

2019 Legislative Session Summary: We've Come Full Circle, Part 2 of 2

by [Richard Samaniego](#)

Probate/Family Law

SB 78 creates law regarding assignment of certain rights or benefits under an insurance policy on residential real estate and protections related to housing for victims of domestic violence, sexual assault, human trafficking, or stalking, as follows.

HB 2038 creates law within the Kansas Probate Code providing for the automatic revocation of certain inheritance rights of a former spouse or former spouse's relatives upon divorce, as follows. Automatic Revocation and Severance. The bill provides, on and after July 1, 2019, the divorce or annulment of a marriage revokes any revocable:

- 1) Disposition or appointment of property made to an individual's former spouse or relative of such spouse in a governing instrument;
- 2) Provision in a governing instrument conferring a general or non-general power of appointment on a former spouse or relative of such spouse;
- and 3) Nomination in a governing instrument of a former spouse or relative of such spouse to serve in any fiduciary or representative capacity.

Business

HB 2039 creates and amends law related to limited liability companies (LLCs) in the Kansas Revised Limited Liability Company Act (RLLCA), Business Entity Standard Treatment Act (BEST Act), and other statutes, as follows. Series LLCs. The bill creates and amends law related to series LLCs, as follows. [Note: Series LLCs were originally implemented in the RLLCA by 2012 Sub. for HB 2207.]

- The bill amends the RLLCA



definitions statute to define "series" as a designated series of members, managers, LLC interests, or assets established in accordance with the RLLCA series statute. Effective July 1, 2020, the bill amends RLLCA statutes regarding cancellation of articles of organization, notice by filing with the Secretary of State, fees for documents provided by the Secretary of State, and reinstatement of canceled or forfeited articles of organization to incorporate LLC series. [Section 17, 19, 36, and 41] Effective July 1, 2020, the bill amends the RLLCA statute regarding annual reports to include LLC series in its continuing requirements. Additionally, if applicable law does not prescribe a time for filing an annual Kansas income tax return for a series, the bill requires the annual report to be filed at, and its tax period deemed to be, the time prescribed by law for filing the annual Kansas income tax return for the LLC company to which the series is associated. [Section 38]

- The bill creates law allowing a domestic LLC to divide into two or more domestic LLCs, which are not deemed to affect liabilities of persons or obligations or liabilities of the dividing company prior to the division. Such obligations or liabilities are allocated to the division company or companies pursuant to the

plan of division. Each resulting company is required to be formed in compliance with the RLLCA and the provisions created by the bill. The bill defines key terms related to division.

Senate Sub. for HB 2214 adds passenger vehicle registration categories and establishes fees for those categories: \$100 for all-electric vehicles and \$50 for motor vehicles that are electric hybrid or plug-in electric hybrid vehicles. The new fees will be effective on and after January 1, 2020.

Professional Licensure

SB 60 amends statutes related to licensing of real estate brokers and the Kansas Real Estate Commission (Commission).

- Reducing the time from five years to three years preceding the date of application for the license for which an applicant for a broker's license may satisfy the requirement of two years' experience as a resident salesperson or a licensee in another state;
- Increasing the pre-license education course from 24 hours to 30 hours, and no more than 45 hours, and renaming the course the "Kansas Real Estate Fundamentals Course."

SB 15 provides for licensure by reciprocity for social workers at baccalaureate, master's, and specialist clinical levels; amends requirements for licensure by reciprocity for other professions regulated by the Behavioral Sciences Regulatory Board (BSRB); provides for provisional

licenses; amends provisions related to temporary licenses; clarifies the use of professional titles; amends statutes in several named acts for professions regulated by the BSRB; and amends the licensure requirements for a specialist clinical social worker. The bill also amends the Adult Care Home Licensure Act regarding the application for licensure, financial solvency, and receivership of adult care homes. Further, the bill revises the Naturopathic Doctor Licensure Act and the Radiologic Technologists Practice Act with regard to the ordering of diagnostic imaging studies. The bill takes effect upon publication in the Kansas Register.

Criminal Law

HB 2104 amends the statute governing tests related to driving under the influence (DUI), effective July 1, 2019, to amend the oral and written notice a law enforcement officer must provide when requesting a person take such a test. Specifically, the bill clarifies in such notice that refusal to submit to and complete the test or tests will result in suspension of the person's driving privileges for a period of one year, and test failure will result in suspension of the person's driving privileges for a period of either 30 days or one year. The bill also amends the statute governing preliminary screening tests related to DUI to remove provisions stating a person operating or attempting to operate a vehicle in Kansas is deemed to have given consent to such tests, setting forth the required notice when a person is requested to take such test, and stating refusal to take and complete such test is a traffic infraction. This statute also is amended to replace the word "saliva" with "oral fluid" and add a provision requiring any preliminary screening of a person's oral fluid be conducted in accordance with any rules and regulations

approved pursuant to the authority granted to the Director of the Kansas Bureau of Investigation in a separate statute, which also is amended to reflect the "oral fluid" phrasing and to ensure consistency in other statutory phrasing. The bill repeals the statute (and removes the associated fine from the uniform fine schedule) governing the offense of refusing to submit to a test to determine the presence of alcohol or drugs. [Note: This statute was repealed by 2018 House Sub. for SB 374, but due to another enactment, was not fully repealed.] The bill takes effect upon publication in the Kansas Register.

Search Warrants - Electronically Stored Information HB 2191 amends law concerning the execution of search warrants. Specifically, the bill states warrants issued after July 1, 2019, for electronically stored information, electronic devices, or media capable of storing electronically stored information located in Kansas will authorize the transfer of such information, devices, or media for examination and review anywhere within the state or outside the state at any time after the seizure, unless otherwise specified by the warrant.

Driver's License Reinstatement Fee - Waiver; HB 2211 amends law concerning driver's license reinstatement fees to allow a person who is assessed a driver's license reinstatement fee and surcharge as provided by continuing law to petition the court to waive payment of such fee and surcharge. The court may waive, in whole or in part, or modify the method of payment of such fee and surcharge if it finds payment of the assessed amount would impose manifest hardship on that person or that person's immediate family.

HB 2125 requires the holder of a driver's license who is operating a motor vehicle to promptly deliver, rather than display, the driver's license upon demand of any officer of a court of competent jurisdiction, any peace officer, or any examiner or officer of the Division of Vehicles, Department of Revenue. The requirement applies when the driver's license is in the licensee's immediate possession at the time of the demand.

Part 1 of 2 was in the July *Bar-o-Meter* issue. Part 1 is available online on the WBA's website at <https://www.wichitabar.org/page/2019LegSumPart1>.

Richard Render Memorial

by Mel Gregory



Richard Render

Richard Render, retired from Renda Kamas, passed away on June 22 at the age of 94. He was born in Alva, Oklahoma and grew up in Panhandle, Texas. In 1943, he joined the Army Air Force and served in the 99th Infantry Division during World War II. He was captured during the Battle of the Bulge and remained a POW

until the end of the war. After his military service ended, he went to law school and practiced law in Wichita for over 40 years. Mr. Render had an insatiable curiosity, particularly in all things mechanical. He had passion for flying and built a replica P-51 fighter. Mel Gregory wrote an article on Mr. Render's military service that was published in the *Bar-o-Meter* in 2002. To read that article go to <https://www.wichitabar.org/page/ObitLinks>.