

SESSION OF 2024

**SUPPLEMENTAL NOTE ON SENATE BILL NO. 356**

As Amended by House Committee on Insurance

**Brief\***

SB 356, as amended, would amend existing law to establish a tiered-fee structure for financial examinations of insurance companies and societies based on the gross premiums received by such entities. The bill would also establish that certain examination costs be “average and reasonable.”

The bill would be in effect upon publication in the *Kansas Register*.

***“Average and Reasonable” Fees***

The bill would require the following examination costs be “average and reasonable”:

- Full compensation for examiners’ services, on a per diem basis;
- Outside consulting and data processing fees necessary to perform any examination; and
- Purchase, maintenance, and enhancement of examination equipment and computer software.

The bill would specify expenses for traveling and subsistence incurred by examiners in the performance of their services be “reasonably” necessary.

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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>

The bill would require the amount paid to perform any market regulation examination, including examination of a company or society's subsidiaries, and the *pro rata* amount to fund the purchase of examination equipment and computer software be "reasonable" and not exceed the existing statutory collective total cap of \$25,000.

"Average and reasonable" would mean the amount or fees that are in line with fees assessed by other people in the area where the examination occurred who have rendered similar services.

### ***Tiered-fee Structure***

The bill would amend the amounts paid for examination costs to create a tiered-fee structure. The examination costs would include:

- Compensation, expenses, and the employer's share of the Federal Insurance Contributions Act taxes;
- The employer's contribution to the Kansas Public Employees Retirement System;
- The self-insurance assessment for the Workers Compensation Act;
- The employer's cost of the state health care benefits program;
- A *pro rata* amount determined by the Commissioner of Insurance (Commissioner) to provide vacation and sick leave for the examiner;
- All average and reasonable outside consulting and data processing fees necessary to perform any examination; and

- An average and reasonable *pro rata* amount determined by the Commissioner to fund the purchase, maintenance, and enhancement of examination equipment and computer software.

The bill would specify the amount paid for the above costs, outside consulting and data processing fees necessary to perform any financial examination at any one company or society, including examination of the company's or society's subsidiaries or any combination, and the *pro rata* amount to fund the purchase of examination equipment and computer software could not collectively total more than the following amounts:

- \$50,000 for any insurance company or society that has less than \$5.0 million in gross premiums, both direct and assumed, in the preceding calendar year;
- \$75,000 for any insurance company or society that has at least \$5.0 million but less than \$25.0 million in gross premiums, both direct and assumed, in the preceding calendar year;
- \$100,000 for any insurance company or society that has at least \$25.0 million but less than \$50.0 million in gross premiums, both direct and assumed, in the preceding calendar year;
- \$125,000 for any insurance company or society that has at least \$50.0 million but less than \$100.0 million in gross premiums, both direct and assumed, in the preceding calendar year;
- \$175,000 for any insurance company or society that has at least \$100.0 million but less than \$250.0 million in gross premiums, both direct and assumed, in the preceding calendar year;

- \$250,000 for any insurance company or society that has at least \$250.0 million but less than \$500.0 million in gross premiums, both direct and assumed, in the preceding calendar year; or
- The actual total costs paid in connection with the examination for any insurance company or society that has at least \$500.0 million in gross premiums, both direct and assumed, in the preceding calendar year.

[*Note:* Current law provides the amount paid may not collectively total more than \$50,000 for any insurance company or society that has less than \$200.0 million or more in gross premiums, both direct and assumed, in the preceding calendar year or not more than \$500,000 for any insurance company or society that has \$200.0 million or more in gross premiums, both direct and assumed, in the previous calendar year.]

## **Background**

The bill was introduced in the Senate Committee on Financial Institutions and Insurance at the request of a representative of the Kansas Insurance Department (Department).

[*Note:* A companion bill, HB 2533, was introduced in the House. On February 23, 2024, the bill was stricken from the calendar pursuant to House Rule 1507.]

## ***Senate Committee on Financial Institutions and Insurance***

In the Senate Committee hearing, **proponent** testimony was provided by representatives of the Department and the Kansas Association of Property and Casualty Insurance Companies (KAPCIC). The Department representative stated

the new, seven-tiered financial examination fee schedule correlates with an insurer's annual gross premium written. The fee schedule was developed in collaboration with the industry to provide regulatory certainty to insurers by creating an overall cap for both Department expenses and contractual services. The actual internal costs incurred by the Department in conducting the required financial examinations are invoiced to the insurers, but the amount paid by insurers related to the use of a contracted examiner cannot exceed the current statutory cap, leaving any contractual services that exceed the statutory cap to be paid by the Department. It was also noted Kansas is the only state with a cap on financial examination fees.

The KAPCIC representative stated the current cap only applies to work outsourced by the Department, but there is no cap on Department-incurred charges or on the combined Department and outsourced charges. The single cap on charges, regardless of the entity that does the work, would provide Kansas domiciled companies with the ability to budget for the costs of the financial examinations. The representative stated support for the multiple cap levels in the bill, noting that although the caps are increased, they are more reflective of total exam costs.

No other testimony was provided.

### ***House Committee on Insurance***

In the House Committee hearing, **proponent** testimony was provided by representatives of the Department and KAPCIC, who stated the bill would create more consistent expectations for the cost of financial examinations.

No other testimony was provided.

The House Committee amended the bill to define the term "average and reasonable" and to add "average and" before "reasonable" regarding per diem compensation for

examiner services; outside consulting and processing fees; and the purchase, maintenance, and enhancement of examination equipment and computer software. The House Committee also amended the bill to change its effective date to upon publication in the *Kansas Register*.

### **Fiscal Information**

According to the fiscal note prepared by the Division of the Budget on the bill, as introduced, the Department indicates the bill would increase its expenditures by a total of \$305,000 from its Insurance Department Service Regulation Fee Fund over four years, because each insurance company is examined every four years. Therefore, the average increase in expenditures per year would be \$76,250. This is because the Department would pay any amount above the cap defined in the bill when an insurance company's cost for the examination is more than the cap on gross premiums. The estimate is based on past exam costs, including amounts paid by the companies to contractors, the amount the Department paid on behalf of the companies, and the amount paid by the companies to contractors. Any fiscal effect associated with the bill is not reflected in *The FY 2025 Governor's Budget Report*.

Kansas Insurance Department; insurance; financial examinations; market regulation examination; tiered fee structure; fees