Session of 2025

SENATE BILL No. 20

By Committee on Financial Institutions and Insurance

1-16

AN ACT concerning insurance; reducing the number of board members appointed by the commissioner on certain insurance-related boards and the frequency of the meetings of the committee on surety bonds and insurance; amending K.S.A. 40-2102, 40-2109, 40-3116, 40-3413 and 75-4101 and repealing the existing sections.

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

Section 1. K.S.A. 40-2102 is hereby amended to read as follows: 40-2102. *(a)* Every insurer undertaking to transact in the state of Kansas the business of automobile and motor vehicle bodily injury and property damage liability insurance and every rating organization ~~which~~ *that* files rates for such insurance shall cooperate in ~~the preparation and submission~~ *preparing and submitting a plan* to the commissioner of insurance ~~of a plan or plans~~ for the equitable apportionment among insurers of applicants for insurance who ~~are~~, in good faith~~,~~ *are* entitled to, but ~~who~~ are unable to procure *such insurance* through ordinary methods~~, such insurance~~. Such plan or plans shall provide:

~~(a)~~*(1)* Reasonable rules governing the equitable distribution of risks by direct insurance, reinsurance or otherwise and their assignment to insurers, including provisions requiring, at the request of the applicant, an immediate assumption of the risk by an insurer or insurers upon completion of an application, payment of the specified premium and deposit the application and the premium in the United States mail, postage prepaid and addressed to the plan's office;

~~(b)~~*(2)* rates and rate modifications applicable to such risks ~~which~~ *that* shall be reasonable, adequate and not unfairly discriminatory;

~~(c)~~*(3)* the limits of liability ~~which~~ *that* the insurer shall be required to assume;

~~(d)~~*(4)* a method ~~whereby~~ *by which* applicants for insurance, insureds and insurers may have a hearing on grievances and the right of appeal to the commissioner;

~~(e) for every such plan or plans, there shall be~~ *(5)* a governing board to be appointed by the commissioner of insurance ~~which~~ *that* shall meet at least annually to review and prescribe operating rules~~, and which shall consist of the following members:~~.

~~(1)~~*(b) (1) Prior to January 1, 2026, such board shall consist of the*

following nine members:

(A) (i) Seven members who shall be appointed *prior to December 31, 2025,* as follows:

(a) Three ~~of such~~ members shall be representatives of foreign insurance companies~~.~~*;*

(b) two members shall be representatives of domestic insurance companies*;* and

(c) two members shall be licensed independent insurance agents~~.~~*;*

(ii) such *seven* members shall be appointed for a term of three years, except that the initial appointment shall include two members appointed for a two-year term and two members appointed for a one-year term as designated by the commissioner; and

~~(2)~~*(B)* two members ~~representative~~ *shall be representatives* of the general public interest with such members to be appointed for a term of two years.

(2) The terms of the members appointed and serving on the governing board as of July 1, 2025, shall expire on December 31, 2025.

(c) (1) The commissioner shall appoint a governing board for the plan that shall serve on and after January 1, 2026, and that shall have the same powers, duties and functions as its predecessor. On and after January 1, 2026, all members of such governing board shall serve three-year terms, except that such members shall be removable by the commissioner for inefficiency, neglect of duty or malfeasance. Such governing board shall consist of five members to be appointed as follows:

(A) Three members shall be representatives of insurers;

(B) one member shall be a representative of independent insurance agents; and

(C) one member shall be a representative of the general public.

(2) In making appointments to the governing board, the commissioner shall consider if foreign and domestic insurers are fairly represented.

(d) (1) The commissioner shall review the plan as soon as reasonably possible after filing in order to determine whether it meets the requirements set forth in ~~(a), (b), (c) and (d) above~~ *subsections (a)(1) through (a)(4)*. As soon as reasonably possible after the plan has been filed the commissioner shall*,* in writing*,* approve or disapprove ~~the same~~ *such plan*. Any plan shall be deemed approved unless disapproved within 45 days. Subsequent to the waiting period the commissioner may disapprove any plan on the ~~ground~~ *grounds* that ~~it~~ *such plan* does not meet the requirements set forth in ~~(a), (b), (c) and (d) above~~ *subsections (a)(1) through (a)(4)*, but only after a hearing held upon not less than 10 days' written notice to every insurer and rating organization affected specifying the matter to be considered at such hearing~~,~~ and only by an order

specifying in what respect the commissioner finds that such plan fails to meet such requirements, and stating when within a reasonable period thereafter such plan shall be deemed no longer effective. Such order shall not affect any assignment made or policy issued or made prior to the expiration of the period set forth in such order. Amendments to such plan or plans shall be prepared, ~~and~~ filed and reviewed in the same manner as ~~herein~~ provided *in this section* with respect to the original plan or plans.

(2) If no plan meeting the standards set forth in ~~(a), (b), (c) and (d)~~ *subsections (a)(1) through (a)(4)* is submitted to the commissioner within the period stated in any order disapproving an existing plan*,* the commissioner shall, if necessary to carry out the purpose of this section after hearing, prepare and promulgate a plan meeting such requirements. If, after a hearing conducted in accordance with the provisions of the Kansas administrative procedure act, the commissioner finds that any activity or practice of any insurer or rating organization in connection with the operation of such plan or plans is unfair or unreasonable or otherwise inconsistent with the provisions of this subsection*,* the commissioner may issue a written order specifying in what respects such activity or practice is unfair or unreasonable or otherwise inconsistent with the provisions of this subsection and requiring discontinuance of such activity or practice.

Sec. 2. K.S.A. 40-2109 is hereby amended to read as follows: 40-2109. *(a)* Every insurer undertaking to transact in this state the business of either workers compensation or employer's liability insurance or both, and every rating organization ~~which~~ *that* files rates for such insurance shall cooperate in ~~the preparation and submission~~ *preparing and submitting a plan* to the commissioner of insurance ~~of a plan or plans~~, for the equitable apportionment among insurers of applicants for insurance who ~~are~~*,* in good faith, *are* entitled to but ~~who~~ are unable to procure *such insurance* through ordinary methods~~, such insurance~~. Such plan or plans shall provide:

~~(a)~~*(1)* Reasonable rules governing the equitable distribution of risks by direct insurance, reinsurance or otherwise and their assignment to insurers;

~~(b)~~*(2)* rates and rate modifications applicable to such risks ~~which~~ *that* shall be reasonable, adequate and not unfairly discriminatory;

~~(c)~~*(3)* a method ~~whereby~~ *by which* applicants for insurance, insured and insurers may have a hearing on grievances and the right of appeal to the commissioner; *and*

~~(d) for every such plan or plans, there shall be~~ *(4)* a governing board to be appointed by the commissioner of insurance ~~which~~ *that* shall meet at least annually to review and prescribe operating rules~~, and which shall consist of the following members:~~.

(b) (1) Prior to January 1, 2026, such board shall consist of the following nine members:

~~(1)~~*(A) (i)* Seven members who shall be appointed *prior to December 31, 2025,* as follows:

(a) Three~~ of such~~ members shall be representatives of foreign insurance companies~~.~~*;*

(b) two members shall be representatives of domestic insurance companies*;* and

(c) two members shall be licensed independent insurance agents.

(ii) Such *seven* members shall be appointed for a term of three years, except that the initial appointment shall include two members appointed for a two-year term and two members appointed for a one-year term, as designated by the commissioner; and

~~(2)~~*(B)* two members representative of the general public interest with such members to be appointed for a term of two years.

(2) The terms of the members appointed and serving on the governing board as of July 1, 2025, shall expire on December 31, 2025.

(c) (1) The commissioner shall appoint a governing board for the plan that shall serve on and after January 1, 2026, and that shall have the same powers, duties and functions as its predecessor. On and after January 1, 2026, all members of such governing board shall serve three-year terms, except that such members shall be removable by the commissioner for inefficiency, neglect of duty or malfeasance. Such governing board shall consist of seven members to be appointed as follows:

(A) Four members shall be representatives of insurance companies;

(B) two members shall be licensed insurance agents; and

(C) one member shall be a representative of the general public interest.

(2) In selecting the members who shall be representatives of insurers, the commissioner shall consider if foreign and domestic insurers are fairly represented.

(d) (1) The commissioner shall review the plan as soon as reasonably possible after filing in order to determine whether it meets the requirements set forth in subsections (a)~~ and (c) above~~*(1) through (a)(3)*. As soon as reasonably possible after the plan has been filed the commissioner shall in writing approve or disapprove~~ the same~~ *such plan*, except that any plan shall be deemed approved unless disapproved within 45 days. Subsequent to the waiting period the commissioner may disapprove any plan on the ground that it does not meet the requirements set forth in subsections (a)~~, (b) and (c) above~~*(1) through (a)(3)*, but only after a hearing held upon not less than 10 days' written notice to every insurer and rating organization affected specifying the matter to be considered at such hearing, and only by an order specifying in what respect the commissioner finds that such plan fails to meet such

requirements and stating when within a reasonable period thereafter such plan shall be deemed no longer effective. Such order shall not affect any assignment made or policy issued or made prior to the expiration of the period set forth in such order. Amendments to such plan or plans shall be prepared, ~~and~~ filed and reviewed in the same manner as ~~herein~~ provided *in this section* with respect to the original plan or plans.

(2) If no plan meeting the standards set forth in subsections (a)~~, (b) and (c)~~*(1) through (a)(3)* is submitted to the commissioner within the period stated in any order, disapproving an existing plan the commissioner shall, if necessary to carry out the purpose of this section after hearing, prepare and promulgate a plan meeting such requirements. When such plan or plans or amendments thereto have been approved or promulgated, no insurer shall thereafter issue a policy of workers compensation or employer's liability insurance or undertake to transact such business in this state unless such insurer shall participate in such an approved or promulgated plan. If, after a hearing conducted in accordance with the provisions of the Kansas administrative procedure act, the commissioner finds that any activity or practice of any insurer or rating organization in connection with the operation of such plan or plans is unfair or unreasonable or otherwise inconsistent with the provisions of this section, the commissioner may issue a written order specifying in what respects such activity or practice is unfair or unreasonable or otherwise inconsistent with the provisions of this section and requiring discontinuance of such activity or practice.

(e) The commissioner shall approve rates and rate modifications for each plan that provides workers compensation insurance. This provision shall not prohibit the application of surcharges, experience modifications or other rating variables.

Sec. 3. K.S.A. 40-3116 is hereby amended to read as follows: 40-3116. (a) Insurers and self-insurers are hereby directed to organize and maintain an assigned claims plan to provide that any person~~,~~ who suffers injury in this state may obtain personal injury protection benefits through such plan if:

(1) Personal injury protection benefits are not available to the injured person, except that personal injury protection benefits shall not be deemed unavailable to any person suffering injury while such person was the operator of a motorcycle or motor-driven cycle, for which the owner thereof has rejected personal injury protection benefits pursuant to ~~subsection (f) of~~ K.S.A. 40-3107, and amendments thereto;

(2) Motor vehicle liability insurance or self-insurance applicable to the injury cannot be identified;

(3) Personal injury protection benefits applicable to the injury are inadequate to provide the contracted-for benefits because of financial

inability of an insurer or self-insurer to fulfill its obligation~~; however~~, *except that* benefits available through the assigned claims plan shall be excess over any benefits paid or payable through the Kansas insurance guaranty association. If the personal injury protection benefits are not paid by the Kansas insurance guaranty association within the limitation of time specified in this act, such benefits shall be paid by the assigned claims plan. Payments made by the assigned claims plan pursuant to this section shall constitute covered claims under K.S.A. 40-2901et seq., and amendments thereto.

(b) If a claim qualifies for assignment under this section, the assigned claims plan or any insurer or self-insurer to whom the claim is assigned shall be subrogated to all of the rights of the claimant against any insurer or self-insurer, its successor in interest or substitute, legally obligated to provide personal injury protection benefits to the claimant, for any of such benefits provided by the assignment.

(c) A person shall not be entitled to personal injury protection benefits through the assigned claims plan with respect to injury ~~which~~ *that* such person has sustained if, at the time of such injury, such person was the owner of a motor vehicle for which a policy of motor vehicle liability insurance is required under this act and such person failed to have such policy in effect.

(d) The assigned claims plan shall be governed by such rules and regulations as are necessary for its operation and for the assessment of costs, which shall be approved by the commissioner. Any claim brought through said plan shall be assigned to an insurer or self-insurer, in accordance with the approved regulations of operation, and such insurer or self-insurer, after the assignment, shall have the same rights and obligations *as* it would have if, prior to such assignment, it had issued a motor vehicle liability insurance policy providing personal injury protection benefits applicable to the loss or expenses incurred or was a self-insurer providing such benefits. Any party accepting benefits ~~hereunder~~ *under this section* shall have such rights and obligations as such person would have if a motor vehicle liability insurance policy providing personal injury protection benefits were issued to such person.

(e) No insurer shall write any motor vehicle liability insurance policy in this state unless the insurer participates in the assigned claims plan organized pursuant to this section, nor shall any person qualify as a self-insurer pursuant to ~~subsection (f) of~~ K.S.A. 40-3104, and amendments thereto, unless such person agrees to participate in such assigned claims plan. Any insurer or self-insurer required to participate in the assigned claims plan who violates this subsection shall be assessed a civil penalty of not more than $5,000 for each policy issued or self-insurance certificate obtained in violation thereof.

(f) (1) On and after January 1, 2026, the governing committee of the assigned claims plan shall consist of five members, who shall be removable by the commissioner for inefficiency, neglect of duty or malfeasance. Members shall be appointed as follows:

(A) Three members shall be representatives of insurers;

(B) one member shall be a representative of independent insurance agents; and

(C) one member shall be a representative of the general public.

(2) In selecting the members who shall be representatives of insurers, the commissioner shall consider whether foreign and domestic insurers are fairly represented.

Sec. 4. K.S.A. 40-3413 is hereby amended to read as follows: 40-3413. (a) Every insurer and every rating organization shall cooperate in ~~the preparation of~~ *preparing* a plan or plans for the equitable apportionment among such insurers of applicants for professional liability insurance and such other liability insurance as may be included in or added to the plan, who ~~are~~*,* in good faith*, are* entitled to such insurance but are unable to procure ~~the same~~ through ordinary methods. Such plan or plans shall be prepared and filed with the commissioner and the board of governors within a reasonable time but not exceeding 60 calendar days ~~from the effective date of this act~~. Such plan or plans shall provide:

(1) Reasonable rules governing the equitable distribution of risks by direct insurance, reinsurance or otherwise including the authority to make assessments against the insurers participating in the plan or plans;

(2) rates and rate modifications applicable to such risks ~~which~~ *that* shall be reasonable, adequate and not unfairly discriminatory;

(3) a method whereby periodically the plan shall compare the premiums earned to the losses and expenses sustained by the plan. If there is any surplus of premiums over losses and expenses received for that year such surplus shall be transferred to the fund. If there is any excess of losses and expenses over premiums earned such losses shall be transferred from the fund, ~~however~~ *except that* such transfers shall not occur more often than once each three months;

(4) the limits of liability ~~which~~ *that* the plan shall be required to provide, ~~but in no event shall~~ *except that* such limits *shall not* be less than those limits provided for in ~~subsection (a) of~~ K.S.A. 40-3402, and amendments thereto; *and*

(5) a method ~~whereby~~ *by which* applicants for insurance, insureds and insurers may have a hearing on grievances and the right of appeal to the commissioner.

(b) *(1)* For every such plan or plans, there shall be a governing board ~~which~~ *that* shall meet at least annually to review and prescribe operating rules. *Prior to December 31, 2025,* such board of directors shall consist of

nine members to be appointed, for terms of four years, by the commissioner as follows:

~~(1)~~*(A)* Two members *who* shall be representatives of foreign insurers;

~~(2)~~*(B)* two members *who* shall be representatives of domestic insurers;

~~(3)~~*(C)* two members *who* shall be ~~health care~~ *healthcare* providers;

~~(4)~~*(D)* one member *who* shall be a licensed insurance agent actively engaged in the solicitation of casualty insurance;

~~(5)~~*(E)* one member *who* shall be the chairperson of the board of governors or the chairperson's designee; and

~~(6)~~*(F)* one member *who* shall be a representative of the general public.

(2) The members of the governing board appointed on or before July 1, 2025, shall serve their current terms that shall expire on December 31, 2025. On and after January 1, 2026, the governing board shall consist of five members who shall be appointed for a term of four years except that such members shall be removable by the commissioner for inefficiency, neglect of duty or malfeasance as follows:

(i) One member who shall be a representative of foreign insurers;

(ii) one member who shall be a representative of domestic insurers;

(iii) one member shall be a healthcare provider;

(iv) one member who shall be a licensed insurance agent engaged in the solicitation of casualty insurance; and

(v) one member who shall be chairperson of the board or the chairperson's designee.

(c) The commissioner and ~~board of directors~~ *governing board* shall review the plan as soon as reasonably possible after filing in order to determine whether ~~it~~ *if such plan* meets the requirements set forth in subsection (a). As soon as reasonably possible after the plan has been filed, the commissioner, consistent with the recommendations of the ~~board of directors~~ *governing board*, shall ~~in writing~~ approve or disapprove the plan *in writing*. Any plan shall be deemed approved unless disapproved within 30 days. Subsequent to the waiting period the commissioner may disapprove any plan on the ~~ground~~ *grounds* that ~~it~~ *such plan* does not meet the requirements set forth in subsection (a), but only after a hearing held upon not less than 10 days' written notice to every insurer and rating organization affected specifying in what respect the commissioner finds that such plan fails to meet such requirements~~,~~ and stating when, within a reasonable period thereafter, such plan shall be deemed no longer effective. Such order shall not affect any assignment made or policy issued or made prior to the expiration of the period set forth in the order. Amendments to such plan or plans shall be prepared,~~ and~~ filed and reviewed in the same manner as~~ herein~~ provided *in this section* with

respect to the original plan or plans.

(d) If no plan meeting the standards set forth in subsection (a) is submitted to the commissioner and board of directors within 60 calendar days from ~~the effective date of this act~~ *July 1, 1982,* or within the period stated in any order disapproving an existing plan, the commissioner with the assistance of the board of directors shall after a hearing, if necessary to carry out the purpose of this act, prepare and promulgate a plan meeting such requirements.

(e) If, after a hearing conducted in accordance with the provisions of the Kansas administrative procedure act, the commissioner and board of directors find that any activity or practice of any insurer or rating organization in connection with the operation of such plan or plans is unfair or unreasonable or otherwise inconsistent with the provisions of this act, the commissioner and board of directors may issue a written order specifying in what respects such activity or practice is unfair or unreasonable or otherwise inconsistent with the provisions of this act and requiring discontinuance of such activity or practice.

(f) An insurer participating in the plan approved by the commissioner may pay a commission with respect to insurance written under the plan to an insurance agent licensed for any other insurer participating in the plan or to any insurer participating in the plan. Such commission shall be reasonably equivalent to the usual customary commission paid on similar types of policies issued in the voluntary market.

~~(g) Notwithstanding the provisions of K.S.A. 40-3402, and amendments thereto, the plan shall make available policies of professional liability insurance covering prior acts. Such professional liability insurance policies shall have limits of coverage not exceeding $1,000,000 per claim, subject to not more than $3,000,000 annual aggregate liability for all claims made as a result of personal injury or death arising out of the rendering of or the failure to render professional services within this state on or before December 31, 2014. Such professional liability insurance policies shall be made available only to physician assistants licensed by the state board of healing arts, licensed advanced practice registered nurses authorized by the state board of nursing to practice as an advanced practice registered nurse in the classification of a nurse-midwife, nursing facilities licensed by the state of Kansas, assisted living facilities licensed by the state of Kansas and residential health care facilities licensed by the state of Kansas that will be in compliance with K.S.A. 40-3402, and amendments thereto, on January 1, 2015. The premiums for such professional liability insurance policies shall be based upon reasonably prudent actuarial principles. The provisions of this subsection shall expire on January 1, 2016.~~

Sec. 5. K.S.A. 75-4101 is hereby amended to read as follows: 75-

4101. (a) There is hereby created a committee on surety bonds and insurance, which shall consist of the state treasurer, the attorney general and the commissioner of insurance or their respective designees. The commissioner of insurance shall be the chairperson of the committee and the director of purchases or the director's designee shall be the ex officio secretary. The committee shall meet upon the call of the chairperson and at such other times as the committee shall determine ~~but at least once each month on the second Monday in each month. Meetings shall be held in the office of the commissioner of insurance~~. The members of the committee shall serve without compensation. The secretary shall be the custodian of all property, records and proceedings of the committee. Except as provided in this section and K.S.A. 74-4925, 74-4927, 75-6501 through 75-6511 and 76-749, and amendments thereto, no state agency shall purchase any insurance of any kind or nature or any surety bonds upon state officers or employees, except as provided in this act. Except as otherwise provided in this section, ~~health care~~ *healthcare* coverage and ~~health care~~ *healthcare* services of a health maintenance organization for state officers and employees designated under K.S.A. 75-6501(c), and amendments thereto, shall be provided in accordance with the provisions of K.S.A. 75-6501 through 75-6511, and amendments thereto.

(b) The Kansas turnpike authority may purchase group life, health and accident insurance or health care services of a health maintenance organization for its employees or members of the highway patrol assigned, by contract or agreement entered pursuant to K.S.A. 68-2025, and amendments thereto, to police toll or turnpike facilities, independent of the committee on surety bonds and insurance and of the provisions of K.S.A. 75-6501 through 75-6511, and amendments thereto. Such authority may purchase liability insurance covering all or any part of its operations and may purchase liability and related insurance upon all vehicles owned or operated by the authority independent of the committee on surety bonds and insurance and such insurance may be purchased without complying with K.S.A. 75-3738 through 75-3744, and amendments thereto. Any board of county commissioners may purchase such insurance or ~~health care~~ *healthcare* services, independent of such committee, for district court officers and employees any part of whose total salary is payable by the county. Nothing in any other provision of the laws of this state shall be construed as prohibiting members of the highway patrol so assigned to police toll or turnpike facilities from receiving compensation in the form of insurance or health maintenance organization coverage as herein authorized.

(c) The agencies of the state sponsoring a foster grandparent or senior companion program, or both, shall procure a policy of accident, personal liability and excess automobile liability insurance insuring volunteers

participating in such programs against loss in accordance with specifications of federal grant guidelines. Such agencies may purchase such policy of insurance independent of the committee on surety bonds and insurance and without complying with K.S.A. 75-3738 through 75-3744, and amendments thereto.

(d) Any state educational institution as defined by K.S.A. 76-711, and amendments thereto, may purchase insurance of any kind or nature except employee health insurance. Such insurance shall be purchased on a competitively bid or competitively negotiated basis in accordance with procedures prescribed by the state board of regents. Such insurance may be purchased independent of the committee on surety bonds and insurance and without complying with K.S.A. 75-3738 through 75-3744, and amendments thereto.

(e) (1) The state board of regents may enter into one or more group insurance contracts to provide health and accident insurance coverage or ~~health care~~ *healthcare* services of a health maintenance organization for all students attending a state educational institution as defined in K.S.A. 76-711, and amendments thereto, and such students' dependents, except that such insurance shall not provide coverage for elective procedures that are not medically necessary as determined by a treating physician. The participation by a student in such coverage shall be voluntary. In the case of students who are employed by a state educational institution in a student position, the level of employer contributions toward such coverage shall be determined by the board of regents.

(2) The state board of regents is hereby authorized to independently provide, through self-insurance or the purchase of insurance contracts, ~~health care~~ *healthcare* benefits for employees of a state educational institution, as such term is defined in K.S.A. 76-711, and amendments thereto, when the state ~~health care~~ *healthcare* benefits program is insufficient to satisfy the requirements of 22 C.F.R. § 62.14, as in effect upon ~~the effective date of this section~~ *April 13, 2017*. Such healthcare benefits shall be limited to only those for whom the state ~~health care~~ *healthcare* benefits program does not meet federal requirements.

(3) The state board of regents may purchase cybersecurity insurance as it deems necessary to protect student records, labor information and other statutorily protected data that the board maintains, independent of the committee on surety bonds and insurance and without complying with the provisions of K.S.A. 75-3738 through 75-3744, and amendments thereto. As used in this paragraph, "cybersecurity insurance" includes, but is not limited to, first-party coverage against losses such as data destruction, denial of service attacks, theft, hacking and liability coverage guaranteeing compensation for damages from errors such as the failure to safeguard data.

(4) The state board of regents may adopt rules and regulations necessary to administer and implement the provisions of this section.

Sec. 6. K.S.A. 40-2102, 40-2109, 40-3116, 40-3413 and 75-4101 are hereby repealed.

Sec. 7. This act shall take effect and be in force from and after its publication in the statute book.