

SESSION OF 2008

SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2675

As Amended by House Committee on
Insurance and Financial Institutions

Brief*

HB 2675, as amended, would amend licensure requirements under the Uniform Insurance Agents Licensing Act for nonresident insurance agent licensees to provide license revocation for nonpayment of income tax. Specifically, the bill would create new law to allow for a process of notification by the Secretary of Revenue to the Insurance Commissioner of income tax delinquency of nonresident licensees. The requirement only would apply to nonresidents in a state that has a similar policy of checking for delinquency.

The bill would require the Commissioner to certify to the Secretary a list of those states which withhold nonresident license renewal for Kansas insurance agents pending proof of filing income tax returns by such agents in the nonresident state. The Commissioner is directed to include information for each licensee from the identified states including name and address; social security number or taxpayer identification number or federal employer identification number; and date of license renewal. The list is to be electronically provided to the Secretary in a format approved by the Secretary. The Secretary is to then review the listed licensees and is to mail the notice of income tax delinquency to any nonresident licensee who is delinquent in either the payment of income taxes or the filing of income tax returns. The Secretary is to notify the Commissioner promptly whenever any listed licensee has satisfied the income tax delinquency.

The exchange of information between the two officials is to be considered lawful; any information received by the

*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>

Secretary is to only be used for the purpose authorized by the bill. Anyone in receipt of the confidential taxpayer information at either Department, regardless of employment status, is to be subject to provisions of a law limiting the dissemination and use of tax information (KSA 79-3234) and the confidentiality requirements under the Kansas Retailers' Sales Tax Act (KSA 79-3614).

The bill also would amend two provisions of agent licensure law to allow for suspension, revocation or refusal for nonresident license renewal by the Insurance Commissioner. The Commissioner also would be required, upon notice of income tax delinquency of a nonresident agent licensee from the Secretary of Revenue, to deny, suspend, revoke, or refuse renewal of any license of such nonresident agent licensee.

Finally, the bill would amend the confidentiality requirements for the use of sales tax information in KSA 79-3234 to specify that the Department of Revenue is permitted to provide taxpayer information to the Insurance Commissioner for the purpose of notification.

Background

The bill was introduced at the request of Representative Virgil Peck who testified about his concern that Kansas insurance agents are giving income tax dollars to the State of Missouri that belong to Kansas and that the bill is a reciprocal bill that would affect only the states, currently Missouri, which require Kansas insurance agents to pay income taxes to them. A representative of the Kansas Insurance Department offered neutral testimony noting that while the Department supports the spirit of the bill, there are concerns about adopting policies which would make the state's licensing laws less uniform and would not provide equal treatment for the state's domestic and foreign insurance agents. A representative of the Kansas Department of Revenue also provided neutral testimony on the introduced bill, citing a concern that applying the license revocation for income tax delinquency only for nonresident

agents raises a Commerce Clause issue. The Department representative recommended the bill be amended to include KSA 79-3234, a statute regarding the provision of confidential taxpayer information (to the Insurance Commissioner).

The House Committee on Insurance and Financial Institutions amended the bill to include the taxpayer information disclosure requirement under the bill in current law, KSA 79-3234.

The fiscal note prepared by the Division of the Budget on the introduced version of the bill indicates that passage of the bill, as estimated by the Kansas Department of Revenue, would increase income tax collections to the State General Fund by \$107,800. The Kansas Insurance Department reports that there are approximately 52,000 nonresident agents licensed in Kansas and nearly 7,700 of these agents are Missouri residents. Missouri, the fiscal note continues, is the only state that denies a nonresident insurance agent a license if that nonresident has an income tax delinquency. The Department of Revenue assumes a current delinquency rate of 8.0 percent, and a total average income of \$50,000, with about 10.0 percent of that from Kansas sources for nonresident taxpayers who are required to have a license to practice in Kansas. The Department of Revenue used these estimates, with an average Kansas tax rate of 3.5 percent, to calculate the additional Kansas income tax collection of \$107,800 to the State General Fund. The Insurance Department did not provide any information regarding the bill's fiscal effect on the agency. If specific information is provided, a revised fiscal note will be distributed. Any fiscal effect resulting from enactment of the bill is not accounted for in *The FY 2009 Governor's Budget Report*.