



KANSAS INSURANCE DEPARTMENT

Vicki Schmidt, Commissioner

Proponent Testimony for HB 2097 – Agents Refusing to Pay Premium Cleanup

March 7, 2023

Chairman Longbine and Members of the Committee,

Thank you for the opportunity to testify in support of House Bill 2097.

House Bill 2097 amends K.S.A. 40-247, concerning penalties for insurance agents in the event they fail to pay premium to an insurance company. Under Kansas law, an agent holds the premium they collect in trust for the insurance company. It is unlawful for an agent to use or apply a client's premium for purposes other than paying the respective company that premium on behalf of the policyholder. Depending on the amount of premium, the severity of the crime can range from a misdemeanor to a level 7 nonperson felony.

Per K.S.A. 40-247(a), a *prima facie* case of an agent's failure to pay premium can be established if there is evidence of a "written demand" that has been issued from the company to the agent, requesting the premium. This "written demand" requirement is not always presented by the insurance companies to aid in prosecution of these agents, causing confusion and evidentiary issues. Ultimately, the agent must still be shown beyond a reasonable doubt to have used the premium for unlawful purposes.

This statute does not preclude the Department from taking administrative action against a licensee such as license revocation.

House Bill 2097 passed the House Committee of the Whole with a vote of 117-7.

Thank you for the opportunity to submit testimony in support of House Bill 2097.

Eric Turek
Director of Government and Public Affairs