

SESSION OF 2012

SUPPLEMENTAL NOTE ON SENATE BILL NO. 273

As Amended by House Committee on Insurance

Brief*

SB 273 would amend provisions in the Insurance Code pertaining to the costs for examination of an insurance company or society and its subsidiaries. The bill would specify the total amount paid for outside consulting and data processing fees necessary to perform a financial examination, including the *pro rata* amount to fund the purchase of examination equipment and computer software, cannot exceed:

- \$50,000 for any insurance company or society which has less than \$200 million in gross premiums, both direct and assumed, in the preceding calendar year; or
- \$100,000 for any insurance company or society which has \$200 million or more in gross premiums, both direct and assumed, in the preceding calendar year.

The bill would create a separate provision for the payment of outside consulting and data processing fees necessary to perform any market conduct examination. The bill would limit the amount to include the examination cost and the *pro rata* amount to fund the purchase of examination equipment and computer software to no more than \$25,000.

Under current law, the maximum amount specified for payment of outside consulting fees for any examination by a domestic insurance company is \$25,000.

*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>

Background

The bill was introduced at the request of the Kansas Insurance Department, whose representative indicated that, although the Department is seeking to raise the cap for all domestic companies, it is proposing a two-tier cap structure in an effort to balance the need for a major increase in the current cap across the board against the relatively limited financial capacities of smaller, domestic companies. The representative stated that without adequate funding for financial examinations, the Department cannot monitor the financial stability of Kansas insurance companies and ensure they are able to pay their obligations to Kansas policyholders. Under the current cap, the Department has been able only to hire outside actuaries to perform peer reviews of companies' reserve methods, without a full-scope audit of the reserves; a concern for the Department is that this inability to effectively evaluate claims and life reserves could jeopardize Kansas' status as an accredited state with the National Association of Insurance Commissioners (NAIC). A representative of the Security Benefit Life Insurance Company testified in support of the bill, stating that the financial examination performed by the Kansas Insurance Department is shared with the other insurance departments where the company does business; this cooperation by the states prevents Security Benefit from being subject to 50 separate financial examinations. The representative stated a concern about moving to a system with no cap in place and submitted an amendment. There were no opponents to the bill at the time of the Senate Committee hearing.

The Senate Committee on Financial Institutions and Insurance amendments specify and clarify amounts associated with two caps for insurance companies based on gross premiums for the purpose of financial examinations. The amendments increase the proposed single cap in the bill from \$50 million to \$200 million and increase the original cap amount from \$100,000 to \$200,000, and insert a provision applying to market conduct examinations with a cap on costs associated with the examination and related equipment and

software. Information provided to the Committee indicated that eight companies exceed \$200 million in gross premiums.

The House Committee on Insurance amendment decreases the cap level established for companies with gross premiums of \$200 million or greater from \$200,000 to \$100,000. The amendment was requested by a representative of the American Insurance Association.

The fiscal note prepared by the Division of the Budget on the original bill states the Kansas Insurance Department indicates enactment of the bill would have no fiscal effect on the state. Any additional costs related to outside consulting fees would be paid by insurance companies.