

**HOUSE BILL No. 2097**

By Committee on Insurance

1-19

1 AN ACT concerning insurance; relating to penalties; failure of agents or  
2 brokers to pay premiums; removing the requirement of a documented  
3 written demand for premiums as part of a prima facie case; amending  
4 K.S.A. 40-247 and repealing the existing section.  
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6 *Be it enacted by the Legislature of the State of Kansas:*

7 Section 1. K.S.A. 40-247 is hereby amended to read as follows: 40-  
8 247. (a) An insurance agent or broker who acts in negotiating or renewing  
9 or continuing a contract of insurance including any type of annuity by an  
10 insurance company lawfully doing business in this state, and who receives  
11 any money or substitute for money as a premium for such a contract from  
12 the insured, whether such agent or broker shall be entitled to an interest in  
13 same or otherwise, shall be deemed to hold such premium in trust for the  
14 company making the contract. If such agent or broker fails to pay the same  
15 over to the company—~~after written demand made upon such agent or~~  
16 ~~broker~~, less such agents' or broker's commission and any deductions, to  
17 which by the written consent of the company such agent or broker may be  
18 entitled, such failure shall be prima facie evidence that such agent or  
19 broker has used or applied the premium for a purpose other than paying  
20 the same over to the company.

21 (b) (1) An agent or broker who violates the provisions of this section  
22 shall be guilty of a:

23 (A) Severity level 7, nonperson felony if the value of the insurance  
24 premium is \$25,000 or more;

25 (B) severity level 9, nonperson felony if the value of the insurance  
26 premium is at least \$1,000 but less than \$25,000; or

27 (C) class A nonperson misdemeanor if the value of the insurance  
28 premium is less than \$1,000.

29 (2) If the value of the insurance premium is less than \$1,000 and such  
30 agent or broker has, within five years immediately preceding commission  
31 of the crime, been convicted of violating this section two or more times  
32 shall be guilty of a severity level 9, nonperson felony.

33 Sec. 2. K.S.A. 40-247 is hereby repealed.

34 Sec. 3. This act shall take effect and be in force from and after its  
35 publication in the ~~statute book~~