

SESSION OF 2024

SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2787

As Recommended by House Committee on
Insurance

Brief*

HB 2787 would amend law relating to the Kansas Insurance Guaranty Association (KIGA).

The bill would also make technical changes.

Definitions

The bill would update the definition of “covered claim” to include claim obligations that arose through the issuance of an insurance policy by a member insurer, which are later allocated, transferred, merged into, novated (replaced with a new contract), assumed by, or otherwise made the sole responsibility of a member or nonmember insurer if:

- The original member insurer has no remaining obligation on the policy after the transfer;
- A final order of liquidation with a finding of insolvency has been entered against the insurer that assumed the member’s coverage obligations by a court of competent jurisdiction in the insurer’s state of domicile;
- The claim would have been a covered claim if the claim had remained the responsibility of the original member insurer, and the order of liquidation had been entered against the original member insurer

*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>

with the same claim submission and liquidation date; and

- In cases where the member's coverage obligations were assumed by a nonmember insurer, the transaction received prior regulatory or judicial approval.

The bill would also define the term "cybersecurity insurance," which would include, for the purposes of KIGA, first- and third-party coverage, in a policy or endorsement, written on a direct, admitted basis for losses and loss mitigation arising out of or relating to data privacy breaches, unauthorized information network security intrusions, computer viruses, ransomware, cyber extortion, identity theft, and similar exposures.

Board of Directors

The bill would provide for, on and after January 1, 2025, the KIGA Board of Directors (Board) to have no fewer than seven members and no more than nine members. In accordance with this provision, the bill would provide for members of the KIGA Board, serving as of July 1, 2024, to continue their terms until their expiration. Upon expiration of a member's term, the Commissioner of Insurance (Commissioner) would be able to decide whether to continue the member's position or reduce the total number of Board members.

Additionally, the bill would establish that members of the Board would be selected by member insurers, subject to the approval of the Commissioner, and would serve a term of three years, but would be removable for inefficiency, neglect of duty, or malfeasance.

Cybersecurity Insurance Obligation

The bill would amend language regarding the limitation of the KIGA's exposure in the event of a cybersecurity claim. Under the bill, KIGA would not be required to pay more than \$300,000 for all first- and third-party claims under a policy or endorsement providing, or that is found to provide, cybersecurity insurance coverage and arising out of, or related to, a single insured event, regardless of the number of claims made or the number of claimants.

KIGA Duties

The bill would also provide for KIGA to provide covered policy benefits and service as part of their duties.

Exhaustion of Rights Under an Insurance Policy

Under current law, a claimant filing a claim against an insurer under any provision in an insurance policy other than a policy of an insolvent insurer that is also a covered claim is required to exhaust the claimant's right under the policy. The bill would add any right under a life insurance policy as an exception to the reduction of claim process.

Additionally, the bill would further clarify that the claim would be reduced by the lesser of:

- KIGA's covered claim limit;
- The amount of the judgment on the settlement of the claim; or
- Policy limits of the insolvent insurer's policy.

Background

The bill was introduced by the House Committee on Insurance at the request of a representative from the Kansas Insurance Department (Department).

House Committee on Insurance

In the House Committee hearing, **proponent** testimony was provided by a representative of the Department, who indicated enactment of the bill would amend statutes relating to KIGA to reflect updates to the National Association of Insurance Commissioners (NAIC) Property and Casualty Insurance Guaranty Association Model Act, and the changes were requested by KIGA. Additionally, the proponent explained the update to the KIGA Board statute, explaining the change would ensure all member insurers are fairly represented.

No other testimony was provided.

Fiscal Note

According to the fiscal note prepared by the Division of the Budget on the bill, the Office of Judicial Administration indicates the bill could have a negligible fiscal effect on agency operations that could be absorbed within existing resources. The Department states the bill would not have a fiscal effect on agency operations. Any fiscal effect associated with the bill is not reflected in *The FY 2025 Governor's Budget Report*.

Kansas Insurance Guaranty Association; National Association of Insurance Commissioners Property and Casualty Insurance Guaranty Associations Model Act; cybersecurity insurance; KIGA; board of directors; Commissioner of Insurance; Kansas Insurance Department