

SESSION OF 2019

**SUPPLEMENTAL NOTE ON SENATE BILL NO. 78**

As Amended by Senate Committee on Judiciary

**Brief\***

SB 78, as amended, would create law within the Kansas Consumer Protection Act regarding a post-loss assignment of rights or benefits to a residential contractor under a property and casualty insurance policy insuring residential real estate (assignment). The bill would state an assignment may authorize a residential contractor (as defined by the bill to include certain persons involved in repair or replacement of roof systems, other exterior work or cleanup, or interior repair on residential real estate) to be named as a co-payee for the payment of benefits under a property and casualty insurance policy covering residential real estate. Such assignment would be required to include a statement that the residential contractor has made no assurances that the claimed loss will be fully covered by an insurance contract as well as a specified notice in capitalized, 14-point type. The residential contractor would be required to provide the assignment to the insurer of the residential real estate within three days of the signing of the assignment, and the assignment would have to provide that, in addition to any other right to revoke, the named insured has the right to cancel the assignment within five business days after execution.

The bill would state an assignment shall not, under certain circumstances, impair the interest of a mortgagee or prevent or inhibit an insurer from communicating with the named insured or mortgagee. An assignment would be void if the residential contractor violates any of the provisions of the new section or is not in compliance with the requirements of the Kansas Roofing Registration Act.

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\*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>

The bill would direct the Commissioner of Insurance to strictly enforce statutory provisions requiring insurers to promptly provide a named insured a reasonable explanation of the basis in the insurance policy in relation to the facts or applicable law for denial of a claim or for the offer of a compromise settlement.

Any violation of the new section would be a deceptive act or practice under the Kansas Consumer Protection Act.

In addition to “assignment” and “residential contractor,” the bill would define “residential real estate” and “roof system.”

## **Background**

The bill was introduced by the Senate Committee on Judiciary at the request of the Kansas Association of Property and Casualty Insurance Companies (KAPCIC). In the Senate Committee hearing, representatives of KAPCIC, Farm Bureau Financial Services, and the Kansas Roofing Association testified in support of the bill. Written-only testimony supporting the bill was submitted by representatives of American Family Insurance, American Property and Casualty Insurance Association, Farmers Mutual Insurance Company, Kansas Association of Insurance Agents, National Association of Mutual Insurance Companies, and State Farm Insurance Companies.

The Senate Committee amended the bill pursuant to a request from KAPCIC to add further specificity to certain phrases, adjust the required notice, and adjust the provision requiring the assignment be provided to the insurer.

According to the fiscal note prepared by the Division of the Budget on the bill, as introduced, the Office of the Attorney General indicates the bill could result in additional complaints and cases being filed with its Consumer Protection Division, as well as additional civil penalties of up

to \$10,000 per violation. However, the fiscal effect cannot be estimated. The Kansas Insurance Department indicates enactment of the bill would have no fiscal effect on the department.