

SESSION OF 2008

SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2689

As Amended by Senate Committee of the Whole

Brief*

HB 2689, as amended, would amend the preparation and filing of certain reports by insurance companies with the Insurance Department. The bill also would enact the Property/Casualty Flex-Rating Regulatory Improvement Act.

Risk-Based Capital Instructions

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.

Property/Casualty Flex-Rating Regulatory Improvement Act

The bill also would enact the Property/Casualty Flex-Rating Regulatory Improvement Act, an act pertaining to personal line insurance. Rate filings made by an insurer under this Act that provide for an overall statewide rate increase of or decrease of no more than 12 percent in the aggregate for all coverages would be effective upon filing. No more than one rate filing could be made by an insurer pursuant to the process outlined in the bill, unless the combination of the filing and all other filings made by the insurer within the previous twelve months does not result in an overall statewide increase or decrease outside the flex band created under the Act. The 12

*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>

percent limitation would not apply on an individual insured basis.

Filings submitted under the Act shall be deemed to comply with state law unless the Insurance Commissioner determines the filing is inadequate or unfairly discriminatory and the filing is determined as such, the Commissioner is required to issue a written order specifying in detail what provisions of the Insurance Code were violated and the reasons the filing was deemed inadequate or unfairly discriminatory. The bill also would require the disclosure of a rate change or notice of renewal to the insured.

Additionally, if the Commissioner issues an order more than 30 days after the rate filing was received, the effect of the order could be prospective only and not affect any contract issued or made before the effective date of the order.

The bill also would establish definitions for terms used in the Act including, “personal insurance” and “unfairly discriminatory.” The term “personal insurance” is ascribed its meaning in KSA 5103(l) and would mean private passenger automobile, homeowners, motorcycle, mobile homeowners and non-commercial dwelling fire insurance policies and boat, personal watercraft, snowmobile and recreational vehicle policies. The term “unfairly discriminatory” would have its meaning ascribed to it in KSA 40-953 and would include “a rate for a risk that is classified in whole or in part on the basis of race, color, creed or national origin.”

Background

HB 2689 was introduced by the House Committee at the request of the Kansas Insurance Department whose representative indicated that the risk-based capital instructions and formulas are amended each year to address various matters, such as changes to line references in the annual statement blanks and to reflect any necessary modifications or adjustments to the formulas. The representative also stated

that the most recently adopted RBC standards do not represent a significant change from the standards of the previous year. The bill was supported by the Kansas Association of Property and Casualty Insurance Companies and the Kansas Life Insurance Association.

The Senate Committee of the Whole amendment inserted provisions to enact the Property/Casualty Flex-Rating Regulatory Improvement Act. The Act was introduced in SB 560 and the provisions recommended by the Senate Committee of the Whole retain the 12 percent flex-rating band proposed in the bill, as introduced. The amendment also established definitions for terms used in the Act, including “unfairly discriminatory” (as was proposed in the SCOW version of SB 560) and “personal insurance” (as defined in the Kansas Insurance Score Act).

The fiscal note prepared by the Division of the Budget states that the Kansas Insurance Department indicates there will be no fiscal effect associated with the enactment of the original bill.