affiliations and affiliated insurance agents. Business entities licensed in Kansas as insurance agents are required to report each change in legal or mailing address, email address, and telephone number to the Commissioner within 30 days of occurrence. These entities also are required to report each change in the name and address of the licensed agent who is responsible for the business entity's compliance with the insurance laws of Kansas to the Commissioner within 30 days of occurrence.

Commissioner—Licenses and Renewals; Permissible Considerations

Under continuing law, the Commissioner is permitted to deny, suspend, revoke, or refuse renewal of licenses if the Commissioner finds violation of several listed actions of the applicant or license holder (e.g., providing incorrect, misleading, incomplete, or untrue information; violations of insurance law; a misdemeanor or felony conviction). The bill adds “failed to respond to an inquiry from the Commissioner within 15 business days” to this list of actions.

In addition, the bill requires the Commissioner to consider the following criteria when determining whether to grant or renew a license:

- Applicant's age at the time of the conduct;
- Recency of the conduct;
- Reliability of the information concerning the conduct;
- Seriousness of the conduct;
- Factors underlying the conduct;
- Cumulative effect of the conduct or information;

- Evidence of rehabilitation;
- Applicant's social contributions since the conduct;
- Applicant's candor in the application process; and
- Materiality of any omissions or misrepresentations.

Separately, the Commissioner is required to consider when determining whether to reinstate or grant to an applicant a license that has been revoked:

- Present moral fitness of the applicant;
- Demonstrated consciousness by the applicant of the wrongful conduct and disrepute that the conduct has brought to the insurance profession;
- Extent of the applicant's rehabilitation;
- Seriousness of the original conduct;
- Applicant's conduct subsequent to discipline;
- Amount of time that has elapsed since the original discipline;
- Applicant's character, maturity, and experience at the time of the revocation; and
- Applicant's present competence and skills in the insurance industry.

The bill provides that an applicant to whom a license has been denied after a hearing may not apply for a license again until after the expiration of a period of one year from the date of the Commissioner's order. A licensee whose license was revoked cannot reapply until after two years from the date of the order.

Renewal Application—Penalties

The bill amends provisions applying to the renewal of licensure for an insurance agent to create corresponding penalty provisions when the required renewal application is not received by the Commissioner by the agent's biennial due date. The bill provides, if the required renewal application is late:

- Such individual insurance agent's qualification and each corresponding license shall be suspended automatically for a period of 90 calendar days or until such time as the agent satisfactorily submits a completed application, whichever occurs first; and

- The Commissioner shall assess a penalty of \$100 for each license suspended:
 - If such agent fails to provide the required renewal application and the monetary penalty within 90 calendar days of the biennial due date, the agent's qualification and each corresponding license will expire on such agent's biennial due date;
 - If, after more than 3 but less than 12 months from the date the license expired, the agent desires to reinstate his or her license, the agent must provide the required renewal application and pay a reinstatement fee in the amount of \$100 for each license suspended; and
 - If, after more than 12 months have passed since license expiration, the agent desires to reinstate the license, this agent is required to apply for an insurance agent's license, provide the required proof of CEC completion, and pay a reinstatement fee in the amount of \$100 for each license suspended.

The bill permits, upon receipt of a written application from an agent claiming extreme hardship, the Commissioner to waive any penalty associated with renewal of an agent's license.

Public Adjusters Licensing Act

The bill amends the Public Adjusters Licensing Act to add fingerprinting and criminal history record checks of applicants. Under the bill, the Commissioner is allowed to:

- Require a person applying for a public adjuster license to be fingerprinted and submit to a state and national criminal history record check, to submit a background check, or both:
 - The fingerprints shall be used to identify the applicant and to determine whether the applicant has a record of criminal history in this state or another jurisdiction. The Commissioner is required to submit the fingerprints to the Kansas Bureau of Investigation and the Federal Bureau of Investigation for a state and national history record check. Local and state law enforcement officers and agencies are required to assist the Commissioner in the taking and processing of fingerprints of applicants and to release all records of an applicant's arrests and convictions to the Commissioner; and
- Conduct or have a third party conduct a background check on a person applying for a public adjuster license.

The bill requires the applicant to pay any associated costs whenever the Commissioner requires fingerprinting or a background check, or both. The Commissioner is permitted to use the information obtained from a background check, fingerprinting, and the applicant's criminal history only for purposes of verifying the identity of the applicant and in the official determination of the applicant's fitness to be issued a license as a public adjuster.

The bill also amends the biennial renewal provisions for licensure as a public adjuster to clarify the term “biennial due date” and increase, from 12 to 18 hours, the biennial minimum continuing education courses for licensees and to specify such education include 3 hours of ethics. The bill removes a requirement that such education include 11 hours of P&C or general continuing education courses.