



DATE: February 19, 2020

TO: The Honorable Rob Olson
Members of the Financial Institutions and Insurance Committee

FROM: Will Larson, Attorney
Kansas Association of Insurance Agents

RE: Opposition to Senate Bill 323

Thank you for the opportunity to speak in opposition to SB 323

The Kansas Association of Insurance Agents (KAIA) is a statewide association of independent insurance agents. It has approximately 305-member insurance agencies with more than 2,000 licensed independent insurance agents throughout the state of Kansas.

SB 323 amends K.S.A. 40-276a, 40-2,121 and 40-2,201. These statutes require insurance companies to give notice of non-renewal if the companies choose to not renew or provide similar coverage at renewal for the types of policies described in the statutes. K.S.A. 40-276a applies to automobile liability insurance and requires 30 days' written notice, K.S.A. 40-2,121 applies to commercial property and casualty (P&C) insurance and requires 60 days' written notice and K.S.A. 40-2,201 applies to group affiliated insurers' P&C insurance coverage and requires 30 days' notice.

SB 323 provides, instead of sending a notice of non-renewal when a policy is changed a company may send a copy of the renewal policy, or make it available electronically, in accord with the notice requirements of the statutes. There is no requirement the company identify what changes they are making.

The practical effect of the amendments in SB 323 is an insured would have to read his or her policy, in detail, to determine what changes the company has made.

Insurance policies are confusing and complex. Even people that have worked in insurance for years may have trouble interpreting some of the language in insurance policies. While our member agents encourage consumers to always read their policies, most consumers do not take the time to do so. It is unrealistic to expect consumers to identify changes in their policies without the carriers specifically pointing them out.



K.S.A. 40-40-2,201 requires companies to make notices of non-renewal available to the insured's agent of record, but neither K.S.A. 40-276a, K.S.A. 40-2,121 nor any amendments to those statutes in SB323 require companies to provide non-renewal notices to agents, and some don't. But assuming a company does send the altered policies to the agent, if SB 323 is enacted, it would create an enormous burden and enormous errors and omissions (E&O) exposure for agents.

An agent would have to determine the changes in a policy without the benefit of any input from the company that made the changes. Comparing policies to determine coverage differences can be very difficult and time consuming. If an uncovered loss occurs because an agent failed to identify a change in coverage the agent may be subject to an E&O claim.

The problems with SB323 are exacerbated for independent insurance agents. Independent agents represent multiple companies. If the changes a company makes are not acceptable to the insured the independent agent must try and find replacement coverage. On a commercial account for example, if SB323 is enacted, and assuming the company sends the renewal policy or makes it available to the agent, the agent would have to review the policy in detail, identify the changes, contact the insured to see if the renewal policy is acceptable and, if not, fill out applications to submit to other companies, provide any additional information required by the underwriters, get the quotes and submit them to the insured. It may be impossible to get all this done before the existing policy terminates. That could result in a lapse in coverage. The same problems exist for personal lines coverage, except personal lines are usually not as complicated.

This may not be an issue for captive agents as they are generally limited to one carrier and are likely unable to get a replacement policy option with another company. Most commercial policies are written by independent agents.

Companies make the changes, not consumers and not agents. If companies want to have the option of notifying consumers of policy changes instead of sending out non-renewal notices they should identify the changes. We believe this is in the best interests of consumers and the independent agents that serve them.

In short, SB 323 creates an undue burden for consumers and independent agents.

The original draft of this Bill required the companies to identify and describe changes in renewal policies. The KAIA would support such a Bill. It would expedite obtaining replacement coverage, if necessary, and help eliminate certain ambiguities in the current statutes. As currently written, however, the KAIA must oppose SB 323.