As Amended by Senate Committee

As Amended by House Committee

Session of 2025

HOUSE BILL No. 2042

By Committee on Insurance

Requested by Eric Turek, Kansas Insurance Department

1-21

AN ACT concerning insurance; relating to title insurance; requiring title agents to make their audit reports available for inspection upon request of the commissioner of insurance instead of submitting such reports annually; requiring the amount of surety bonds filed with the commissioner to be $100,000; eliminating the controlled business exemption in certain counties; amending K.S.A. 40-1139 and K.S.A. 2024 Supp. 40-1137 and 40-2404 and repealing the existing sections.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 2024 Supp. 40-1137 is hereby amended to read as follows: 40-1137. A title insurance agent may operate as an escrow, settlement or closing agent, provided that:

(a) All funds deposited with the title insurance agent in connection with an escrow, settlement or closing shall be submitted for collection to, invested in or deposited in a separate fiduciary trust account or accounts in a qualified financial institution no later than the close of the next business day, in accordance with the following requirements:

(1) The funds shall be the property of the person or persons entitled to them under the provisions of the escrow, settlement or closing agreement and shall be segregated for each depository by escrow, settlement or closing in the records of the title insurance agent in a manner that permits the funds to be identified on an individual basis;

(2) the funds shall be applied only in accordance with the terms of the individual instructions or agreements under which the funds were accepted; and

(3) an agent shall not retain any interest on any money held in an interest-bearing account without the written consent of all parties to the transaction.

(b) Funds held in an escrow account shall be disbursed only:

(1) Pursuant to written authorization of buyer and seller;

(2) pursuant to a court order; or

(3) when a transaction is closed according to the agreement of the parties.

(c) A title insurance agent shall not commingle the agent's personal funds or other moneys with escrow funds. In addition, the agent shall not use escrow funds to pay or to indemnify against the debts of the agent or of any other party. The escrow funds shall be used only to fulfill the terms of the individual escrow and none of the funds shall be utilized until the necessary conditions of the escrow have been met. All funds deposited for real estate closings, including closings involving refinances of existing mortgage loans, which exceed $2,500 shall be in one of the following forms:

(1) Lawful money of the United States;

(2) wire transfers such that the funds are unconditionally received by the title insurance agent or the agent's depository;

(3) cashier's checks, certified checks, teller's checks or bank money orders issued by a federally insured financial institution and unconditionally held by the title insurance agent;

(4) funds received from governmental entities, federally chartered instrumentalities of the United States or drawn on an escrow account of a real estate broker licensed in the state or drawn on an escrow account of a title insurer or title insurance agent licensed to do business in the state;

(5) other negotiable instruments that have been on deposit in the escrow account at least 10 days; or

(6) a real-time or instant payment through the FedNow service operated by the federal reserve banks or the clearing house payment company's real-time payments (RTP) system.

(d) Each title insurance agent shall have an annual audit made of its escrow, settlement and closing deposit accounts, conducted by a certified public accountant or by a title insurer for which the title insurance agent has a licensing agreement. The title insurance agent shall provide a copy of the audit report to the commissioner ~~within 30 days after the close of the calendar year for which an audit is required~~ *upon request*. Title insurance agents who are attorneys and who issue title insurance policies as part of their legal representation of clients are exempt from the requirements of this subsection. However, the title insurer, at its expense, may conduct or cause to be conducted an annual audit of the escrow, settlement and closing accounts of the attorney. Attorneys who are exclusively in the business of title insurance are not exempt from the requirements of this subsection.

(e) The commissioner may promulgate rules and regulations setting forth the standards of the audit and the form of audit report required.

(f) If the title insurance agent is appointed by two or more title insurers and maintains fiduciary trust accounts in connection with providing escrow and closing settlement services, the title insurance agent shall allow each title insurer reasonable access to the accounts and any or

all of the supporting account information in order to ascertain the safety and security of the funds held by the title insurance agent.

(g) Nothing in this section is intended to amend, alter or supersede other laws of this state or the United States, regarding an escrow holder's duties and obligations.

Sec. 2. K.S.A. 40-1139 is hereby amended to read as follows: 40-1139. (a) ~~The~~ *A* title insurance agent ~~who~~ *that* handles escrow, settlement or closing accounts shall file with the commissioner a *$100,000* surety bond or irrevocable letter of credit in a form acceptable to the commissioner~~,~~. *Such surety bond or irrevocable letter of credit shall be* issued by an insurance company or financial institution *that is* authorized to conduct business in this state~~,~~ securing the applicant's or the title insurance agent's faithful performance of all duties and obligations set out in K.S.A. 40-1135 through 40-1141, and amendments thereto.

(b) ~~The terms of the bond or irrevocable letter of credit shall be:~~

~~(1)~~ The surety bond shall provide that such bond may not be terminated without 30 days prior written notice to the commissioner.

~~(2) An~~*(c) The* irrevocable letter of credit shall*:*

(1) Be issued by a bank ~~which~~ *that* is insured by the federal deposit insurance corporation or its successor ~~if such letter of credit is~~ *; and*

(2) initially *be* issued for a term of at least one year and by its terms is automatically renewed at each expiration date for at least an additional one-year term unless at least 30 days prior written notice of intention not to renew is ~~given~~ *provided* to the commissioner of insurance.

~~(c) The amount of the surety bond or irrevocable letter of credit for those agents servicing real estate transactions on property located in counties having a certain population shall be required as follows:~~

~~(1) $100,000 surety bond or irrevocable letter of credit in counties having a population of 40,001 and over;~~

~~(2) $50,000 surety bond or irrevocable letter of credit in counties having a population of 20,001 to 40,000; and~~

~~(3) $25,000 surety bond or irrevocable letter of credit in counties having a population of 20,000 or under.~~

(d) The surety bond or irrevocable letter of credit shall be for the benefit of any person suffering a loss if the title insurance agent converts or misappropriates money received or held in escrow, deposit or trust accounts while acting as a title insurance agent providing any escrow or settlement services.

Sec. 3. K.S.A. 2024 Supp. 40-2404 is hereby amended to read as follows: 40-2404. The following are hereby defined as unfair methods of competition and unfair or deceptive acts or practices in the business of insurance:

(1) *Misrepresentations and false advertising of insurance policies.*

Making, issuing, circulating or causing to be made, issued or circulated, any estimate, illustration, circular, statement, sales presentation, omission or comparison that:

(a) Misrepresents the benefits, advantages, conditions or terms of any insurance policy;

(b) misrepresents the dividends or share of the surplus to be received on any insurance policy;

(c) makes any false or misleading statements as to the dividends or share of surplus previously paid on any insurance policy;

(d) is misleading or is a misrepresentation as to the financial condition of any person, or as to the legal reserve system upon which any life insurer operates;

(e) uses any name or title of any insurance policy or class of insurance policies misrepresenting the true nature thereof;

(f) is a misrepresentation for the purpose of inducing or tending to induce the lapse, forfeiture, exchange, conversion or surrender of any insurance policy;

(g) is a misrepresentation for the purpose of effecting a pledge or assignment of or effecting a loan against any insurance policy; or

(h) misrepresents any insurance policy as being shares of stock.

(2) *False information and advertising generally.* Making, publishing, disseminating, circulating or placing before the public, or causing, directly or indirectly, to be made, published, disseminated, circulated or placed before the public, in a newspaper, magazine or other publication, or in the form of a notice, circular, pamphlet, letter or poster, or over any radio or television station, or in any other way, an advertisement, announcement or statement containing any assertion, misrepresentation or statement with respect to the business of insurance or with respect to any person in the conduct of such person's insurance business, that is untrue, deceptive or misleading.

(3) *Defamation.* Making, publishing, disseminating or circulating, directly or indirectly, or aiding, abetting or encouraging the making, publishing, disseminating or circulating of any oral or written statement or any pamphlet, circular, article or literature that is false, or maliciously critical of or derogatory to the financial condition of any person, and that is calculated to injure such person.

(4) *Boycott, coercion and intimidation.* Entering into any agreement to commit, or by any concerted action committing, any act of boycott, coercion or intimidation resulting in or tending to result in unreasonable restraint of the business of insurance, or by any act of boycott, coercion or intimidation monopolizing or attempting to monopolize any part of the business of insurance.

(5) *False statements and entries.* (a) Knowingly filing with any

supervisory or other public official, or knowingly making, publishing, disseminating, circulating or delivering to any person, or placing before the public, or knowingly causing directly or indirectly, to be made, published, disseminated, circulated, delivered to any person, or placed before the public, any false material statement of fact as to the financial condition of a person.

(b) Knowingly making any false entry of a material fact in any book, report or statement of any person or knowingly omitting to make a true entry of any material fact pertaining to the business of such person in any book, report or statement of such person.

(6) *Stock operations and advisory board contracts.* Issuing or delivering or permitting agents, officers or employees to issue or deliver, agency company stock or other capital stock, or benefit certificates or shares in any common-law corporation, or securities or any special or advisory board contracts or other contracts of any kind promising returns and profits as an inducement to insurance. Nothing herein shall prohibit the acts permitted by K.S.A. 40-232, and amendments thereto.

(7) *Unfair discrimination.* (a) Making or permitting any unfair discrimination between individuals of the same class and equal expectation of life in the rates charged for any contract of life insurance or life annuity or in the dividends or other benefits payable thereon, or in any other of the terms and conditions of such contract.

(b) Making or permitting any unfair discrimination between individuals of the same class and of essentially the same hazard in the amount of premium, policy fees or rates charged for any policy or contract of accident or health insurance or in the benefits payable thereunder, ~~or~~ in any of the terms or conditions of such contract~~,~~ or in any other manner whatever.

(c) Refusing to insure, ~~or~~ refusing to continue to insure, ~~or~~ limiting the amount, extent or kind of coverage available to an individual~~,~~ or charging an individual a different rate for the same coverage solely because of blindness or partial blindness. With respect to all other conditions, including the underlying cause of the blindness or partial blindness, persons who are blind or partially blind shall be subject to the same standards of sound actuarial principles or actual or reasonably anticipated experience as are sighted persons. Refusal to insure includes denial by an insurer of disability insurance coverage on the grounds that the policy defines "disability" as being presumed in the event that the insured loses such person's eyesight. However, an insurer may exclude from coverage disabilities consisting solely of blindness or partial blindness when such condition existed at the time the policy was issued.

(d) Refusing to insure, ~~or~~ refusing to continue to insure~~,~~ or limiting the amount, extent or kind of coverage available for accident and health

and life insurance to an applicant who is the proposed insured ~~or charge~~, *charging* a different rate for the same coverage ~~or~~, excluding or limiting coverage for losses or denying a claim incurred by an insured as a result of abuse based on the fact that the applicant who, is the proposed insured, is, has been, or may be the subject of domestic abuse, except as provided in subsection (7)(d)(v). ~~"Abuse"~~ As used in this paragraph, *"abuse"* means one or more acts defined in K.S.A. 60-3102, and amendments thereto, between family members, current or former household members~~,~~ or current or former intimate partners.

(i) An insurer ~~may~~ *shall* not ask an applicant for life or accident and health insurance who is the proposed insured if the individual is, has been or may be the subject of domestic abuse, or seeks, has sought or had reason to seek medical or psychological treatment or counseling specifically for abuse, protection from abuse or shelter from abuse.

(ii) Nothing in this section shall be construed to prohibit a person from declining to issue an insurance policy insuring the life of an individual who is, has been or has the potential to be the subject of abuse if the perpetrator of the abuse is the applicant or would be the owner of the insurance policy.

(iii) No insurer that issues a life or accident and health policy to an individual who is, has been or may be the subject of domestic abuse shall be subject to civil or criminal liability for the death or any injuries suffered by that individual as a result of domestic abuse.

(iv) No person shall refuse to insure, refuse to continue to insure, limit the amount, extent or kind of coverage available to an individual or charge a different rate for the same coverage solely because of physical or mental condition, except where the refusal, limitation or rate differential is based on sound actuarial principles.

(v) Nothing in this section shall be construed to prohibit a person from underwriting or rating a risk on the basis of a preexisting physical or mental condition, even if such condition has been caused by abuse, provided that:

(A) The person routinely underwrites or rates such condition in the same manner with respect to an insured or an applicant who is not a victim of abuse;

(B) the fact that an individual is, has been or may be the subject of abuse may not be considered a physical or mental condition; and

(C) such underwriting or rating is not used to evade the intent of this section or any other provision of the Kansas insurance code.

(vi) Any person who underwrites or rates a risk on the basis of preexisting physical or mental condition as set forth in subsection (7)(d)(v), shall treat such underwriting or rating as an adverse underwriting decision pursuant to K.S.A. 40-2,112, and amendments thereto.

(vii) The provisions of this paragraph shall apply to all policies of life and accident and health insurance issued in this state after the effective date of this act and all existing contracts that are renewed on or after the effective date of this act.

(e) Refusing to insure, or refusing to continue to insure, or limiting the amount, extent or kind of coverage available for life insurance to an individual, or charging an individual a different rate for the same coverage, solely because of such individual's status as a living organ donor. With respect to all other conditions, persons who are living organ donors shall be subject to the same standards of sound actuarial principles or actual or reasonably anticipated experience as are persons who are not organ donors.

(8) *Rebates.* (a) Except as otherwise expressly provided by law, knowingly permitting, offering to make or making any contract of life insurance, life annuity or accident and health insurance, or agreement as to such contract other than as plainly expressed in the insurance contract issued thereon; paying, allowing, giving or offering to pay, allow or give, directly or indirectly, as inducement to such insurance, or annuity, any rebate of premiums payable on the contract, any special favor or advantage in the dividends or other benefits thereon, or any valuable consideration or inducement whatever not specified in the contract; or giving, selling, purchasing or offering to give, sell or purchase as inducement to such insurance contract or annuity or in connection therewith, any stocks, bonds or other securities of any insurance company or other corporation, association or partnership, or any dividends or profits accrued thereon, or anything of value whatsoever not specified in the contract.

(b) Nothing in subsection (7)*(a)* or (8)(a) shall be construed as including within the definition of discrimination or rebates any of the following practices:

(i) In the case of any contract of life insurance or life annuity, paying bonuses to policyholders or otherwise abating their premiums in whole or in part out of surplus accumulated from nonparticipating insurance. Any such bonuses or abatement of premiums shall be fair and equitable to policyholders and for the best interests of the company and its policyholders;

(ii) in the case of life insurance policies issued on the industrial debit plan, making allowance to policyholders who have continuously for a specified period made premium payments directly to an office of the insurer in an amount that fairly represents the saving in collection expenses;

(iii) readjustment of the rate of premium for a group insurance policy based on the loss or expense experience thereunder, at the end of the first or any subsequent policy year of insurance thereunder, which may be

made retroactive only for such policy year;

(iv) engaging in an arrangement that would not violate section 106 of the bank holding company act amendments of 1972, as interpreted by the board of governors of the federal reserve system or section 5(q) of the home owners' loan act;

(v) the offer or provision by insurers or producers, by or through employees, affiliates or third-party representatives, of value-added products or services at no or reduced cost when such products or services are not specified in the policy of insurance if the product or service:

(A) Relates to the insurance coverage; and

(B) is primarily designed to satisfy one or more of the following:

(1) Provide loss mitigation or loss control;

(2) reduce claim costs or claim settlement costs;

(3) provide education about liability risks or risk of loss to persons or property;

(4) monitor or assess risk, identify sources of risk or develop strategies for eliminating or reducing risk;

(5) enhance health;

(6) enhance financial wellness through items such as education or financial planning services;

(7) provide post-loss services;

(8) (a) incentivize behavioral changes to improve the health or reduce the risk of death or disability of a customer;

(b) as used in this section, "customer" means a policyholder, potential policyholder, certificate holder, potential certificate holder, insured, potential insured or applicant; or

(9) assist in the administration of the employee or retiree benefit insurance coverage.

(C) The cost to the insurer or producer offering the product or service to any given customer shall be reasonable in comparison to such customer's premiums or insurance coverage for the policy class.

(D) If the insurer or producer is providing the product or service offered, the insurer or producer shall ensure that the customer is provided with contact information, upon request, to assist the customer with questions regarding the product or service.

(E) The commissioner may adopt rules and regulations when implementing the permitted practices set forth in this section to ensure consumer protection. Such rules and regulations, consistent with applicable law, may address, among other issues, consumer data protections and privacy, consumer disclosure and unfair discrimination.

(F) The availability of the value-added product or service shall be based on documented objective criteria and offered in a manner that is not unfairly discriminatory. The documented criteria shall be maintained by

the insurer or producer and produced upon request by the commissioner.

(G) If an insurer or producer does not have sufficient evidence but has a good-faith belief that the product or service meets the criteria in subsection (8)(b)(v)(B), the insurer or producer may provide the product or service in a manner that is not unfairly discriminatory as part of a pilot or testing program for not more than one year. An insurer or producer shall notify the commissioner of such a pilot or testing program offered to consumers in this state prior to launching and may proceed with the program unless the commissioner objects within 21 days of notice.

(vi) An insurer or a producer may:

(A) Offer or give non-cash gifts, items or services, including meals to or charitable donations on behalf of a customer, in connection with the marketing, sale, purchase or retention of contracts of insurance, as long as the cost does not exceed an amount determined to be reasonable by the commissioner per policy year per term. The offer shall be made in a manner that is not unfairly discriminatory. The customer shall not be required to purchase, continue to purchase or renew a policy in exchange for the gift, item or service.

(B) Conduct raffles or drawings to the extent permitted by state law, as long as there is no financial cost to entrants to participate, the drawing or raffle does not obligate participants to purchase insurance, the prizes are not valued in excess of a reasonable amount determined by the commissioner and the drawing or raffle is open to the public. The raffle or drawing shall be offered in a manner that is not unfairly discriminatory. The customer shall not be required to purchase, continue to purchase or renew a policy in exchange for the gift, item or service.

(c) An insurer, producer or representative of an insurer or producer shall not offer or provide insurance as an inducement to the purchase of another policy.

(9) *Unfair claim settlement practices.* It is an unfair claim settlement practice if any of the following or any rules and regulations pertaining thereto are either committed flagrantly and in conscious disregard of such provisions, or committed with such frequency as to indicate a general business practice:

(a) Misrepresenting pertinent facts or insurance policy provisions relating to coverages at issue;

(b) failing to acknowledge and act reasonably promptly upon communications with respect to claims arising under insurance policies;

(c) failing to adopt and implement reasonable standards for the prompt investigation of claims arising under insurance policies;

(d) refusing to pay claims without conducting a reasonable investigation based upon all available information;

(e) failing to affirm or deny coverage of claims within a reasonable

time after proof of loss statements have been completed;

(f) not attempting in good faith to effectuate prompt, fair and equitable settlements of claims in which liability has become reasonably clear;

(g) compelling insureds to institute litigation to recover amounts due under an insurance policy by offering substantially less than the amounts ultimately recovered in actions brought by such insureds;

(h) attempting to settle a claim for less than the amount to which a reasonable person would have believed that such person was entitled by reference to written or printed advertising material accompanying or made part of an application;

(i) attempting to settle claims on the basis of an application that was altered without notice to, or knowledge or consent of the insured;

(j) making claims payments to insureds or beneficiaries not accompanied by a statement setting forth the coverage under which payments are being made;

(k) making known to insureds or claimants a policy of appealing from arbitration awards in favor of insureds or claimants for the purpose of compelling them to accept settlements or compromises less than the amount awarded in arbitration;

(l) delaying the investigation or payment of claims by requiring an insured, claimant or the physician of either to submit a preliminary claim report and then requiring the subsequent submission of formal proof of loss forms, both of which submissions contain substantially the same information;

(m) failing to promptly settle claims, where liability has become reasonably clear, under one portion of the insurance policy coverage in order to influence settlements under other portions of the insurance policy coverage; or

(n) failing to promptly provide 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.

(10) *Failure to maintain complaint handling procedures.* Failure of any person, who is an insurer on an insurance policy, to maintain a complete record of all the complaints that it has received since the date of its last examination under K.S.A. 40-222, and amendments thereto; but no such records shall be required for complaints received prior to the effective date of this act. The record shall indicate the total number of complaints, their classification by line of insurance, the nature of each complaint, the disposition of the complaints, the date each complaint was originally received by the insurer and the date of final disposition of each complaint. For purposes of this subsection, "complaint" means any written communication primarily expressing a grievance related to the acts and

practices set out in this section.

(11) *Misrepresentation in insurance applications.* Making false or fraudulent statements or representations on or relative to an application for an insurance policy, for the purpose of obtaining a fee, commission, money or other benefit from any insurer, agent, broker or individual.

(12) *Statutory violations.* Any violation of any of the provisions of K.S.A. 40-216, 40-276a, 40-2,155 or 40-1515, and amendments thereto.

(13) *Disclosure of information relating to adverse underwriting decisions and refund of premiums.* Failing to comply with the provisions of K.S.A. 40-2,112, and amendments thereto, within the time prescribed in such section.

(14) *Rebates and other inducements in title insurance.* (a) No title insurance company or title insurance agent, or any officer, employee, attorney, agent or solicitor thereof, may pay, allow or give, or offer to pay, allow or give, directly or indirectly, as an inducement to obtaining any title insurance business, any rebate, reduction or abatement of any rate or charge made incident to the issuance of such insurance, any special favor or advantage not generally available to others of the same classification, or any money, thing of value or other consideration or material inducement. The words "charge made incident to the issuance of such insurance" includes, without limitations, escrow, settlement and closing charges.

(b) No insured named in a title insurance policy or contract nor any other person directly or indirectly connected with the transaction involving the issuance of the policy or contract, including, but not limited to, mortgage lender, real estate broker, builder, attorney or any officer, employee, agent representative or solicitor thereof, or any other person may knowingly receive or accept, directly or indirectly, any rebate, reduction or abatement of any charge, or any special favor or advantage or any monetary consideration or inducement referred to in subsection (14) (a).

(c) Nothing in this section shall be construed as prohibiting:

(i) The payment of reasonable fees for services actually rendered to a title insurance agent in connection with a title insurance transaction;

(ii) the payment of an earned commission to a duly appointed title insurance agent for services actually performed in the issuance of the policy of title insurance; or

(iii) the payment of reasonable entertainment and advertising expenses.

(d) Nothing in this section prohibits the division of rates and charges between or among a title insurance company and its agent, or one or more title insurance companies and one or more title insurance agents, if such division of rates and charges does not constitute an unlawful rebate under the provisions of this section and is not in payment of a forwarding fee or a

finder's fee.

(e) As used in subsections (14)(e) through (14)(i), unless the context otherwise requires:

(i) "Associate" means any firm, association, organization, partnership, business trust, corporation or other legal entity organized for profit in which a producer of title business is a director, officer or partner thereof, or owner of a financial interest; the spouse or any relative within the second degree by blood or marriage of a producer of title business who is a natural person; any director, officer or employee of a producer of title business or associate; any legal entity that controls, is controlled by, or is under common control with a producer of title business or associate; and any natural person or legal entity with whom a producer of title business or associate has any agreement, arrangement or understanding or pursues any course of conduct, the purpose or effect of which is to evade the provisions of this section.

(ii) "Financial interest" means any direct or indirect interest, legal or beneficial, where the holder thereof is or will be entitled to 1% or more of the net profits or net worth of the entity in which such interest is held. Notwithstanding the foregoing, an interest of less than 1% or any other type of interest shall constitute a "financial interest" if the primary purpose of the acquisition or retention of that interest is the financial benefit to be obtained as a consequence of that interest from the referral of title business.

(iii) "Person" means any natural person, partnership, association, cooperative, corporation, trust or other legal entity.

(iv) "Producer of title business" or "producer" means any person, including any officer, director or owner of 5% or more of the equity or capital or both of any person, engaged in this state in the trade, business, occupation or profession of:

(A) Buying or selling interests in real property;

(B) making loans secured by interests in real property; or

(C) acting as broker, agent, representative or attorney for a person who buys or sells any interest in real property or who lends or borrows money with such interest as security.

(v) "Refer" means to direct or cause to be directed or to exercise any power or influence over the direction of title insurance business, whether or not the consent or approval of any other person is sought or obtained with respect to the referral.

(f) No title insurer or title agent may accept any order for, issue a title insurance policy to, or provide services to, an applicant if it knows or has reason to believe that the applicant was referred to it by any producer of title business or by any associate of such producer, where the producer, the associate, or both, have a financial interest in the title insurer or title agent

to which business is referred unless the producer has disclosed to the buyer, seller and lender the financial interest of the producer of title business or associate referring the title insurance business.

(g) No title insurer or title agent may accept an order for title insurance business, issue a title insurance policy, or receive or retain any premium, or charge in connection with any transaction if: (i) The title insurer or title agent knows or has reason to believe that the transaction will constitute controlled business for that title insurer or title agent; and (ii) 70% or more of the closed title orders of that title insurer or title agent during the 12 full calendar months immediately preceding the month in which the transaction takes place is derived from controlled business. ~~The prohibitions contained in this paragraph shall not apply to transactions involving real estate located in a county that has a population, as shown by the last preceding decennial census, of 10,000 or less.~~

(h) Within 90 days following the end of each business year, as established by the title insurer or title agent, each title insurer or title agent shall file with the department of insurance and any title insurer with which the title agent maintains an underwriting agreement, a report executed by the title insurer's or title agent's chief executive officer or designee, under penalty of perjury, stating the percent of closed title orders originating from controlled business. The failure of a title insurer or title agent to comply with the requirements of this section, at the discretion of the commissioner, shall be grounds for the suspension or revocation of a license or other disciplinary action, with the commissioner able to mitigate any such disciplinary action if the title insurer or title agent is found to be in substantial compliance with competitive behavior as defined by federal housing and urban development statement of policy 1996-2.

(i) (1) No title insurer or title agent may accept any title insurance order or issue a title insurance policy to any person if it knows or has reason to believe that such person was referred to it by any producer of title business or by any associate of such producer, where the producer, the associate, or both, have a financial interest in the title insurer or title agent to which business is referred unless the producer has disclosed in writing to the person so referred the fact that such producer or associate has a financial interest in the title insurer or title agent, the nature of the financial interest and a written estimate of the charge or range of charges generally made by the title insurer or agent for the title services. Such disclosure shall include language stating that the consumer is not obligated to use the title insurer or agent in which the referring producer or associate has a financial interest and shall include the names and telephone numbers of not less than three other title insurers or agents that operate in the county in which the property is located. If fewer than three insurers or agents operate in that county, the disclosure shall include all title insurers

or agents operating in that county. Such written disclosure shall be signed by the person so referred and must have occurred prior to any commitment having been made to such title insurer or agent.

(2) No producer of title business or associate of such producer shall require, directly or indirectly, as a condition to selling or furnishing any other person any loan or extension thereof, credit, sale, property, contract, lease or service, that such other person shall purchase title insurance of any kind through any title agent or title insurer if such producer has a financial interest in such title agent or title insurer.

(3) No title insurer or title agent may accept any title insurance order or issue a title insurance policy to any person it knows or has reason to believe that the name of the title company was pre-printed in the sales contract, prior to the buyer or seller selecting that title company.

(4) Nothing in this paragraph shall prohibit any producer of title business or associate of such producer from referring title business to any title insurer or title agent of such producer's or associate's choice, and, if such producer or associate of such producer has any financial interest in the title insurer, from receiving income, profits or dividends produced or realized from such financial interest, so long as:

(a) Such financial interest is disclosed to the purchaser of the title insurance in accordance with paragraphs (i)(1) through (i)(4);

(b) the payment of income, profits or dividends is not in exchange for the referral of business; and

(c) the receipt of income, profits or dividends constitutes only a return on the investment of the producer or associate.

(5) Any producer of title business or associate of such producer who violates the provisions of paragraphs (i)(2) through (i)(4), or any title insurer or title agent who accepts an order for title insurance knowing that it is in violation of paragraphs (i)(2) through (i)(4), in addition to any other action that may be taken by the commissioner of insurance, shall be subject to a fine by the commissioner in an amount equal to five times the premium for the title insurance and, if licensed pursuant to K.S.A. 58-3034 et seq., and amendments thereto, shall be deemed to have committed a prohibited act pursuant to K.S.A. 58-3602, and amendments thereto, and shall be liable to the purchaser of such title insurance in an amount equal to the premium for the title insurance.

(6) Any title insurer or title agent that is a competitor of any title insurer or title agent that, subsequent to the effective date of this act, has violated or is violating the provisions of this paragraph, shall have a cause of action against such title insurer or title agent and, upon establishing the existence of a violation of any such provision, shall be entitled, in addition to any other damages or remedies provided by law, to such equitable or injunctive relief as the court deems proper. In any such action under this

subsection, the court may award to the successful party the court costs of the action together with reasonable attorney fees.

(7) The commissioner shall also require each title agent to provide core title services as required by the real estate settlement procedures act.

(j) The commissioner shall adopt any rules and regulations necessary to carry out the provisions of this act.

(15) *Disclosure of nonpublic personal information.* (a) No person shall disclose any nonpublic personal information contrary to the provisions of title V of the Gramm-Leach-Bliley act of 1999 (public law 106-102). The commissioner may adopt rules and regulations necessary to carry out this subsection. Such rules and regulations shall be consistent with and not more restrictive than the model regulation adopted on September 26, 2000, by the national association of insurance commissioners entitled "Privacy of consumer financial and health information regulation".

(b) Nothing in this subsection shall be deemed or construed to authorize the promulgation or adoption of any regulation that preempts, supersedes or is inconsistent with any provision of Kansas law concerning requirements for notification of, or obtaining consent from, a parent, guardian or other legal custodian of a minor relating to any matter pertaining to the health and medical treatment for such minor.

Sec. 4. K.S.A. 40-1139 and K.S.A. 2024 Supp. 40-1137 and 40-2404 are hereby repealed.

Sec. 5. This act shall take effect and be in force from and after **January 1, 2026, and** its publication in the ~~statute book~~ ***Kansas register.***