

HOUSE BILL No. 2487

By Committee on Insurance

1-19

1 AN ACT concerning insurance agents; pertaining to violations of the
2 uniform insurance agents licensing act; amending K.S.A. 2011 Supp.
3 40-4909 and repealing the existing section.
4

5 *Be it enacted by the Legislature of the State of Kansas:*

6 Section 1. K.S.A. 2011 Supp. 40-4909 is hereby amended to read as
7 follows: 40-4909. (a) The commissioner may deny, suspend, revoke or
8 refuse renewal of any license issued under this act if the commissioner
9 finds that the applicant or license holder has:

10 (1) Provided incorrect, misleading, incomplete or untrue information
11 in the license application.

12 (2) Violated:

13 (A) Any provision of chapter 40 of the Kansas Statutes Annotated,
14 and amendments thereto, or any rule and regulation promulgated
15 thereunder;

16 (B) any subpoena or order of the commissioner;

17 (C) any insurance law or regulation of another state; or

18 (D) any subpoena or order issued by the regulatory official for
19 insurance in another state.

20 (3) Obtained or attempted to obtain a license under this act through
21 misrepresentation or fraud.

22 (4) Improperly withheld, misappropriated or converted any moneys
23 or properties received in the course of doing insurance business.

24 (5) Intentionally misrepresented the provisions, terms and conditions
25 of an actual or proposed insurance contract or application for insurance.

26 (6) Been convicted of a misdemeanor or felony.

27 (7) Admitted to or been found to have committed any insurance
28 unfair trade practice or fraud in violation of K.S.A. 40-2404, and
29 amendments thereto.

30 (8) Used any fraudulent, coercive, or dishonest practice, or
31 demonstrated any incompetence, untrustworthiness or financial
32 irresponsibility in the conduct of business in this state or elsewhere.

33 (9) Had an insurance agent license, or its equivalent, denied,
34 suspended or revoked in any other state, district or territory.

35 (10) Forged another person's name to an application for insurance or
36 to any document related to an insurance transaction.

1 (11) Improperly used notes or any other reference material to
2 complete an examination for an insurance license issued under this act.

3 (12) Knowingly accepted insurance business from an individual who
4 is not licensed.

5 (13) Failed to comply with any administrative or court order
6 imposing a child support obligation upon the applicant or license holder.

7 (14) Failed to pay any state income tax or comply with any
8 administrative or court order directing payment of state income tax.

9 (15) Rebated the whole or any part of any insurance premium or
10 offered in connection with the presentation of any contract of insurance
11 any other inducement not contained in the contract of insurance.

12 (16) Made any misleading representation or incomplete comparison
13 of policies to any person for the purposes of inducing or tending to induce
14 such person to lapse, forfeit or surrender such person's insurance then in
15 force.

16 *(17) Failed to respond in writing to any lawful inquiry of the*
17 *commissioner regarding the business of insurance within 15 business days*
18 *from receipt of such inquiry.*

19 (b) In addition, the commissioner may suspend, revoke or refuse
20 renewal of any license issued under this act if the commissioner finds that
21 the interests of the insurer or the insurable interests of the public are not
22 properly served under such license.

23 (c) Any action taken under this section which affects any license or
24 imposes any administrative penalty shall be taken only after notice and an
25 opportunity for a hearing conducted in accordance with the provisions of
26 the Kansas administrative procedures act.

27 (d) The license of any business entity may be suspended, revoked or
28 refused renewal if the insurance commissioner finds that any violation
29 committed by an individual licensee employed by or acting on behalf of
30 such business entity was known by or should have been known by one or
31 more of the partners, officers or managers acting on behalf of the business
32 entity and:

33 (1) Such violation was not reported to the insurance commissioner by
34 such business entity; or

35 (2) such business entity failed to take any corrective action.

36 (e) None of the following actions shall deprive the commissioner of
37 any jurisdiction or right to institute or proceed with any disciplinary
38 proceeding against such license, to render a decision suspending, revoking
39 or refusing to renew such license, or to establish and make a record of the
40 facts of any violation of law for any lawful purpose:

41 (1) The imposition of an administrative penalty under this section;

42 (2) the lapse or suspension of any license issued under this act by
43 operation of law;

1 (3) the licensee's failure to renew any license issued under this act; or

2 (4) the licensee's voluntary surrender of any license issued under this
3 act. No such disciplinary proceeding shall be instituted against any
4 licensee after the expiration of two years from the termination of the
5 license.

6 (f) Whenever the commissioner imposes any administrative penalty
7 or denies, suspends, revokes or refuses renewal of any license pursuant to
8 subsection (a), any costs incurred as a result of conducting an
9 administrative hearing authorized under the provisions of this section shall
10 be assessed against the person who is the subject of the hearing or any
11 business entity represented by such person who is the party to the matters
12 giving rise to the hearing. As used in this subsection, "costs" shall include
13 witness fees, mileage allowances, any costs associated with the
14 reproduction of documents which become a part of the hearing record and
15 the expense of making a record of the hearing.

16 (g) No person whose license as an agent or broker had been
17 suspended or revoked shall be employed by any insurance company doing
18 business in this state either directly, indirectly, as an independent
19 contractor or otherwise to negotiate or effect contracts of insurance,
20 suretyship or indemnity or perform any act toward the solicitation of or
21 transaction of any business of insurance during the period of such
22 suspension or revocation.

23 (h) In lieu of taking any action under subsection (a), the
24 commissioner may:

25 (1) Censure the person; or

26 (2) issue an order imposing an administrative penalty up to a
27 maximum of \$500 for each violation but not to exceed \$2,500 for the same
28 violation occurring within any six consecutive calendar months from the
29 date of the original violation unless such person knew or should have
30 known that the violative act could give rise to disciplinary action under
31 subsection (a). If such person knew or reasonably should have known the
32 violative act could give rise to any disciplinary proceeding authorized by
33 subsection (a), the commissioner may impose a penalty up to a maximum
34 of \$1,000 for each violation but not to exceed \$5,000 for the same
35 violation occurring within any six consecutive calendar months from the
36 date of the imposition of the original administrative penalty.

37 Sec. 2. K.S.A. 2011 Supp. 40-4909 is hereby repealed.

38 Sec. 3. This act shall take effect and be in force from and after its
39 publication in the statute book.

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