

## HOUSE BILL No. 2684

By Committee on Kansas Futures

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AN ACT concerning the establishment of the citizens' insurance advisory board; amending K.S.A. 40-955 and repealing the existing section.

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

New Section 1. (a) There is hereby established within the state insurance department a citizens' insurance advisory board which shall consist of seven members: Five members appointed by the governor and two members appointed by the commissioner of insurance.

(1) Subject to the provisions of K.S.A. 75-4315c, and amendments thereto, the governor shall appoint one member from each congressional district and the remainder from the state at large. The governor's appointees shall include:

(A) One person who is knowledgeable about insurance issues concerning physical health;

(B) one member who is knowledgeable about insurance issues concerning mental health; and

(C) one member who is knowledgeable about insurance issues concerning property.

No appointee of the governor shall be from the insurance industry.

(2) The commissioner of insurance shall appoint one member who operates an insurance agency in this state and one member who is a consumer.

(3) The members of such board shall serve for a term of four years.

(4) All vacancies in office of members so appointed shall be filled in the same manner as the original appointment for the unexpired term of the member creating the vacancy.

(b) The citizens' insurance advisory board shall organize annually by the election from its membership of a chairperson and shall adopt such rules of procedure as the board deems necessary for conducting its business.

(c) The citizens' insurance advisory board shall hold such meetings as in its judgment may be necessary for the performance of its powers, duties and functions. Members of the board shall receive compensation, subsistence allowances, mileage and other expenses for attending meetings of the board as provided by K.S.A. 75-3223, and amendments

1 thereto.

2 (d) The state insurance department shall provide such technical and  
3 clerical staff assistance as may be requested by the board in the admin-  
4 istration of the provisions of this act.

5 (e) The citizens' insurance advisory board shall administer this act  
6 and shall have and may exercise the following powers, duties and  
7 functions:

8 (1) Employ an attorney as a consumer counsel and such other staff  
9 as are necessary;

10 (2) guide the activities of the consumer counsel;

11 (3) recommend legislation to the commissioner of insurance, the gov-  
12 ernor or the legislature which in the citizens' insurance advisory board's  
13 judgment would positively affect the interests of consumers, particularly  
14 as such legislation affects the coverage of insurance, the availability of  
15 insurance to consumers and the affordability of insurance;

16 (4) examine any manual of classifications, rules and rates, rating plan  
17 or other information which supports any insurance rate which will be used  
18 in this state and which is required to be filed with or maintained and  
19 made available to the commissioner of insurance;

20 (5) receive information from consumers regarding insurance rates  
21 and coverage;

22 (6) advise the Kansas state employees health care commission re-  
23 garding insurance issues affecting state employees and retirees;

24 (7) make recommendations to the commissioner regarding insurance  
25 coverage and any insurance rate filings made pursuant to K.S.A. 40-955  
26 and amendments thereto; and

27 (8) intervene, on behalf of Kansas consumers, in any hearing com-  
28 menced pursuant to K.S.A. 40-955 and amendments thereto.

29 (f) The citizens' insurance advisory board shall be subject to the pro-  
30 visions of the Kansas open meetings act.

31 (g) The citizens' insurance advisory board shall be subject to the pro-  
32 visions of the Kansas open records act.

33 New Sec. 2. The consumer counsel may do the following:

34 (a) Represent consumers in hearings before the commissioner of in-  
35 surance commenced pursuant to K.S.A. 40-955 and amendments thereto;

36 (b) function as an official intervenor in cases filed with the commis-  
37 sioner of insurance commenced pursuant to K.S.A. 40-955 and amend-  
38 ments thereto; and

39 (c) perform such other duties as directed by the citizens' insurance  
40 rate advisory board.

41 New Sec. 3. The citizens' insurance advisory board shall be attached  
42 to the insurance department and shall be within the insurance department  
43 as a part thereof. All budgeting, purchasing and related management

1 functions of the citizens' insurance advisory board shall be administered  
2 under the direction and supervision of such board and the commissioner  
3 of insurance. All vouchers for expenditures from appropriations made for  
4 the use of such board shall be approved by the chairperson of such board  
5 or by a person or persons designated by the chairperson for such purpose  
6 and by the commissioner of insurance. The budget of the board shall be  
7 financed in the same manner and as a part of the budget of the state  
8 insurance department. The commissioner of insurance shall have no au-  
9 thority over the citizens' insurance advisory board, or any employee  
10 thereof, with respect to the performance of any power, duty or function  
11 of the office or the exercise of any other authority of the citizens' insur-  
12 ance advisory board.

13 Sec. 4. K.S.A. 40-955 is hereby amended to read as follows: 40-955.

14 (a) Every insurer shall file with the commissioner, except as to inland  
15 marine risks where general custom of the industry is not to use manual  
16 rates or rating plans, every manual of classifications, rules and rates, every  
17 rating plan, policy form and every modification of any of the foregoing  
18 which it proposes to use. Every such filing shall indicate the proposed  
19 effective date and the character and extent of the coverage contemplated  
20 and shall be accompanied by the information upon which the insurer  
21 supports the filings. A filing and any supporting information shall be open  
22 to public inspection after it is filed with the commissioner. An insurer  
23 may satisfy its obligations to make such filings by authorizing the com-  
24 missioner to accept on its behalf the filings made by a licensed rating  
25 organization or another insurer. Nothing contained in this act shall be  
26 construed to require any insurer to become a member or subscriber of  
27 any rating organization.

28 (b) Any rate filing for the basic coverage required by K.S.A. 40-3401  
29 *et seq.* and amendments thereto, loss costs filings for workers compen-  
30 sation, and rates for assigned risk plans established by article 21 of chapter  
31 40 of the Kansas Statutes Annotated or rules and regulations established  
32 by the commissioner shall require approval by the commissioner before  
33 its use by the insurer in this state. Policy forms shall require approval by  
34 the commissioner before use by insurers in this state, consistent with the  
35 requirements of K.S.A. 40-216 and amendments thereto. As soon as rea-  
36 sonably possible after such filing has been made, the commissioner shall  
37 in writing approve or disapprove the same, except that any filing shall be  
38 deemed approved unless disapproved within 30 days of receipt of the  
39 filing.

40 (c) Any other rate filing, except personal lines filings, shall become  
41 effective on filing or any prospective date selected by the insurer, subject  
42 to the commissioner disapproving the same if the rates are determined  
43 to be inadequate, excessive, unfairly discriminatory or otherwise fails to

1 meet the requirements of this act. Personal lines rate filings shall be on  
2 file for a waiting period of 30 days before becoming effective, subject to  
3 the commissioner disapproving the same if the rates are determined to  
4 be inadequate, excessive, unfairly discriminatory or otherwise fail to meet  
5 requirements of this act. The term “personal lines” shall mean insurance  
6 for noncommercial automobile, homeowners, dwelling fire-and-renters  
7 insurance policies, as defined by the commissioner by rules and regula-  
8 tions. A filing complies with this act unless it is disapproved by the com-  
9 missioner within the waiting period or pursuant to subsection (e).

10 (d) In reviewing any rate filing the commissioner may require the  
11 insurer or rating organization to provide, at the insurer’s or rating organiza-  
12 tion’s expense, all information necessary to evaluate the reasonableness  
13 of the filing, to include payment of the cost of an actuary selected by the  
14 commissioner to review any rate filing, if the department of insurance  
15 does not have a staff actuary in its employ.

16 (e) (1) If a filing is not accompanied by the information required by  
17 this act, the commissioner shall promptly inform the company or organiza-  
18 tion making the filing. The filing shall be deemed to be complete when  
19 the required information is received by the commissioner or the company  
20 or organization certifies to the commissioner the information requested  
21 is not maintained by the company or organization and cannot be obtained.  
22 If the commissioner finds a filing does not meet the requirements of this  
23 act, the commissioner shall send to the insurer or rating organization that  
24 made the filing, written notice of disapproval of the filing, specifying in  
25 what respects the filing fails to comply and stating the filing shall not  
26 become effective. If at any time after a filing becomes effective, the com-  
27 missioner finds a filing does not comply with this act, the commissioner  
28 shall after a hearing held on not less than 10 days’ written notice to every  
29 insurer and rating organization that made the filing issue an order spec-  
30 ifying in what respects the filing failed to comply with the act, and stating  
31 when, within a reasonable period thereafter, the filing shall be no longer  
32 effective. Copies of the order shall be sent to such insurer or rating or-  
33 ganization. The order shall not affect any contract or policy made or issued  
34 prior to the expiration of the period set forth in the order.

35 (2) In the event an insurer or organization has no legally effective rate  
36 because of an order disapproving rates, the commissioner shall specify an  
37 interim rate at the time the order is issued. The interim rate may be  
38 modified by the commissioner on the commissioner’s own motion or upon  
39 motion of an insurer or organization. The interim rate or any modification  
40 thereof shall take effect prospectively in contracts of insurance written or  
41 renewed 15 days after the commissioner’s decision setting interim rates.  
42 When the rates are finally determined, the commissioner shall order any  
43 overcharge in the interim rates to be distributed appropriately, except

1 refunds to policyholders the commissioner determines are de minimis  
2 may not be required.

3 (3) *Subject to the provisions of paragraph (6) of subsection (e) of*  
4 *section 1, and amendments thereto*, any person or organization aggrieved  
5 with respect to any filing that is in effect may make written application  
6 to the commissioner for a hearing thereon, provided the insurer or rating  
7 organization that made the filing may not proceed under this subsection.  
8 The application shall specify the grounds to be relied on by the applicant.  
9 If the commissioner finds the application is made in good faith, that the  
10 applicant would be so aggrieved if the applicant's grounds are established,  
11 and that such grounds otherwise justify holding such a hearing, the com-  
12 missioner shall, within 30 days after receipt of the application, hold a  
13 hearing on not less than 10 days' written notice to the applicant and every  
14 insurer and rating organization that made such filing.

15 (4) Every rating organization receiving a notice of hearing or copy of  
16 an order under this section, shall promptly notify all its members or sub-  
17 scribers affected by the hearing or order. Notice to a rating organization  
18 of a hearing or order shall be deemed notice to its members or  
19 subscribers.

20 (f) No insurer shall make or issue a contract or policy except in ac-  
21 cordance with filings which have been filed or approved for such insurer  
22 as provided in this act.

23 (g) The commissioner may adopt rules and regulations to allow sus-  
24 pension or modification of the requirement of filing and approval of rates  
25 as to any kind of insurance, subdivision or combination thereof, or as to  
26 classes of risks, the rates for which cannot practicably be filed before they  
27 are used.

28 (h) Except for workers compensation and employer's liability line, the  
29 following categories of commercial lines risks are considered special risks  
30 which are exempt from the filing requirements in this section: (1) Risks  
31 that are written on an excess or umbrella basis; (2) commercial risks, or  
32 portions thereof, that are not rated according to manuals, rating plans, or  
33 schedules including "a" rates; (3) large risks; and (4) special risks desig-  
34 nated by the commissioner, including but not limited to risks insured  
35 under highly protected risks rating plans, commercial aviation, credit in-  
36 surance, boiler and machinery, inland marine, fidelity, surety and guar-  
37 antee bond insurance risks.

38 (i) For the purposes of this subsection, "large risk" means: (1) An  
39 insured that has total insured property values of \$5,000,000 or more; (2)  
40 an insured that has total annual gross revenues of \$10,000,000 or more;  
41 or (3) an insured that has in the preceding calendar year a total paid  
42 premium of \$50,000 or more for property insurance, \$50,000 or more for  
43 general liability insurance, or \$100,000 or more for multiple lines policies.

1 (j) The exemption for any large risk contained in subsection (h) shall  
2 not apply to workers compensation and employer's liability insurance,  
3 insurance purchasing groups, and the basic coverage required by K.S.A.  
4 40-3401 *et seq.* and amendments thereto.

5 (k) Underwriting files, premium, loss and expense statistics, financial  
6 and other records pertaining to special risks written by any insurer shall  
7 be maintained by the insurer and shall be subject to examination by the  
8 commissioner *and the citizens' insurance advisory board.*

9 Sec. 5. K.S.A. 40-955 is hereby repealed.

10 Sec. 6. This act shall take effect and be in force from and after its  
11 publication in the statute book.

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