

KANSAS OFFICE of
REVISOR of STATUTES

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MEMORANDUM

To: House Committee on Insurance and Pensions

From: Office of Revisor of Statutes

Date: March 9, 2022

Subject: Bill Brief for SB 448 – Adopting the national association of insurance commissioner's amendments to the unfair trade practices act excluding commercial property and casualty insurance producers, brokers and insurers from prohibitions on giving rebates as an inducement to sales.

As originally written, SB 448 would adopt the National Association of Insurance Commissioners' amendments to the unfair trade practices act pertaining to the act of rebating and amends three statutes relating to rebating in insurance sales. SB 448 was worked by the Senate Committee on Financial Institutions and Insurance on February 17, 2022 where it was amended, and was subsequently passed by the Senate Committee of the Whole on a vote of 36 to 1.

Current law prohibits an insurer, a broker or producer or any employee thereof from offering or providing any rebate, discount, abatement, credit or reduction of premium named in an insurance policy, or other valuable consideration not specified in the policy, as an inducement to sales, except to the extent provided for in an applicable filing or otherwise permitted by law.

As originally drafted, SB 448 would amend K.S.A. 40-966 and 40-2404 to specify that the prohibitions on rebating in current law would exclude the offering to make or making of any contract of commercial property or casualty insurance. However, the exclusion would not apply to producer commission reductions not included in company rate filings. You can see those amendments on pages 1, lines 31 through 36 and pages 5, lines 34 through 38.

The bill would further amend K.S.A. 40-2404, the unfair trade practices act, with amendments made by the National Association of Insurance Commissioners that clarify certain practices as not being included within the definition of discrimination or rebates. These practices are listed on page 6, line 14 through page 8, line 7 of the bill.

Lastly, the bill broadly incorporates the prohibitions and exclusions on rebating in the statute pertaining to denial of or revocation or refusal to renew an agent's license. That amendment appears on page 14, line 39 of the bill.

The Senate Committee on Financial Institutions and Insurance amended the bill to strike the exceptions made for commercial property and casualty brokers, producers and insurers and the making of those such contracts and would the rebating statutes apply uniformly to all types of insurance and their brokers, producers and insurers.

The bill would become effective upon its publication in the statute book.