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REVISOR of STATUTES

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MEMORANDUM

To: House Committee on Insurance and Pensions

From: Office of the Revisor of Statutes

Date: February 3, 2021

Subject: Bill Brief for SB 78: Updating certain statutes relating to the regulation of the business of insurance, granting the commissioner of insurance certain investigative powers.

SB 78 updates certain statutes relating to the regulation of the business of insurance. This is the Senate mirror bill of HB 2136, which this committee passed out favorably with amendments. The Senate Committee on Financial Institutions and Insurance made similar amendments to the ones that this committee made, with some minor differences.

Section 1 Originally, Section 1 was the section that granted the Commissioner of Insurance certain investigative powers as well as the power to subpoena individuals and compel the production of books, documents, and other records. This section was stricken when the committee worked the bill.

Currently, Section 1 amends K.S.A. 40-201a, pertaining to the definition of "service contract." Based on concerns that were raised during the bill hearing, the bill was amended to specify that "service contract" does not include an automobile service contract.

This committee amended Section 1 to strike the original language and amend the definition of "service contract." However, the language that this committee used varies slightly from the Senate Bill's language. A comparison of the two definitions appears on the last page of this brief.

Section 2 amends K.S.A. 2020 Supp. 40-246i. Here, the minimum requirements for net worth, annual revenue and annual budgeted expenditures "exempt commercial purchaser" must be adjusted every five years by rules and regulations. The bill would strike the requirement that the adjustment be accomplished by rules and regulations and instead require that the adjusted amount be published every five years in the Kansas register.

Section 3 amends K.S.A. 40-4,104 pertaining to the minimum nonforfeiture amount used to calculate the minimum values of any paid-up annuity, cash surrender or death benefits available under an annuity contract. Under current law, the interest rate used in determining minimum nonforfeiture amounts shall be an annual rate of interest determined as the lesser of 3% per annum and the interest rate calculated as the five-year constant maturity rate reported by the federal reserve as of a date, or average over a period, rounded to the nearest 1 /20th of one percent, specified in the contract no longer than 15 months prior to the annuity contract's issue date or redetermination date, reduced by 125 basis points; where the resulting interest rate is not less than 1% . The bill would change the 1% interest rate to 0.15%, or 15 basis points.

Sections 4 -6 amends K.S.A. 40-22a04, 40-22a05 and 40-22a06 of the Utilization Review Organization Act. Section 4 would remove the requirement of using the advice of the advisory committee and add healthcare providers to the type of utilization review activities subject to the

required rules and regulations establishing the standards for conduct. Section 5 would remove requirements establishing the utilization review advisory committee. Section 6 would specify provisions of the Utilization Review Organization Act would not apply to utilization review organizations accredited by and adhering to national utilization review standards approved by URAC, an independent, nonprofit accreditation entity, or other such utilization review organizations the Commissioner approves.

Section 7 amends K.S.A. 2020 Supp. 40-4103 pertaining to requirements that risk retention groups chartered in foreign states must observe. Under current law in subsection (b)(1), a risk retention group seeking to do business in this state must submit a copy of the group's financial statement submitted to its state of domicile that is certified by an independent public accountant. The bill would strike the requirement that the financial statement be certified by an independent public accountant.

Section 8 amends K.S.A. 2020 Supp. 44-1704, pertaining to the registration of professional employer organizations. The time frame for the submission of a registrant's renewal application would be extended from 60 to 120 days. Additionally, the time frame for the annual filing of the most recent audit by a professional employer organization group would also be extended from 60 to 120 days.

Finally, the bill repeals the Automobile Club Services Act, K.S.A. 40-2501 – 40-2513, and amendments thereto.

SB 78

(5)~~(4)~~ "Service contract" does not include an automobile club service contract.

As used in this paragraph:

(A) "Automobile club" means any person who, in consideration of dues, assessments or periodic payments of money, promises its members or subscribers to assist such members or subscribers in matters relating to travel and the operation, use and maintenance of an automobile by supplying features or services or reimbursement thereof, including, but not limited to:

- (i) Services such as community traffic safety services, travel and touring service, theft or reward service, map service, towing service, emergency road service, bail bond service and legal fee reimbursement service in the defense of traffic offenses, and such enumerated features or services, if provided by the automobile club itself, shall be subject to the insurance laws of this state;
- (ii) the purchase of accidental injury and death benefits insurance coverage issued, as provided by applicable statutes, by an insurance company authorized to do business in Kansas; and
- (iii) other features or services not deemed by the commissioner to constitute the business of insurance.

(B) "Person" means any person, firm, partnership, corporation or association that conducts an automobile club service business in this state.

(C) An automobile service contract shall contain the following information:

- (i) The corporate name or other name of the club;
- (ii) the location of its home office and its usual place of business in the state, if any, listing the street address and city; and
- (iii) provisions clearly specifying:
 - (a) A description of the services or benefits to which the member is entitled;
 - (b) the territory wherein such services are to be rendered; and
 - (c) the dates when such service will commence and terminate.

HB 2136

(5)~~(4)~~ "Service contract" does not include an automobile service contract. As used in this paragraph, "automobile club service contract" means a contract that provides, in consideration of dues, assessments or periodic payments of money, promises to assist in matters relating to travel and the operation, use and maintenance of an automobile by supplying features or services or reimbursement thereof, including, but not limited to:

(A) Such services as community traffic safety service, travel and touring service, theft or reward service, map service, towing service, emergency road service, bail bond service and legal fee reimbursement service in the defense of traffic offenses. Such services shall not be subject to the insurance laws of this state if provided by the promisor itself;

(B) features including the purchase of accidental injury and death benefits insurance coverage issued, as provided by applicable statutes, by an insurance company authorized to do business in Kansas; or

(C) such other features or services not deemed by the commissioner to constitute the business of insurance.