

SESSION OF 2008

**CONFERENCE COMMITTEE REPORT BRIEF
HOUSE SUBSTITUTE FOR SENATE BILL NO. 113**

As Agreed to April 2, 2008

Brief*

House Sub. for SB 113 would make several amendments to Kansas insurance law. Specifically, the bill would:

- Amend the law governing interest on life insurance and annuity policies to allow interest or dividends that accrue to continue until the surrender value of the policy is paid;
- Amend the Kansas Health Care Prompt Payment Act for reimbursement of claims paid in error;
- Update the statutory date associated with risk-based capital instructions;
- Amend the existing exemptions from the Insurance Code to include all voluntary non-contractual mutual aid arrangements;
- Increase the penalties associated with the failure to provide certain reports to the Insurance Commissioner;
- Amend a statute governing coverage limitations for creditor/debtor group life insurance; and
- Amend a statute governing utilization review organizations to create a standard for hospital admissions.

*Conference committee report briefs are prepared by the Legislative Research Department and do not express legislative intent. No summary is prepared when the report is an agreement to disagree. Conference committee report briefs may be accessed on the Internet at <http://www.kslegislature.org/kldr>

Interest, Life Insurance Policies

Specifically, the bill would allow that during a deferral period, any interest or dividends that accrue, in the absence of a surrender of the policy, would continue to accrue until the surrender value is paid. (Under current law, an insurance company is permitted to reserve the right to defer the payment of any cash surrender value for a six-month period after the surrender of the policy.) **(Section 1)**

Kansas Health Care Prompt Payment Act Amendment

The bill also would amend the Kansas Health Care Prompt Payment Act to create a limited time frame (within 18 months after the end of the month the incorrect payment was made) during which an insurer could request reimbursement from an insured individual or a provider for a claim paid in error. In cases of fraud by either the insured (policyholder) or the provider, the request for reimbursement may be initiated within the applicable statute of limitation under KSA 60-513.

The bill would provide that the time period covered by an audit of the records of a pharmacy (conducted by a managed care company, insurance company, or third party payor) cannot exceed two years from the date the claim was submitted to, or adjudicated, or otherwise provided by state or federal law. **(Section 2)**

Risk-Based Capital Instructions

The bill also would amend the preparation and filing of certain reports by insurance companies with the Insurance Department. The bill updates from December 31, 2006 to December 31, 2007, the risk-based capital (RBC) instructions, including formulas, developed by the National Association of Insurance Commissioners (NAIC) that insurance companies must use in preparing their financial reports for the Department. **(Section 3)**

Voluntary Non-Contractual Mutual Aid Arrangements

The bill would remove all voluntary non-contractual mutual aid arrangements from the application of the Kansas Insurance Code. Under current law, the Insurance Code excludes only such arrangements founded on or before December 31, 1982. **(Section 4)**

Failure to Provide Certain Information, Penalties

The bill also would increase the penalties associated with the failure to provide required reports and other information to the Insurance Commissioner, as required by statute. The bill would increase the penalty amount for a violation from the current amount of up to \$500 to an amount up to \$1,000 per violation or act. The bill also would increase the amount of an additional penalty to be assessed on a weekly basis until the receipt of the information from the current amount of up to \$100 to amount of up to \$500. **(Section 5)**

Creditor/Debtor Group Life Insurance

The bill also would amend a statute governing coverage limitations for creditor/debtor group life insurance to remove the statutory limitation of \$100,000 on the payments to the creditor. The law would instead state that the amount of life insurance of any debtor cannot exceed the amount owed by that debtor, which is repayable in installments to the creditor.

Current law limits the amount of the debtor's life insurance to the amount owed to the creditor, or \$100,000, whichever is less. **(Section 6)**

Utilization Review Organizations-Admissions Standard

The bill also would amend a statute governing utilization review organizations to create an admissions standard. Specifically, the bill would allow a utilization review organization to establish prior notification requirements for inpatient and outpatient hospital admissions. However, the utilization review

organization would be prohibited from requiring notification sooner than the next business day after any inpatient admission occurring on the weekends or holidays or any urgent or emergent inpatient or outpatient admission, regardless of when the patient presents to the facility for services. Additionally, the bill would provide that a patient that is unstable or uncommunicative cannot be deemed to have “presented” to a health care facility until the patient is able to provide insurance information and the health care facility is permitted under state and federal law to inquire about insurance coverage.

The bill also would require that a utilization review organization may not reduce or deny payment to a provider for its failure to comply with any of the organization’s policy that conflicts with this act or any rules and regulations adopted pursuant to KSA 40-22a11.

Current law defines a “utilization review organization” as any entity which conducts utilization review and determines certification of an admission, extension of stay or other health care service. **(Section 7)**

Conference Committee Action

The Conference Committee agreed to the House amendments to House Sub. for SB 113, and agreed to amend the bill further to clarify the audit process for certain providers. The Conference Committee also agreed to amend the bill to include the provisions of HB 2689 (Risk-Based Capital Instructions), as recommended by the House Committee on Insurance and Financial Institutions; HB 2783 (Voluntary Non-Contractual Mutual Aid Arrangements), as recommended by the House Committee on Insurance and Financial Institutions; SB 498 (Failure to Provide Certain Information), as amended by the House Committee on Insurance and Financial Institutions; SB 561 (Creditor/Debtor Group Life Insurance), as recommended by the Senate Committee on Financial Institutions and Insurance; and SB 563 (Utilization Review Organizations-

Admissions Standards), as amended by the House Committee on Insurance and Financial Institutions.

Background

The House Committee on Insurance and Financial Institutions recommended the introduction of a substitute bill. The substitute deletes the contents of SB 113 and inserts the provisions of HB 2690 (as amended by the House Committee) and HB 2699 (as amended by the House Committee). The original bill would have amended the continuing education requirements of certain licensed insurance agents.

The Supplemental Notes are available for the bills referenced in the Conference Committee Action.

The fiscal note prepared by the Division of the Budget on the provisions to be enacted in the substitute bill states that the Kansas Insurance Department indicates there will be no fiscal effect to the agency associated with the enactment of either provision. There was no fiscal effect associated with the enactment of HB 2689, HB 2783, SB 498, SB 561, or SB 563, according to information provided to the Division of the Budget by the Kansas Insurance Department.

Insurance Code amendments