

SESSION OF 2023

**SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2097**

As Amended by Senate Committee on Financial  
Institutions and Insurance

**Brief\***

HB 2097, as amended, would remove the requirement of a documented written demand from an insurance company for unpaid premiums by an agent or broker.

Under current law, the failure of an agent or broker to pay premiums owed to an insurer after written demand is made is considered *prima facie* evidence that the agent or broker has used or applied the premium for another purpose. Such failure then subjects the agent or broker to the penalties listed in KSA 40-247(b).

The bill would remove the requirement of the written demand in establishing *prima facie* evidence.

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

**Background**

The bill was introduced by the House Committee on Insurance at the request of the Kansas Insurance Department (Department). [Note: A companion bill, SB 15, was introduced in the Senate.]

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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>

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

In the House Committee hearing, **proponent** testimony was provided by a representative of the Department, stating the written demand requirement is not always fulfilled in cases of unpaid premiums, causing evidentiary issues. The removal of the requirement for a written demand would not preclude the Department from taking administrative action against a licensee, and the agent must still be shown beyond a reasonable doubt to have used the premium for unlawful purposes.

No other testimony was presented.

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

In the Senate Committee hearing, an overview of the bill was provided and **proponent** testimony submitted by the Kansas Insurance Department was made available.

The Senate Committee 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, Department of Corrections, and Judicial Branch all state enactment of the bill would not have a fiscal effect.

Insurance; penalties; Kansas Insurance Department