

SESSION OF 2010

**CONFERENCE COMMITTEE REPORT BRIEF
HOUSE BILL NO. 2501**

As Agreed to March 30, 2010

Brief*

HB 2501 would amend the statutory requirements for the liability of mortgage guaranty insurance companies, would amend the Kansas Uninsurable Health Insurance Plan Act, would update the effective of risk-based capital instructions, would establish additional restrictions to the genetic testing law, and would amend the Kansas Insurance Score Act and enact new law supplemental to the Act.

Mortgage Guaranty Insurance Companies

The bill would amend a statute governing requirements for the liability of mortgage guaranty insurance companies to permit the Insurance Commissioner to waive a minimum policy surplus requirement for up to two years. Under the current law, a mortgage guaranty insurance company is not permitted to have outstanding a total liability, net of reinsurance, under its aggregate mortgage guaranty insurance policies exceeding 25 times its capital, surplus, and contingency reserve. The bill would authorize the Commissioner, upon the request of the insurer, to conditionally waive the requirements for up to two years. **(Section 1)**

Kansas Uninsurable Health Insurance Plan Act – Creditable Coverage

The bill would amend the Kansas Uninsurable Health Insurance Plan Act (the Act governing administration of the

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State High Risk Pool) to add coverage of an individual under the State Children's Health Insurance Program (SCHIP), authorized by Title XXI of the Social Security Act, to the list of recognized creditable health insurance coverages.

A technical amendment also is made to the definition of "federally defined eligible individual." **(Section 2)**

Risk-Based Capital Instructions

The bill would amend the effective date specified in current law for the risk-based capital (RBC) instructions promulgated by the National Association of Insurance Commissioners (NAIC). The instructions currently specified are effective on December 31, 2008. The bill would update the effective date of the RBC instructions to December 31, 2009. **(Section 3)**

Genetic Testing Requirements

The bill also would establish additional restrictions (to those established in current law) on insurance companies that require larger premiums for coverage based on obtaining a genetic test or the results of a genetic test, or that adjust premiums based on obtaining a genetic test or the results of a genetic test.

The bill would specify that the genetic testing provisions in law would apply to group policies and certificates of coverage or individual policies that provide hospital, medical or surgical expense benefits. **(Section 4)**

Kansas Insurance Score Act, Amendments; Extraordinary Life Circumstances

The bill would amend the Kansas Insurance Score Act and enact new law supplemental to the Act. Specifically, the bill would enact new law to create an exception to the Kansas

Insurance Score Act for extraordinary life circumstances. An insurance company that uses credit information would be required, upon written request from an applicant for insurance coverage or its insured, to provide “reasonable exceptions” to the insurer’s rates, rating classifications, company or tier placement, or underwriting rules or guidelines for a consumer who has experienced and whose credit information has been directly influenced by an extraordinary life circumstance.

The bill outlines those circumstances for which an exception would be granted:

- Catastrophic event, as declared by the federal or any state government;
- Serious illness or injury to the consumer or the consumer’s immediate family;
- Death of a spouse, child or parent of the insured;
- Divorce or involuntary interruption of legally-owed alimony or support payments;
- Identity theft;
- Temporary loss of employment for a period of three months or more, if it results from involuntary termination;
- Military deployment overseas; or
- Any other events as determined by the insurer.

The bill also would provide that if a consumer submits a request for an exception, an insurer may, in its sole discretion:

- Require the consumer to provide reasonable written and independently verifiable documentation of the event;
- Require the consumer to demonstrate that the event had

a direct and meaningful impact on the consumer's credit information; and

- Require such request be made no more than 60 days from the date of the application for insurance or the policy renewal.

The bill also would create notification requirements for insurers. Insurers would be required to provide notice to consumers that reasonable exceptions are available and information about how the consumer may inquire further. Within 30 days of the insurer's receipt of sufficient documentation of an extraordinary life circumstance, the insurer is required to inform the consumer of the outcome of his or her request. The insurer also is permitted to grant an exception in the event where a consumer has not made a request in writing for the exception or where a consumer asks for consideration of repeated circumstances or the insurer has previously considered this circumstance. **(New Section 5)**

Amendments to the Kansas Insurance Score Act

Adverse Action Notice

The bill would amend the definition for the term "adverse action" to eliminate a notification of adverse action be provided to the consumer when the consumer is not receiving the best rate. (An "adverse action" would continue to include a denial of cancellation of coverage and a reduction or other adverse or unfavorable change in the terms of coverage of any insurance.)

Look-back Requirement

The bill also would delete a requirement that the credit report used for an insurance score be no older than three years. **(Sections 6-7)**

Conference Committee Action

The Conference Committee agreed to the Senate amendments to the bill and agreed to further amend the bill by inserting the provisions of **HB 2491** (creditable coverage, state high risk pool), as amended by House Committee on Insurance; **SB 388** (risk-based capital instructions), as recommended by Senate Committee on Financial Institutions and Insurance; **SB 390** (genetic testing, insurance companies), as amended by Senate Committee on Financial Institutions and Insurance; and **Sub. for HB 2390** (credit-based insurance scoring), as recommended by House Committee on Insurance.

Background

HB 2501 was introduced at the request of the Mortgage Insurance Companies of America (MICA), whose representative indicated that the 25:1 test (current law) is a reasonable standard, but by its very nature is inflexible and not responsive to new or special conditions. The representative also noted that this proposed change is necessary to permit insurers to continue to operate and support home ownership, and that further, the flexibility created by the bill will allow the Insurance Department to examine existing portfolio characteristics in determining necessary and prudent risk-to-capital requirements. A representative of the Kansas Association of Realtors also testified in support of the bill, and the Kansas Insurance Department submitted written testimony in support of the bill. There were no opponents to the bill at the time of the Committee hearing.

The House Committee of the Whole recommended an amendment to the bill to require written notification when a waiver is granted to a mortgage guaranty insurance company. Items to be included in the notification also are specified by the amendment.

The Senate Committee on Financial Institutions and Insurance recommended an amendment to the bill to delete the

waiver notification requirements.

The fiscal note prepared by the Division of the Budget on the introduced version of HB 2501 states that the Kansas Insurance Department indicates the bill could be implemented within existing resources. The fiscal note information for House Bills 2390 (Sub.) and 2491 and Senate Bills 388 and 390 is available in the associated supplemental notes.

Insurance Code Amendments; Credit-Based Insurance Scoring