



KANSAS INSURANCE DEPARTMENT

Vicki Schmidt, Commissioner

Neutral Testimony for HB 2537 Administrative Hearings before the Kansas Insurance Department March 10, 2022

Chairwoman Warren and Members of the Committee,

Thank you for the opportunity to submit this neutral testimony for HB 2537, which passed the House 120-0.

HB 2537 seeks to add a requirement for the Commissioner of Insurance to conduct a hearing in accordance with the Kansas Administrative Procedure Act (“KAPA”), K.S.A. 77-501 *et seq.* upon request of any person subject to an order, as defined in K.S.A. 77-502, issued by the Commissioner. Creation of this new administrative hearing process complements already existing procedural remedies.

For KAPA to apply as an administrative procedural remedy, the operative statute must expressly provide that the provisions of KAPA apply. *See* K.S.A. 77-503. K.S.A. 40-281 doesn’t expressly provide that KAPA applies.

Under current law, most matters within the purview of the Insurance Department already incorporate KAPA. For example:

- K.S.A. 40-4909, pertaining to discipline of insurance producers, provides in subsection (d) “Any action taken under this section that affects any license or imposes any administrative penalty shall be taken only after notice and an opportunity for a hearing conducted in accordance with the provisions of the Kansas administrative procedures act.”
- K.S.A. 40-964, pertaining to hearings required or requested under the act relating to fire insurance companies, provides “Any hearing required or requested under this act shall be conducted in accordance with the Kansas administrative procedure act.”
- K.S.A. 40-2215, pertaining to health insurance filings, provides in subsection (h) “Hearings under this section shall be conducted in accordance with the provisions of the Kansas administrative procedure act.
- K.S.A. 40-2,125, 40-2406, and 40-2407, which the Department uses for enforcement purposes, specifically provide KAPA applies.

An example of current law where KAPA does not currently apply is the assessment levied upon workers compensation insurance carriers, self-insurers, and group-funded workers compensation pools pursuant to K.S.A. 44-566a. Because KAPA does not apply, an aggrieved party is not

afforded and administrative hearing at the Department. Instead, the remedy is a direct appeal to the district court pursuant to the Kansas Judicial Review Act, K.S.A. 77-601 *et seq.*

Again, this bill would create a new procedural remedy. The Department believes this expansion would apply in limited circumstances and therefore does not oppose the change.

Thank you for the opportunity to submit neutral testimony in support of HB 2537.



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