

MINUTES OF THE House COMMITTEE ON Insurance

The meeting was called to order by Rep. Rex Hoy at
Chairperson

3:30 ~~xxx~~ a.m./p.m. on January 17, 1984 in room 521 S of the Capitol.

All members were present except:
No exceptions.

Committee staff present:

Wayne Morris, Legislative Research
Gordon Self, Revisor's Office
Mary Sorensen, Committee secretary

Conferees appearing before the committee:

Fletcher Bell, Insurance Commissioner
Larry Magill, for Independent Insurance Agents of Kansas

Chairman Hoy introduced the new members of the committee, and then introduced Fletcher Bell, Insurance Commissioner for the State of Kansas. Commissioner Bell invited the members of the committee to visit the Insurance Department offices and to consider holding a committee meeting in their offices sometime before the end of the session. Commissioner Bell then briefly explained the five legislative proposals the Insurance Department would like to have introduced during this session. These proposals are attached (Attachment 1). The senate committee is being asked to introduce Proposals 1 and 4; and this committee is being asked to introduce Proposals 2, 3, and 5. Commissioner Bell also briefly discussed SB 507 concerning Health Care Providers, and answered some questions from members of the committee.

Larry Magill, representing the Independent Insurance Agents of Kansas, spoke to the committee with a request for a committee bill concerning countersignature requirements on certain insurance policies, and he passed around a rough draft of such a bill (Attachment 2).

Wayne Morris, of Legislative Research, reviewed the bills remaining in committee from the 1983 session, and the action taken by the committee, if any, on these bills. They are as follows: HB 2061 (re-referred), 2062 (re-referred), Sub. 2111 (re-referred), 2118, 2247, 2248 (re-referred), 2251, 2363, 2411, 2435, 2460, 2517, 2518, and 2519.

Rep. Littlejohn moved that the committee have drafted and introduce as committee bills Proposals 2, 3, and 5 from the Insurance Department, and the bill requested by the Independent Insurance Agents of Kansas, and ask to have them referred to the committee for action. Rep. David Webb seconded. The motion carried.

Rep. Hoy announced the next meeting would be at 3:30 Thursday, for an explanation of the two new bills assigned to the committee. Rep. Buntin, Chairman of the Interim Committee that drafted HB 2635, concerning the Firemen's Relief Fund, will be here to explain it; and there will be a staff explanation of HB 2614.

The meeting adjourned at 4:10 PM.

GUEST LIST

COMMITTEE: House Insurance

DATE: Jan 17, 1984

NAME	ADDRESS	COMPANY/ORGANIZATION
ED ROZING	Overland Park KS	DELTA DENTAL
JACK ROBERTS	TOPEKA	BL-BS
Jim McBride	Topeka	United Way
Dick Brock	"	Ins Rept
John	"	" "
Wiana Spacial	Wichita	Jury State Adj.
Kathleen Sepelius	Topeka	Ks Trial Lawyers Assn
Steve Wortman	"	"
Larry Dragill	"	IIAK
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EXPLANATORY MEMORANDUM FOR
LEGISLATIVE PROPOSAL NO. 1

This proposal increases the minimum financial requirements applicable to insurance companies doing business in this state. It proposes to increase the capital stock, surplus and deposit requirements for life insurance companies, including fraternal, by 100%. Property and casualty insurers, including the so-called "1027" companies are increased 50%. Though not scientifically measured or calculated, these increases will place Kansas requirements in the mainstream of those applying in the respective states. We will not be the highest or the lowest and we will be in roughly the same relative position as the preponderance of the states.

A "grandfather" provision has been inserted the effect of which will be as follows: Companies admitted or organized on and after January 1, 1984 must comply with the new requirements -- Companies admitted after January 1, 1969 and prior to January 1, 1984 will have 5 years to comply -- Companies doing business in Kansas on January 1, 1969 will have 5 years to meet the requirements in effect for all other companies prior to the passage of this act and another 5 years to meet the requirements of this proposal. By 1994, under this arrangement, all companies will be subject to the same financial requirements and the favored treatment currently accorded companies that were admitted on January 1, 1969 will be eliminated.

This proposal also eliminates the provisions requiring payment of duplicative admission and renewal fees for companies authorized to transact both life and health and accident insurance.

As an editorial change, this proposal eliminates the obsolete "special" provisions that were included for particular insurers.

LEGISLATIVE PROPOSAL NO. 1

AN ACT relating to insurance; financial requirements; foreign and domestic companies; implementation procedures; amending K.S.A. 40-401, 40-402, 40-901, 40-1027, 40-1102, 40-1103, 40-1104, 40-1204, 40-1210 and 40-1605 and repealing the existing sections.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF KANSAS:

1 Section 1. K.S.A. 40-401 is hereby amended to read as follows: 40-401. Any ten
2 (10) or more persons, a majority of whom are citizens of this state, may associate in
3 accordance with the provisions of this code and form an incorporated company, upon
4 either the stock or mutual plan, to make insurance upon the lives of persons and every
5 insurance appertaining thereto or connected therewith and to grant, purchase or
6 dispose of annuities: Provided, That such companies may incorporate in their policies
7 provisions for the waiver of premiums or for the granting of an annuity to the insured,
8 or for special surrender values or other benefits, in the event that the insured shall
9 from any cause become totally and permanently disabled, and any such company may
10 provide for the payment of a larger sum if death is caused by accident than if it results
11 from any other causes. For the purposes of this section, "totally and permanently
12 disabled" shall mean disabled continuously for a period, such period to be specified in
13 any such provision, of not less than sixty (60) days nor more than one (1) year, except
14 this provision shall not apply to and specifically excludes group life insurance. Such
15 company may make insurance on the health of individuals, against accidental personal
16 injury, disablement or death, and against loss, liability or expense on account thereof;
17 but such company so transacting such health and accident insurance business, or either
18 kind, shall maintain statutory and separate reserves for such business, shall issue such
19 contracts only in separate policies, ~~shall pay separate admission and renewal fees and~~
20 ~~taxes,~~ and shall make separate reports to the commissioner of insurance of the
21 premiums received and expenses and losses incurred in connection with such business.

22 The business of life insurance in this state shall not be in any wise conducted or
23 transacted by any company which in this state makes insurance on marine, fire, inland,
24 or any other like risks: Provided, That life, health and accident insurance on the group
25 or industrial plan may be combined in one policy, which shall show the premium
26 charged for life insurance and the premium charged for health and accident insurance,
27 and the assured, at his or her option, may discontinue either and by payment of the
28 stated premium continue the other. The amount of capital stock of a company
29 organized on the stock plan shall be not less than ~~three hundred thousand dollars~~
30 ~~(\$300,000).~~ six hundred thousand dollars (\$600,000).

31 Companies organized on the mutual plan shall be required to have applications
32 from at least two hundred (200) persons for insurance upon their lives, aggregating not
33 less than ~~two hundred thousand dollars (\$200,000),~~ four hundred thousand dollars
34 (\$400,000), upon which one full annual premium in cash shall have been paid. No such
35 company shall transact any business of insurance until, if a stock company, all the
36 capital stock named in its charter has been paid in cash including all contributions to
37 surplus to be made by the original purchasers of such stock: Provided, That such
38 surplus shall be at least ~~three hundred thousand dollars (\$300,000),~~ six hundred
39 thousand dollars (\$600,000), and at least ~~two hundred thousand dollars (\$200,000),~~ four
40 hundred thousand dollars (\$400,000), in securities authorized by this code shall have
41 been deposited with the state treasurer and commissioner of insurance as joint
42 custodians, and if a mutual company a guaranty fund of at least ~~six hundred thousand~~
43 ~~dollars (\$600,000),~~ one million two hundred thousand dollars (\$1,200,000), and at least
44 ~~two hundred thousand dollars (\$200,000)~~ four hundred thousand dollars (\$400,000) of
45 which shall be in securities as authorized in this code and deposited with the state
46 treasurer and commissioner of insurance as joint custodians. Said guaranty fund may
47 be returned to the contributors thereto with interest at six percent (6%) per annum
48 whenever the surplus shall equal the amount of such guaranty fund and interest, and no
49 company shall transact any business of insurance unless it shall maintain the capital
50 and/or surplus herein required of a company commencing to transact business, or, if a
51 mutual company, the required number and amount of applications for insurance have
52 been received and the annual premiums thereon collected in cash. Such securities
53 deposited pursuant to this section shall be held by the state treasurer and
54 commissioner of insurance as joint custodians in trust for the benefit and protection of
55 the policyholders and/or creditors of the company depositing the same and may be
56 withdrawn only upon order of the commissioner of insurance.

57 Until May 1, 1989, life insurers, which phrase shall include a fraternal benefit
58 society which has filed with the commissioner of insurance a plan for conversion to a
59 stock or mutual life insurance company under the terms of K.S.A. 40-726 to 40-733,
60 both inclusive, and which plan has been approved by the commissioner, which were
61 authorized to do business in Kansas ~~on~~ subsequent to January 1, 1969, but prior to
62 January 1, 1984, shall be required to have a paid-up capital stock, surplus and deposit
63 equal to that which was required by this section prior to the passage of this act. After
64 May 1, 1989, such companies shall comply with the paid-up capital stock, surplus and
65 deposit requirements provided by this act.

66 Until May 1, 1989, companies doing business in this state on January 1, 1969 shall
67 be required to have a paid-up capital stock, surplus and deposit equal to that required
68 of such companies prior to the passage of this act. On and after May 1, 1989,
69 companies doing business in this state on January 1, 1969 shall be required to have a
70 paid-up capital stock, surplus and deposit equal to that required of all other companies
71 to whom this section applies immediately prior to the passage of this act.

72 On and after May 1, 1994, companies doing business in this state on January 1,
73 1969 shall comply with the paid-up capital, surplus and deposit requirements provided
74 by this act.

75 Sec. 2. K.S.A. 40-402 is hereby amended to read as follows: 40-402. It shall not
76 be lawful for any life insurance company organized or incorporated under the laws of
77 the United States or of any other state of the United States to transact business in this
78 state unless, if a stock company, it shall have and maintain a paid-up capital stock of
79 at least ~~three hundred thousand dollars (\$300,000)~~ six hundred thousand dollars
80 (\$600,000) and a surplus of at least ~~three hundred thousand dollars (\$300,000),~~ six
81 hundred thousand dollars (\$600,000), and shall have deposited ~~two hundred thousand~~
82 dollars (\$200,000), ~~four hundred thousand dollars (\$400,000),~~ or if a mutual company, a
83 surplus of at least ~~six hundred thousand dollars (\$600,000),~~ one million two hundred
84 thousand dollars (\$1,200,000), and shall have deposited ~~two hundred thousand dollars~~
85 (\$200,000) ~~four hundred thousand dollars (\$400,000)~~ in approved securities for the
86 benefit of all of its policyholders and/or creditors with the commissioner,
87 superintendent of insurance or chief financial officer of the state in which such
88 company is incorporated, or, if such company is incorporated under the laws of the
89 United States, with some financial officer of the United States; or if incorporated
90 under the laws of any foreign government, such deposit shall be made with such an
91 officer in any state of the United States: Provided, That any such company not having
92 such deposit made in the state in which it is organized, or with some officer of the
93 United States, shall make such deposit in this state in the manner and subject to the
94 provisions relating to such companies organized under the laws of this state. Until
95 May 1, 1989, life insurers which were authorized to do business in Kansas ~~on~~
96 subsequent to January 1, 1969, but prior to January 1, 1984, shall be required to have a
97 paid-up stock, surplus and deposit equal to that which was required by this section
98 prior to the passage of this act. After May 1, 1989, such companies shall comply with
99 the paid-up capital stock, surplus and deposit requirements provided by this act.

100 Until May 1, 1989, companies doing business in this state on January 1, 1969 shall
101 be required to have a paid-up capital stock, surplus and deposit equal to that required
102 of such companies prior to the passage of this act. On and after May 1, 1989,
103 companies doing business in this state on January 1, 1969 shall be required to have a
104 paid-up capital stock, surplus and deposit equal to that required of all other companies
105 to whom this section applies immediately prior to the passage of this act.

106 On and after May 1, 1994, companies doing business in this state on January 1,
107 1969 shall comply with the paid-up capital, surplus and deposit requirements provided
108 by this act.

109 Sec. 3. K.S.A. 40-901 is hereby amended to read as follows: 40-901. It shall be
110 lawful for any stock fire insurance company organized under the laws of this state, the
111 United States, or any other country, state or territory, and authorized to transact
112 business in this state, having a paid-up capital of not less than ~~three hundred thousand~~
113 dollars (\$300,000) ~~four hundred fifty thousand dollars (\$450,000), and a surplus of two~~
114 hundred thousand dollars (\$200,000), ~~three hundred thousand dollars (\$300,000) and a~~
115 deposit equal to the minimum capital stock to make contracts of insurance or to cede
116 or receive reinsurance thereon, for such of the following kinds of business as are
117 specified in its articles of incorporation, namely:

118 (a) To make insurance upon property or any valuable interest thereon against
119 loss or damage caused by fire, lightning, or other electrical disturbances, earthquake,
120 windstorm, cyclone, tornado, tempest, hail, frost, snow, ice, sleet, weather or climatic
121 condition, including excess or deficiency of moisture, flood, rain, or drought, a rising
122 of the waters of the ocean or its tributaries, bombardment, invasion, insurrection, riot,
123 civil war or commotion, military or usurped power, explosion, other than the explosion
124 of steam boilers, or the breaking of flywheels, against loss or damage from any cause
125 to trees, crops and farm products.

126 (b) To make insurance against loss or damage to property and against the
127 liability of the insured for loss or damage to the property of others caused by water
128 entering through leaks or openings in buildings or from the breakage or leakage of
129 sprinklers, pumps, water pipes, plumbing and all tanks, apparatus, conduits and
130 containers designated to bring water into buildings or for its storage or utilization
131 therein, or caused by the falling of a tank, tank platform or supports, and against loss
132 or damage from any cause to such sprinklers, pumps, water pipes, plumbing, tanks,
133 apparatus, conduits or containers.

134 (c) To make insurance upon teams, automobiles and all vehicles, airplanes,
135 seaplanes, dirigibles and other aircraft: (1) Against all loss or damage to the same,
136 their fittings and contents from any cause, including the hazards of burglary, theft or
137 other criminal act, vandalism or malicious mischief. (2) Against loss or damage to
138 property, including legal liability therefor, caused by the operation, maintenance and
139 use of the same.

140 (d) To make insurance against loss or damage to vessels, craft, aircraft,
141 automobiles and vehicles of every kind (excluding automobiles operating under their
142 own power or while in storage not incidental to transportation) as well as all goods,
143 freights, cargoes, merchandise, effects, disbursements, profits, moneys, bullion,
144 precious stones, securities, choses in action, evidence of debt, valuable papers,
145 bottomry and respondentia interests, and all kinds of property and interests herein in
146 respect to, pertaining to or in connection with any or all risks or perils of navigation,
147 transit or transportation, including war risks, on or under any seas or waters, on land or
148 in the air, or while being assembled, packed, crated, baled, compressed or similarly
149 prepared for shipment or while awaiting the same, or during any delays, storage,
150 transshipment or reshipment incidental thereto; including marine builders' risks and
151 war risks; and from loss or damage to persons or property in connection with or
152 appertaining to marine, inland marine, transit or transportation insurance, including
153 loss or damage to either, arising out of or in connection with the construction, repair,
154 operation, maintenance or use of the subject matter of such primary insurance (but not
155 including life insurance or surety bonds), but except as herein specified shall not mean
156 insurance against loss by reason of bodily injury to the person.

157 (e) Against loss or damage to property from any casualty, power to insure
158 against which is not prohibited by the laws of this state or exclusively delegated by
159 this code to any other class or kind of company.

160 (f) And against consequential loss or damage arising from any of the causes
161 above enumerated.

162 (g) Against loss or damage to horses, cattle, other livestock and domestic
163 animals by accident, theft or death, or against any known or contingent event
164 whatever which may lawfully be the subject of insurance.

165 And generally to do and perform all other matters and things proper to promote
166 these objects: Provided, That no such insurance company organized under the laws of
167 this state transacting business in this state shall expose itself to loss on any one risk or
168 hazard to an amount exceeding ten percent (10%) of its paid-up capital and surplus,
169 unless the excess shall be reinsured in some other company duly authorized to transact
170 similar business in this state or as otherwise provided in the insurance code, and no
171 such insurance company not organized under the laws of this state and transacting
172 business in this state shall expose itself to loss on any one risk or hazard to an amount
173 exceeding ten percent (10%) of its paid-up capital and surplus unless the excess shall
174 be reinsured either in some company duly authorized to transact similar business in
175 this state or as provided by the laws of such company's domiciliary state: Provided,
176 That any stock company with charter powers so to do, and having a paid-up capital
177 stock of at least ~~six hundred thousand dollars (\$600,000)~~ nine hundred thousand dollars
178 (\$900,000) and a surplus of at least ~~four hundred thousand dollars (\$400,000)~~, six
179 hundred thousand dollars (\$600,000), may in addition to the kinds and classes of
180 business mentioned in this section, transact the kinds and classes of business mentioned
181 in K.S.A. 40-1102, including surety bonds and except as herein specified, insurance
182 against loss by reason of bodily injuries as provided for in said K.S.A. 40-1102, and
183 shall maintain all reserves required by law for the kinds and class of business
184 transacted: Provided further, Any such company executing suretyship obligations shall
185 be subject to the provisions of K.S.A. 40-1107. Until May 1, 1989, stock insurers which
186 were authorized to transact business in Kansas on or subsequent to January 1, 1969, but
187 prior to January 1, 1984, shall be required to have paid-up capital stock, surplus, and
188 deposits equal to that which was required by this section prior to the passage of this
189 act: Provided, That stock fire insurers, which were authorized to do business in Kansas
190 on January 1, 1970, solely to issue policies under only one (1) subdivision of this
191 section, may issue policies under subdivisions (a) to (g), inclusive, of this section and
192 may, in addition, engage in reinsurance transactions as respects the kinds and classes
193 of business mentioned in K.S.A. 40-1102, when such insurer is possessed of a paid-up
194 capital of two hundred fifty thousand dollars (\$250,000) and a surplus of one hundred
195 thousand dollars (\$100,000): Provided, That, except as otherwise provided, any stock

196 company which was authorized to do business in Kansas on January 1, 1965, shall be
197 required to have a paid-up capital stock and surplus equal to that required by this
198 section on January 1, 1965, and after May 1, 1970, such company shall comply with the
199 paid-up capital stock and surplus requirements provided by this act. Provided further,
200 That any stock company incorporated under the laws of this state on December 21,
201 1961, which was authorized to do business in Kansas on January 1, 1965, shall be
202 required to have a paid-up capital stock and surplus equal to that required by this
203 section on January 1, 1965, and after May 1, 1975, such company shall comply with the
204 paid-up capital stock and surplus requirements provided by this act. After May 1,
205 1989, such companies shall comply with the paid-up capital stock, surplus and deposit
206 requirements provided by this act.

207 Until May 1, 1989, companies doing business in this state on January 1, 1969 shall
208 be required to have a paid-up capital stock, surplus and deposit equal to that required
209 of such companies prior to the passage of this act. On and after May 1, 1989,
210 companies doing business in this state on January 1, 1969 shall be required to have a
211 paid-up capital stock, surplus and deposit equal to that required of all other companies
212 to whom this section applies immediately prior to the passage of this act.

213 On and after May 1, 1994, companies doing business in this state on January 1,
214 1969 shall comply with the paid-up capital, surplus and deposit requirements provided
215 by this act.

216 Sec. 4. K.S.A. 40-1027 is hereby amended to read as follows: 40-1027. (a) Any
217 insurance company organized and existing as a mutual fire and tornado insurance
218 company of the state of Kansas, and having a bona fide net surplus of ~~three hundred~~
219 ~~thousand dollars (\$300,000),~~ four hundred fifty thousand dollars (\$450,000), and having
220 deposited with the commissioner of insurance lawful securities for the protection of its
221 policyholders and/or creditors, in the amount of ~~one hundred thousand dollars~~
222 ~~(\$100,000),~~ one hundred fifty thousand dollars (\$150,000), shall have the authority and
223 right to make and issue contracts of insurance or to cede or accept reinsurance on any
224 portion of any risk for the following kinds of insurance, namely:

225 (1) To make insurance upon property or any valuable interest therein against loss
226 or damage caused by fire, lightning or other electrical disturbances, earthquake,
227 windstorm, cyclone, tornado, tempest, hail, frost, snow, ice, sleet, weather or climatic
228 condition, including excess or deficiency of moisture, flood, rain, or drought; a rising
229 of the waters of the ocean or its tributaries, bombardment, invasion, insurrection, riot,
230 civil war or commotion, military or usurped power, explosion, other than the explosion
231 of steam boilers, or the breaking of flywheels; against loss or damage from any cause
232 to trees, crops and farm products.

233 (2) To make insurance against loss or damage to property and against the
234 liability of the insured for loss or damage to the property of others caused by water
235 entering through leaks or openings in buildings or from the breakage or leakage of
236 sprinklers, pumps, water pipes, plumbing and all tanks, apparatus, conduits and
237 containers designated to bring water into buildings or for its storage or utilization
238 therein; or caused by the falling of a tank, tank platform or supports, and against loss
239 or damage from any cause to such sprinklers, pumps, water pipes, plumbing, tanks,
240 apparatus, conduits or containers.

241 (3) And against consequential loss or damage arising from any of the causes
242 above enumerated. And generally to do and perform all other matters and things
243 proper to promote these objects. It shall be requisite to so acting, for its board of
244 directors to authorize the same by the affirmative vote of at least two-thirds (2/3) of
245 its membership. Any company having taken action as herein provided shall certify
246 such action to the commissioner of insurance, together with a statement showing its
247 financial status and a net surplus sufficient to warrant such action. Any company
248 operating hereunder shall maintain unearned premium reserves equal to a pro rata
249 amount of the premiums received on all unexpired risks and such unearned premium
250 reserves shall be held and regarded as an absolute liability of the company. For the
251 purpose of this section the unearned premium reserve for policies written on the note
252 plan shall be determined by the amount of cash collected on said notes in excess of the
253 percentage earned on policies written for a cash premium. Until May 1, 1989 Such
254 companies which were authorized to transact business in Kansas on January 1, 1969,
255 1984, shall be required to have surplus and deposit equal to that which was required by
256 this section prior to the passage of this act.

257 (b) Any insurance company organized and existing as a mutual fire and tornado
258 insurance company of the state of Kansas shall have the authority and right to make
259 and issue contracts of insurance in addition to those specified in subsection (a) of this
260 section, which include such amount and kind of insurance against legal liability for
261 injury, damage or loss to the person or property of others, and for medical, hospital,
262 and surgical expense related to such injury, as the commissioner of insurance deems to
263 be reasonably incidental to insurance of real or personal property against fire or other
264 perils under policies covering residential properties involving not more than two (2)
265 with or without incidental office, professional, private school or studio occupancy by

266 an insured, whether or not the premium or rate charged for certain perils so covered is
 267 specified in the policy. Any provision of K.S.A. 40-1016, to the contrary
 268 notwithstanding: (i) No insurer having a bona fide net surplus of at least ~~four hundred~~
 269 ~~thousand dollars (\$400,000)~~ six hundred thousand dollars (\$600,000) but less than ~~one~~
 270 ~~million dollars (\$1,000,000)~~ one million five hundred thousand dollars (\$1,500,000)
 271 authorized as to property insurance only shall, pursuant to this subsection (b), retain
 272 risk as to any one subject of insurance as to hazards other than property insurance
 273 hazards in an amount exceeding three percent (3%) of its surplus to policyholders; and
 274 (ii) no insurer having a bona fide net surplus of less than ~~four hundred thousand dollars~~
 275 ~~(\$400,000)~~ six hundred thousand dollars (\$600,000) authorized as to property insurance
 276 only shall, pursuant to this subsection, retain any risk other than property insurance
 277 hazards, and all such companies shall reinsure all such risks as to hazards other than
 278 property insurance hazards. Until May 1, 1989 such companies which were authorized
 279 to transact business in Kansas on January 1, 1969, 1984, shall be required to have
 280 surplus and deposit equal to that which was required by this section prior to the
 281 passage of this act. After May 1, 1989, such companies shall comply with the paid-up
 282 capital stock, surplus and deposit requirements provided by this act.

283 Until May 1, 1989, companies doing business in this state on January 1, 1969 shall
 284 be required to have a paid-up capital stock, surplus and deposit equal to that required
 285 of such companies prior to the passage of this act. On and after May 1, 1989,
 286 companies doing business in this state on January 1, 1969 shall be required to have a
 287 paid-up capital stock, surplus and deposit equal to that required of all other companies
 288 to whom this section applies immediately prior to the passage of this act.

289 On and after May 1, 1994, companies doing business in this state on January 1,
 290 1969 shall comply with the paid-up capital, surplus and deposit requirements provided
 291 by this act.

292 Sec. 5. K.S.A. 40-1102 is hereby amended to read as follows: 40-1102. Any
 293 insurance company, other than a life insurance company, organized under the laws of
 294 this state or authorized to transact business in this state may make all or any one or
 295 more of the kinds of insurance and reinsurance comprised in any one of the following
 296 numbered classes, subject to and in accordance with its articles of incorporation and
 297 the provisions of this code.

298 (1) (a) To insure against bodily injury or death by accident and against
 299 disablement resulting from sickness and every insurance appertaining thereto.

300 (b) To insure against the liability of the insured for the death or disability of or
 301 damages suffered by an employee or other person, and to insure the obligations
 302 accepted by or imposed upon employers under the laws for workmen's compensation.

303 (c) To insure against loss of or damage to, or destruction of property of the
 304 insured, or to the property interests of the insured, and to insure against such loss or
 305 damage to the property of others or to the property interests of others, for which loss
 306 or damage the insured may be liable.

307 (d) To become surety or guarantor for any person, copartnership or corporation
 308 in any position or place of trust or as custodian of money or property, public or
 309 private; to be come a surety or guarantor for the performance by any person,
 310 copartnership or corporation of any lawful obligation, undertaking, agreement or
 311 contract of any kind, except contracts or policies of insurance.

312 (e) To insure titles to property and against loss by reason of defective titles or
 313 encumbrances.

314 (f) To insure the correctness of searches for all instruments, liens, and charges
 315 affecting property.

316 (g) To insure against loss by reason of the insufficiency of the security conveyed
 317 or pledged under mortgage or deed of trust.

318 (h) To insure the payment of bonds and notes secured by mortgages or deeds of
 319 trust, and to buy and sell mortgages or deeds of trust upon real property and interest
 320 therein.

321 (i) To insure against loss or damage which may result from the failure of debtors
 322 to pay their obligations to the insured, and including the incidental power to acquire
 323 and dispose of debts so insured, and to collect any debts owed to such insurer or to any
 324 person so insured by him.

325 (j) To insure the payment of money for personal services under contracts of
 326 hiring.

327 (k) To make inspections of and issue certificates of inspections upon elevators,
 328 boilers, machinery, and all mechanical apparatus and appliances appertaining thereto.

329 (l) To insure against loss of use or occupancy caused by or resulting from any of
 330 the risks comprised within this class.

331 (m) To insure against liability, loss or damage from any other risk, hazard, or
 332 contingency which may lawfully be the subject of insurance, and specific authority for
 333 the transaction of which has not been exclusively delegated to any other class or kind
 334 of company: Provided, That any company writing insurance against the loss or damage
 335 caused by fire, lightning, or by the perils of either marine or inland navigation or
 336 transportation, to buildings or other structures erected upon land, to piers, wharves,

337 bulkheads, warehouses, marine vessels, railroad engines, rolling stock or equipment of
338 railroads, or carrying charges for shipments of freight shall have a paid-up capital
339 stock of at least ~~six hundred thousand dollars (\$600,000)~~, nine hundred thousand dollars
340 (\$900,000), a surplus of at least ~~four hundred thousand dollars (\$400,000)~~, six hundred
341 thousand dollars (\$600,000), and shall have deposited, for the protection of its
342 policyholders and/or creditors, with the state treasurer and commissioner of insurance
343 as joint custodians securities authorized by K.S.A. 40-227 in an amount equal to not
344 less than the minimum capital stock required by such a company, and shall maintain all
345 reserves required by law for the kinds and classes of business transacted. The deposit
346 required by this section for insurance companies not organized under the laws of this
347 state may be deposited as provided herein or with the insurance department of any
348 other state in the United States: ~~Provided, Until May 1, 1989~~ insurers which were
349 authorized to transact business in Kansas on subsequent to January 1, 1969, but prior
350 to January 1, 1984, shall be required to have paid-up capital stock, surplus, and
351 deposits equal to that which was required by this section prior to the passage of this
352 act: Provided further, That, except as otherwise provided, any stock company which
353 was authorized to do business in Kansas on January 1, 1965, shall be required to have a
354 paid-up capital stock and surplus equal to that required by this section on January 1,
355 1965, and after May 1, 1970, such company shall comply with the paid-up capital stock
356 and surplus requirements provided by this act: Provided further, That any stock
357 company incorporated under the laws of this state on December 21, 1961, which was
358 authorized to do business in Kansas on January 1, 1965, shall be required to have a
359 paid-up capital stock and surplus equal to that required by this section on January 1,
360 1965, and after May 1, 1975, such company shall comply with the paid-up capital stock
361 and surplus requirements provided by this act. After May 1, 1989, such companies
362 shall comply with the paidup capital stock, surplus and deposit requirements provided
363 by this act.

364 Until May 1, 1989, companies doing business in this state on January 1, 1969 shall
365 be required to have a paid-up capital stock, surplus and deposit equal to that required
366 of such companies prior to the passage of this act. On and after May 1, 1989,
367 companies doing business in this state on January 1, 1969 shall be required to have a
368 paid-up capital stock, surplus and deposit equal to that required of all other companies
369 to whom this section applies immediately prior to the passage of this act.

370 On and after May 1, 1994, companies doing business in this state on January 1,
371 1969 shall comply with the paid-up capital, surplus and deposit requirements provided
372 by this act.

373 Sec. 6. K.S.A. 40-1103 is hereby amended to read as follows: 40-1103. No
374 insurance company hereafter organized under the laws of this state shall be authorized
375 to commence the transaction of either of the numbered classes of business specified in
376 K.S.A. 40-1102 in this state unless it has a capital stock of at least ~~three hundred~~
377 ~~thousand dollars (\$300,000)~~ four hundred fifty thousand dollars (\$450,000) and a surplus
378 of at least ~~two hundred thousand dollars (\$200,000)~~, three hundred thousand dollars
379 (\$300,000), both fully paid in cash, and shall have deposited with the state treasurer
380 and commissioner of insurance as joint custodians securities authorized by K.S.A. ~~40-~~
381 ~~227~~ 40-2a01 et seq. in an amount equal to not less than the minimum capital stock
382 required of such company for the protection of its policyholders and/or
383 creditors: ~~Provided, That stock fire insurers, which were authorized to do business in~~
384 ~~Kansas on January 1, 1970, solely to issue policies under only (one) (1) subdivision of~~
385 ~~K.S.A. 40-901, may engage in reinsurance transactions as respects the kinds and~~
386 ~~classes of insurance specified in K.S.A. 40-1102 when such insurer is possessed of a~~
387 ~~paid-up capital of two hundred fifty thousand dollars (\$250,000) and a surplus of one~~
388 ~~hundred thousand dollars (\$100,000):~~ Provided further, Such Until May 1, 1984
389 companies which were authorized to transact business in Kansas on subsequent to
390 January 1, 1969, but prior to January 1, 1984 shall be required to have paid-up capital
391 stock, surplus, and deposits equal to that which was required by this section prior to
392 the passage of this act: Provided further, That, except as otherwise provided, any
393 stock company which was authorized to do business in Kansas on January 1, 1965, shall
394 be required to have a paid-up capital stock and surplus equal to that required by this
395 section on January 1, 1965, and after May 1, 1970, such company shall comply with the
396 paid-up capital stock and surplus requirements provided by this act: And provided
397 further, That any stock company incorporated under the laws of this state on
398 December 21, 1961, which was authorized to do business in Kansas on January 1, 1965,
399 shall be required to have paid-up capital stock and surplus equal to that required by
400 this section on January 1, 1965, and after May 1, 1975, such company shall comply
401 with the paid-up capital stock and surplus requirements provided by this act. After
402 May 1, 1989, such companies shall comply with the paid-up capital stock, surplus and
403 deposit requirements provided by this act.

404 Until May 1, 1989, companies doing business in this state on January 1, 1969 shall
405 be required to have a paid-up capital stock, surplus and deposit equal to that required
406 of such companies prior to the passage of this act. On and after May 1, 1989,

407 companies doing business in this state on January 1, 1969 shall be required to have a
408 paid-up capital stock, surplus and deposit equal to that required of all other companies
409 to whom this section applies immediately prior to the passage of this act.

410 On and after May 1, 1994, companies doing business in this state on January 1,
411 1969 shall comply with the paid-up capital, surplus and deposit requirements provided
412 by this act.

413 Sec. 7. K.S.A. 40-1104 is hereby amended to read as follows: 40-1104. Except
414 as authorized in K.S.A. 40-209, 40-401, and 40-501, no insurance company organized
415 under the laws of any other state, district, territory or possession of the United States
416 shall hereafter transact any of the kinds or classes of business specified in K.S.A. 40-
417 1102 in this state unless at the time of its application to transact such business in this
418 state it has a capital, ~~and surplus and deposits~~ equal to that required of a similar
419 domestic insurance company. ~~Such~~ Until May 1, 1989 companies which were
420 authorized to do business in Kansas ~~on~~ subsequent to January 1, 1969, but prior to
421 January 1, 1984 shall be required to have capital stock, surplus and deposits equal to
422 that required by this section prior to the passage of this act. After May 1, 1989, such
423 companies shall comply with the paid-up capital stock, surplus and deposit
424 requirements provided by this act.

425 Until May 1, 1989, companies doing business in this state on January 1, 1969 shall
426 be required to have a paid-up capital stock, surplus and deposit equal to that required
427 of such companies prior to the passage of this act. On and after May 1, 1989,
428 companies doing business in this state on January 1, 1969 shall be required to have a
429 paid-up capital stock, surplus and deposit equal to that required of all other companies
430 to whom this section applies immediately prior to the passage of this act.

431 On and after May 1, 1994, companies doing business in this state on January 1,
432 1969 shall comply with the paid-up capital, surplus and deposit requirements provided
433 by this act. No insurance company organized under the laws of a country other than
434 the United States shall hereafter be authorized to transact such business in this state
435 unless it shall satisfy the commissioner of insurance of this state that it has on deposit
436 with American trustees, or with the proper officer or officers of a state or states of
437 the United States, or both, satisfactory securities equal in value to the total of the
438 capital and surplus required of a similar domestic insurance company, and that such
439 securities are held in trust for the fulfillment by said company of all its obligations
440 within the United States. Every such foreign insurance company, when applying for
441 admission to transact business in this state, shall file with the commissioner of
442 insurance (1) a copy of its charter or deed of trust or settlement and bylaws; (2) a
443 verified detailed statement of all the items, matter and other information in regard to
444 its affairs required by law to be stated in the annual report of a similar domestic
445 insurance company.

446 Sec. 8. K.S.A. 40-1204 is hereby amended to read as follows: 40-1204. The
447 commissioner of insurance shall issue a certificate of authority to such company, when
448 it has fully complied with the following conditions:

449 (a) It shall hold bona fide applications for insurance upon which it shall issue
450 simultaneously, or it shall have in force, at least two hundred (200) policies to at least
451 two hundred (200) members for the same kind of insurance upon not less than two
452 hundred (200) separate risks of any single class each within the maximum single risk
453 described herein.

454 (b) No such insurance company organized under the laws of this state and
455 transacting business in this state shall expose itself to loss on any one risk or hazard to
456 an amount exceeding ten percent (10%) of its surplus unless the excess shall be
457 reinsured in some other company duly authorized to transact similar business in this
458 state or as otherwise provided in the insurance code and no such insurance company
459 not organized under the laws of this state and transacting business in this state shall
460 expose itself to loss on any one risk or hazard to an amount exceeding ten percent
461 (10%) of its surplus unless the excess shall be reinsured either in some company duly
462 authorized to transact similar business in this state or as provided by the laws of such
463 company's domiciliary state.

464 (c) It shall have collected the full consideration according to its filed rate on
465 each contract applied for. The total of such considerations shall be held in cash or
466 securities in which such insurance companies are authorized by law to invest, and it
467 shall be in the possession of a residue of lawful assets over and above all liabilities in
468 an amount not less than the capital and surplus required of a domestic stock insurance
469 company transacting the same kinds of insurance. Such company shall deposit with the
470 state treasurer and commissioner of insurance as joint custodians lawful securities in
471 an amount equal to not less than the minimum capital stock required of a domestic
472 stock insurance company transacting the same kinds of insurance.

473 (d) ~~Such~~ Until May 1, 1989, companies which were authorized to do business in
474 Kansas ~~on~~ subsequent to January 1, 1969, but prior to January 1, 1984, shall be
475 required to have surplus and deposits that are equal to that which was required by
476 section (c) prior to the passage of this act.

477 (e) For the purpose of transacting employer's liability and workmen's
 478 compensation insurance, the application shall cover not less than one thousand five
 479 hundred (1,500) employees, each such employee being considered a separate risk for
 480 determining the maximum single risk. After May 1, 1989, such companies shall comply
 481 with the surplus and deposit requirements provided by this act.

482 Until May 1, 1989, companies doing business in this state on January 1, 1969 shall
 483 be required to have a surplus and deposit equal to that required of such companies
 484 prior to the passage of this act. On and after May 1, 1989, companies doing business in
 485 this state on January 1, 1969 shall be required to have a surplus and deposit equal to
 486 that required of all other companies to whom this section applies immediately prior to
 487 the passage of this act.

488 On and after May 1, 1994, companies doing business in this state on January 1,
 489 1969 shall comply with the surplus and deposit requirements provided by this act.

490 Sec. 9. K.S.A. 40-1210 is hereby amended to read as follows: 40-1210. Any such
 491 mutual insurance company organized under the laws of any other country, state or
 492 territory, having a surplus and deposit equal to ~~the surplus that~~ required of a domestic
 493 company writing the same kind of business ~~and being in possession of total assets of~~
 494 ~~not less than one hundred thousand dollars,~~ and having complied with the other
 495 requirements of this code, shall be authorized to transact business in this state, ~~to~~
 496 ~~the extent and with the powers and privileges specified in this article. Provided, That~~
 497 ~~in the case of companies writing public liability and property damage insurance on~~
 498 ~~taxicabs and on trucks and buses licensed by the state corporation commission shall be~~
 499 ~~in possession of a surplus of not less than two hundred thousand dollars.~~

500 Sec. 10. K.S.A. 40-1605 is hereby amended to read as follows: 40-1605. There
 501 shall be maintained at all times, unearned premiums or reserves, in cash or securities
 502 authorized by the laws of the state in which the principal office of the attorney is
 503 located, for the investment of similar funds of insurance companies doing the same
 504 kind of business, in an amount equal to a pro rata amount of the premium or deposits
 505 collected from subscribers on all unexpired risks. In addition to the assets previously
 506 provided in this section there shall also be maintained as a claim or loss reserve, cash
 507 or such securities sufficient to discharge all liability on all outstanding losses arising
 508 under policies issued, the same to be calculated in accordance with the laws of the
 509 state relating to similar reserves for companies insuring similar risks. Any reciprocal
 510 exchange shall have and maintain a surplus equal to the capital and surplus required of
 511 a domestic stock insurance company transacting the same kinds of insurance and may
 512 provide for the issuance of a nonassessable policy. Any reciprocal exchange issuing
 513 nonassessable policies shall have lawful securities on deposit, for the protection of all
 514 subscribers and/or creditors of the exchange, with the department of insurance of this
 515 or any other state in the United States in an amount equal to the minimum capital
 516 stock required of a domestic stock insurance company transacting the same kinds of
 517 insurance. ~~Such~~ Until May 1, 1989, companies which were authorized to do business in
 518 Kansas on subsequent to January 1, 1969, but prior to January 1, 1984, shall be
 519 required to have surplus and deposit equal to that which was required by this section
 520 prior to the passage of this act. After May 1, 1989, such companies shall comply with
 521 the paid-up capital stock, surplus and deposit requirements provided by this act.

522 Until May 1, 1989, companies doing business in this state on January 1, 1969 shall
 523 be required to have a surplus and deposit equal to that required of such companies
 524 prior to the passage of this act. On and after May 1, 1989, companies doing business in
 525 this state on January 1, 1969 shall be required to have a surplus and deposit equal to
 526 that required of all other companies to whom this section applies immediately prior to
 527 the passage of this act.

528 On and after May 1, 1994, companies doing business in this state on January 1,
 529 1969 shall comply with the surplus and deposit requirements provided by this act. No
 530 reciprocal exchange shall issue any assessable insurance policies.

531 Sec. 11. K.S.A. 40-401, 40-402, 40-901, 40-1027, 40-1102, 40-1103, 40-1104, 40-
 532 1204, 40-1210 and 40-1605 are hereby repealed.

533 Sec. 12. This act shall take effect and be in force from and after its publication
 534 in the statute book.

EXPLANATORY MEMORANDUM FOR
LEGISLATIVE PROPOSAL NO. 2

This proposal amends House Bill No. 2247 to meet the objections raised by Prime Health of Kansas City and Family Health Plan of Newton during the 1983 legislative session.

Specifically, Prime Health was concerned because the original bill did not accommodate a situation where an HMO does business in more than one state. As a result, since Prime Health is domiciled in Missouri and also does business in Kansas and since the Missouri deposit law was already in place or about to be enacted, it appeared Prime Health would be subject to duplicative deposit requirements. Consequently, the amendment following line 91 will permit us to recognize deposits in other states to the extent they are for the benefit of Kansas enrollees. (According to the Missouri department, the deposit they hold is calculated only on Missouri business and is held for the protection of Missouri enrollees. Thus, if the bill is enacted with this amendment, Prime Health would be required to make a deposit with two different states but they would not be duplicative in amount or purpose.)

Family Health Plan's concern was less complex in that the minimum \$100,000 deposit required under the original bill far exceeded the uncovered expenditures of the HMO. Further, the organization simply did not have assets of that magnitude available for deposit. As a result, the purpose of the deposit requirements was re-examined and it was concluded that the "uncovered expenditures" were really what creates the need for some type of reserve or deposit. Accordingly, \$10,000 has been substituted for \$100,000 as the minimum amount but the deposit required in relation to the "uncovered expenditures" has not been changed from that included in the NAIC's model bill.

The other significant amendment consists of eliminating subsection (h) of Sec. 2. This subsection would require the existence of a \$100,000 capital account for all new HMO's. Such a requirement would discourage the formation of HMO's without greatly enhancing financial solidity.

The other amendments are primarily editorial in nature and are designed to clarify the law or facilitate its administration. A brief explanation of these amendments follows:

Page 1, line 21 -- Adds a definition of "uncovered expenditures"

Page 1, line 34 -- Substitutes \$10,000 for \$100,000 for reasons previously discussed.

Pages 1 & 2, lines 44 & 45 -- See above plus removes the language regarding the implementation time. This need is accommodated in the effective date section.

Page 2, lines 46, 48 & 50 -- Delete reference to "fiscal" year. Since the annual statements are on a calendar year basis and since the fiscal year of each HMO may be different, the designation of fiscal year is removed simply to provide latitude which will permit the administratively best period to evolve.

Page 2, line 69 -- Delete reference to "organization-related" because it was an undefined term which created an unnecessary vagary.

Page 2, lines 72 through 77 -- This paragraph was deleted because it "capped" the deposit in an unrealistic fashion as far as enrollees are concerned. For example, a deposit equal to the capital and surplus of a casualty company could be accumulated and yet be of no value to enrollees because it would bear no relationship to actual net worth. To use this as the basis for capping a deposit would be contrary to the purpose of the legislation.

Page 3, line 91 -- This accommodates the multiple state concern previously addressed.

Page 3, line 118 -- This establishes an effective date of April 1, 1985. This advance date will permit the initial and succeeding deposits to be calculated on the basis of the most current information available on an annual basis.

LEGISLATIVE PROPOSAL NO. 2
(Amendment to House Bill No. 2247 (1983))

Amend House Bill No. 2247.

On page 1, line 21 by adding a different Section 1 which amends K.S.A. 40-3202 to include a definition of uncovered expenditures which reads as follows, "'Uncovered expenditures' means the costs of health care services that are covered by a health maintenance organization, for which an enrollee would also be liable in the event of the organization's insolvency as determined by the commissioner from the latest annual statement filed pursuant to K.S.A. 40-3220", and renumbering the current sections accordingly;

On page 1, line 27 by adding the phrase, "for the payment of uncovered expenditures.";

On page 1, line 34 by substituting "\$10,000" for "\$100,000";

On page 1, line 44 and on page 2, line 45 by substituting "\$10,000" for "\$100,000" and deleting the remaining language;

On page 2, lines 46, 48 and 50 by deleting the word "fiscal";

On page 2, line 69 by deleting the term "organization-related";

On page 2, lines 72 through 77 by deleting the entire paragraph;

On page 3, line 91 by adding the phrase, "set forth in Article 11, Chapter 40, Kansas Statutes Annotated" immediately following the word, "requirements";

On page 3, line 91 by adding the following sentence, "The deposit requirements imposed by this act shall not apply to health maintenance organizations not organized under the laws of this state to the extent an amount equal to or exceeding that required by this act has been deposited with an organization or trustee acceptable to the department of insurance of its state of domicile for the benefit of Kansas enrollees." ;

On page 3, lines 110 through 116 by deleting the entire subsection.

On page 3, line 118 by changing the effective date from "January 1, 1984" to "April 1, 1985"; and

In the title by adding "amending K.S.A. 40-3202 and repealing the existing section".

HOUSE BILL No. 2247

By Committee on Insurance

(By Request)

2-8

0018 AN ACT relating to health maintenance organizations; protec-
0019 tion against insolvency; requirements;

amending K.S.A. 40-3202 and repealing the existing section

0020 *Be it enacted by the Legislature of the State of Kansas:*

0021 Section ~~1~~ (a) Unless otherwise provided below, each health
0022 maintenance organization doing business in this state shall de-
0023 posit with any organization or trustee acceptable to the commis-
0024 sioner through which a custodial or controlled account is uti-
0025 lized, cash, securities or any combination of these or other
0026 measures that are acceptable in the amount set forth in this
0027 section: for the payment of uncovered expenditures.

0028 (b) The amount for an organization that is beginning opera-
0029 tion shall be the greater of: (1) Five percent of its estimated
0030 expenditures for health care services for its first year of opera-
0031 tion; or

0032 (2) twice its estimated average monthly uncovered expendi-
0033 tures for its first year of operation; or

0034 (3) ~~\$100,000.~~
0035 At the beginning of each succeeding year, unless not applica-
0036 ble, the organization shall deposit with the organization or
0037 trustee, cash, securities or any combination of these or other
0038 measures acceptable to the commissioner, in an amount equal to
0039 4% of its estimated annual uncovered expenditures for that year.

0040 (c) Unless not applicable, an organization that is in operation
0041 on the effective date of this act shall make a deposit equal to the
0042 larger of: (1) One percent of the preceding 12 months' uncovered
0043 expenditures; or

0044 (2) ~~\$100,000 on the first day of the first fiscal year beginning~~

-2

Section 1. K.S.A. 40-3202 is hereby amended to read as follows: 40-3202.

Definitions. As used in this act: (a) "Commissioner" means the commissioner of insurance.

(b) "Basic health care services" means but is not limited to usual physician, hospitalization, laboratory, x-ray, emergency and preventive services and out-of-area coverage.

(c) "Director" means the secretary of health and environment.

(d) "Enrollee" means a person who has entered into a contractual arrangement or on whose behalf a contractual arrangement has been entered into with a health maintenance organization for health care services.

(e) "Health care services" means basic health care services and other services, medical equipment and supplies which may include, but are not limited to, medical, surgical and dental care; psychological, obstetrical, osteopathic, optometric, optic, podiatric, nursing, physical therapy services, chiropractic services and pharmaceutical services; health education, preventive medicine, rehabilitative and home health services; inpatient and outpatient hospital services, extended care, nursing home care convalescent institutional care, laboratory and ambulance services, appliances, drugs, medicines and supplies; and any other care, service or treatment for the prevention, control, or elimination of disease, the correction of defects, or the maintenance of the physical or mental well-being of human beings.

(f) "Health maintenance organization" means an organization which:

(1) Provides or otherwise makes available to enrollees health care services, including at a minimum those basic health care services which are determined by the commissioner to be generally available on an insured or prepaid basis in the geographic area served;

(2) is compensated, except for reasonable copayments, for the provision of basic health care services to enrollees solely on a predetermined periodic rate basis;

(3) provides physician services directly through physicians who are either employees or partners of such organization or under arrangements with a physician or any group of

0015 ~~six months or more after the effective date of this act.~~

0016 In the second ~~fiscal~~ year, if applicable, the amount of the
0017 additional deposit shall be equal to 2% of its estimated annual
0018 uncovered expenditures. In the third ~~fiscal~~ year, if applicable,
0019 the additional deposit shall be equal to 3% of its estimated
0020 annual uncovered expenditures for that year. In the fourth ~~fiscal~~
0021 year and subsequent years, if applicable, the additional deposit
0022 shall be equal to 4% of its estimated annual uncovered expendi-
0023 tures for each year. Each year's estimate, after the first year of
0024 operation, shall reasonably reflect the prior year's operating
0025 experience and delivery arrangements.

0026 (d) The commissioner may waive any of the deposit require-
0027 ments set forth in subsections (b) and (c) whenever satisfied that:
0028 (1) The organization has sufficient net worth and an adequate
0029 history of generating net income to assure its financial viability
0030 for the next year; or (2) the organization's performance and
0031 obligations are guaranteed by an organization with sufficient net
0032 worth and an adequate history of generating net income; or (3)
0033 the assets of the organization or its contracts with insurers,
0034 hospital or medical service corporations, governments or other
0035 organizations are reasonably sufficient to assure the performance
0036 of its obligations.

0037 (e) When an organization has achieved a net worth not in-
0038 cluding land, buildings and equipment of at least \$1,000,000 or
0039 has achieved a net worth including ~~organization related~~ land,
0040 buildings and equipment of at least \$5,000,000, the annual de-
0041 posit requirement shall not apply.

0042 ~~The annual deposit requirement shall not apply to an organi-~~
0043 ~~zation if the total amount of the accumulated deposit is equal to~~
0044 ~~25% of its estimated annual uncovered expenditures for the next~~
0045 ~~calendar year, or the capital and surplus requirements for the~~
0046 ~~formation for admittance of an accident and health insurer in this~~
0047 ~~state, whichever is less.~~

0048 If the organization has a guaranteeing organization which has
0049 been in operation for at least five years and has a net worth not
0050 including land, buildings and equipment of at least \$1,000,000 or
0051 which has been in operation for at least 10 years and has a net

physicians or under arrangements as an independent contractor with a physician or any group of physicians;

(4) is responsible for the availability, accessibility and quality of the health care services provided or made available.

(g) "Person" means any natural or artificial person including but not limited to individuals, partnerships, associations, trusts or corporations.

(h) "Provider" means any physician, hospital or other person which is licensed or otherwise authorized in this state to furnish health care services.

(i) "Uncovered expenditures" means the costs of health care services that are covered by a health maintenance organization, for which an enrollee would also be liable in the event of the organization's insolvency as determined by the commissioner from the latest annual statement filed pursuant to K.S.A. 40-3220.

0082 worth including organization-related land, buildings and equip-
0083 ment of at least \$5,000,000, the annual deposit requirement shall
0084 not apply. If the guaranteeing organization is sponsoring more
0085 than one organization, the net worth requirement shall be in-
0086 creased by a multiple equal to the number of such organizations.
0087 This requirement to maintain a deposit in excess of the deposit
0088 required of an accident and health insurer shall not apply during
0089 any time that the guaranteeing organization maintains for each
0090 organization it sponsors a net worth at least equal to the capital
0091 and surplus requirements for an accident and health insurer.

0092 (f) All income from deposits shall belong to the depositing
0093 organization and shall be paid to it as it becomes available. A
0094 health maintenance organization that has made a securities de-
0095 posit may withdraw that deposit or any part thereof after making
0096 a substitute deposit of cash, securities or any combination of
0097 these or other measures of equal amount and value. Any securi-
0098 ties shall be approved by the commissioner before being substi-
0099 tuted.

0100 (g) In any year in which an annual deposit is not required of
0101 an organization, at the organization's request the commissioner
0102 shall reduce the required, previously accumulated deposit by
0103 \$100,000 for each \$250,000 of net worth in excess of the amount
0104 that allows the organization not to make the annual deposit. If
0105 the amount of net worth no longer supports a reduction of its
0106 required deposit, the organization shall immediately redeposit
0107 \$100,000 for each \$250,000 of reduction in net worth, provided
0108 that its total deposit shall not exceed the maximum required
0109 under this section.

0110 ~~(h) Each health maintenance organization that obtains a cer-~~
0111 ~~tificate of authority after the effective date of this act shall have~~
0112 ~~and maintain a capital account of at least \$100,000 in addition to~~
0113 ~~any deposit requirements under this section. The capital account~~
0114 ~~shall be net of any accrued liabilities and be in the form of cash,~~
0115 ~~securities or any combination of these or other measures accept-~~
0116 ~~able to the commissioner.~~

0117 Sec. 2. This act shall take effect and be in force from and
after January 1, 1984, and its publication in the statute book.

set forth in Article 11, Chapter 40, Kansas Statutes Annotated

The deposit requirements imposed by this act shall not apply to health maintenance organizations not organized under the laws of this state to the extent an amount equal to or exceeding that required by this act has been deposited with an organization or trustee acceptable to the department of insurance of its state of domicile for the benefit of Kansas enrollees.

April 1, 1985,

EXPLANATORY MEMORANDUM FOR
LEGISLATIVE PROPOSAL NO. 3

This proposal eliminates the requirement to conduct an examination of an insurance company at a specified periodic interval. In addition, this proposal permits the commissioner to waive or defer the costs of an examination. This waiver or deferment would be utilized at any time an insurer's financial condition seems to warrant an examination yet the costs of the examination to the company discourage an examination at the time it is most needed. Should the examination reveal that the financial condition of the company was sound, the costs of the examination would then be assessed. Funds to permit this latitude would be accumulated as a part of the "normal" costs of examination. By eliminating the periodic examination requirement and providing this latitude, examinations can be conducted purely on the basis of need thereby enhancing the efficiency and effectiveness of examination resources while at the same time improving the ability to regulate for solvency.

LEGISLATIVE PROPOSAL NO. 3

AN ACT relating to insurance; examination; scheduling; waiver of costs; amending K.S.A. 40-222 and 40-223 and repealing the existing sections.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF KANSAS:

1 Section 1. K.S.A. 40-222 is hereby amended to read as follows: 40-222.
2 Whenever the commissioner of insurance shall deem it necessary he or she may make,
3 or direct to be made, an examination of the affairs and financial condition of any
4 insurance company in the process of organization, or applying for admission or doing
5 business in this state. For the purpose of such examination the commissioner of
6 insurance, or the persons appointed by him or her, for the purpose of making such
7 examination shall have free access to the books and papers of any such company that
8 relate to its business and to the books and papers kept by any of its agents and may
9 examine under oath, which he, she or they are hereby empowered to administer, the
10 directors, officers, agents or employees of any such company in relation to its affairs,
11 transactions and condition. ~~The commissioner shall examine every insurance company~~
12 ~~organized under the laws of this state at least once in three (3) years. The~~
13 ~~commissioner shall also examine every foreign insurance company doing business in~~
14 ~~this state at least once in five (5) years unless in the opinion of the commissioner an~~
15 ~~independent or external audit of such insurance companies' financial condition and~~
16 ~~affairs obviates the need for such examination.~~ In lieu of examining a foreign
17 insurance company, the commissioner of insurance may accept the report of the
18 examination made by or upon the authority of the supervising insurance official of any
19 other state.

20 Whenever it appears to the commissioner of insurance from such examination or
21 other satisfactory evidence that the solvency of any such insurance company is
22 impaired, or that it is doing business in violation of any of the laws of this state, or
23 that its affairs are in an unsound condition so as to endanger its policyholders, the
24 commissioner of insurance shall, before filing such report or making the same public,
25 grant such company upon reasonable notice, a hearing, and, if on such hearing the
26 report be confirmed, the commissioner shall suspend the certificate of authority of
27 such company until its solvency shall have been fully restored and the laws of the state
28 fully complied with; and the commissioner may, if there is an unreasonable delay in
29 restoring the solvency of such company and in complying with the law, revoke the
30 certificate of authority of such company to do business in this state. Upon revoking
31 any such certificate the commissioner may communicate the fact to the attorney
32 general, whose duty it shall be to commence and prosecute an action in the proper
33 court to dissolve such company or to enjoin the same from doing or transacting
34 business in this state.

35 Sec. 2. K.S.A. 40-223 is hereby amended to read as follows: 40-223. Any person
36 or persons who shall make any examination under the provisions of this act, except as
37 provided in K.S.A. 40-110 and 40-253, may receive, as full compensation for such
38 person's services, on a per diem basis an amount fixed by the commissioner, which shall
39 not exceed the amount recommended by the national association of insurance
40 commissioners, for such time necessarily and actually occupied in going to and
41 returning from the place of such examination and for such time the examiner is
42 necessarily and actually engaged in making such examination including any day within
43 the regular work week when the examiner would have been so engaged had the
44 company or society been open for business, together with such necessary and actual
45 expenses for traveling and subsistence as the examiner shall incur and on account of
46 the performance of such services. For the purposes of this act, "necessary and actual
47 expenses" shall be limited, whether for travel within the state or travel outside the
48 state, to those limitations expressed in K.S.A. 1980 Supp. 75-3207 which pertain to
49 official travel outside the state. The daily charge shall be calculated by dividing the
50 amount the examiner is authorized by the commissioner of insurance to charge per
51 week by the number of days in the regular work week of the company or society being
52 examined.

53 Unless waived or deferred by the commissioner, all of said compensation,
54 expenses, the employer's share of the federal insurance contributions act taxes, the
55 employer's contribution to the Kansas public employees retirement system as provided
56 in K.S.A. 74-4920, the self-insurance assessment for the workmen's compensation act
57 as provided in K.S.A. 44-576, the single member premium under the group health
58 insurance plan as provided in K.S.A. 1980 Supp. 75-4110 and 75-4113 and acts

59 amendatory thereof or supplemental thereto, ~~and~~ a pro rata amount determined by the
60 commissioner to provide annual leave for the examiner not to exceed the number of
61 days allowed state officers and employees in the classified service pursuant to
62 regulations promulgated in accordance with the Kansas civil service act and a sum
63 equal to 150% of the amount charged for annual leave to be used to pay any
64 examination costs that are waived or deferred, shall be paid to the commissioner of
65 insurance by the insurance company or society so examined, on demand of the
66 commissioner. The amount accumulated for examination costs shall not total more
67 than \$25,000 at any one time. Such demand shall be accompanied by the sworn
68 statement of the person making such examination, setting forth in separate items the
69 number of days necessarily and actually occupied in going to and returning from the
70 place of such examination, the number of days the examiners were necessarily and
71 actually engaged in making such examination including those days within the regular
72 work week while the examination was in progress and the company or society had
73 closed for business, and the necessary and actual expenses for traveling and
74 subsistence, incurred in and on account of such services. A duplicate of every such
75 sworn statement shall be kept on file in the office of the commissioner of insurance.
76 All moneys so paid to the commissioner of insurance shall be remitted to the state
77 treasurer and the state treasurer shall issue duplicate receipts therefor, one to be
78 delivered to the commissioner of insurance and the other to be filed with the director
79 of accounts and reports.

80 Sec. 3. K.S.A. 40-222 and K.S.A. 40-223 are hereby repealed.

81 Sec. 4. This act shall take effect and be in force from and after its publication
82 in the statute book.

EXPLANATORY MEMORANDUM FOR
LEGISLATIVE PROPOSAL NO. 4

This proposal establishes some specific requirements which foreign insurance companies would have to meet in order to be granted a Kansas certificate of authority.

Currently, if it can be established that an insurer complies with the minimum financial requirements, we have little alternative but to issue a certificate. This has resulted in companies being admitted who are immediately deemed to be in a hazardous financial condition; companies whose senior management included persons who had been convicted of felonies; and insurers who were doing business in such a way that their fiscal integrity was suspect but the burden of proof to prove our suspicions was on the department and was therefore unattainable. Enactment of this proposal would provide the commissioner with some statutory authority to avoid grants of authority when concerns of this kind are present.

In addition, the department is increasingly faced with applications for admission from companies who are interested in being admitted to a large number of states but actually do business in very few. Other applications seem to be purely exploratory with no real commitment to pursuing an active business life in the Kansas community. These applications take a great deal of time to review and process. Yet under the existing structure, the fees for the work involved are collected only if a certificate of authority is issued. In order to address this problem, this proposal increases the fee for examining a charter and other documents from \$100 to \$1,000; requires the fee to be paid upon initial application for admission; and, provides that it is not refundable for any reason.

LEGISLATIVE PROPOSAL NO. 4

AN ACT relating to insurance; foreign companies; certificate of authority; requirements; fees; amending K.S.A. 40-209 and 40-252 and repealing the existing sections.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF KANSAS:

1 Section 1. K.S.A. 40-209 is hereby amended to read as follows: 40-209. (a) Any
2 insurance company organized under the laws of any other country, state or territory,
3 upon application, may be authorized to transact business in this state, when possessed
4 of the required amount of paid-up capital and surplus, or surplus only if a mutual
5 company, and

6 (1) has made the deposit required by this code with the department of insurance
7 of this or any other state in the United States;

8 (2) participates to the extent possible in the insurance regulatory information
9 system administered by the national association of insurance commissioners;

10 (3) has submitted an examination report of its financial condition and affairs
11 which has been conducted by the insurance department of the state of domicile within
12 three years of the date of application unless the commissioner determines that an
13 earlier report will satisfy the purpose of this provision;

14 (4) demonstrates that any majority ownership interests are in sound financial
15 condition;

16 (5) is not owned, managed or controlled by persons previously convicted of
17 criminal activity involving fraud or embezzlement or offenses of a similar nature; and,

18 (6) has been in operation at least three (3) years and has been the subject of an
19 examination of its affairs and financial condition other than its organizational
20 examination. This requirement does not apply to subsidiary or affiliate companies with
21 substantially the same management of an admitted company, a continuing corporation
22 resulting from merger or consolidation, or a company whose admission is determined
23 by the commissioner to be in the best public interest;

24 (7) if the company will not require immediate regulatory attention by this
25 department upon admission pursuant to K.S.A. 40-222b;

26 (8) otherwise satisfies the commissioner that it is of good business repute and
27 that issuance of a certificate of authority will not be detrimental to the best interests
28 of the public.

29 (b) ~~Provided, That~~ Such authority shall not be granted, continued, or renewed to
30 any insurance company owned or financially controlled, in whole or in part, by another
31 state of the United States or by a foreign government, or by any political subdivision
32 of either.

33 (c) Every such company shall file a certified copy of its charter or deed of
34 settlement with the commissioner of insurance, together with a statement, under oath
35 of the president, vice-president or other chief officer and the secretary of the
36 company for which they act, stating the name of the company, the place where
37 located, and the amount of its capital, with a detailed statement of the facts and
38 items required from companies organized under the laws of this state; also a copy of
39 the last annual report, if any was made, under any law of the state or country in which
40 such company was incorporated.

41 (d) Upon the application of any such insurance company for a certificate of
42 authority to transact business in this state, the commissioner of insurance shall
43 immediately satisfy himself that the company is possessed of money and other
44 admitted assets in excess of its liabilities, as herein provided, and that it has otherwise
45 complied with all the other requirements of this code. He shall thereupon issue a
46 certificate of authority to such company authorizing it to transact the classes of
47 insurance permitted under its articles of incorporation and by the provisions of this
48 code.

49 (e) ~~Provided, however, That~~ The funds of any such insurance company, in excess
50 of the minimum paid-up capital required by this code, may at all times be invested in
51 such securities as are or may be authorized by the laws of the state in which such
52 company is organized or in which it has and maintains its United States deposit.

53 (f) ~~Provided further, That~~ The commissioner of insurance may, upon renewal of a
54 certificate of authority, waive any of the above requirements except those relating to
55 assets, capital and surplus.

56 (g) Whenever any insurance company organized under the laws of any other
57 country, state or territory is issued a certificate of authority to transact insurance in
58 this state by the commissioner of insurance pursuant to this section, such company
59 shall not be required to comply with the provisions of the general corporation code
60 relating to foreign corporations, nor shall any such company be required to file with
61 the secretary of state its articles of incorporation, charter, bylaws or other
62 documents, or any amendments thereof, unless specifically required to do so by law.

63 Sec. 2. K.S.A. 40-252 is hereby amended to read as follows: 40-252. Every
 64 insurance company or fraternal benefit society organized under the laws of this state
 65 or doing business in this state shall pay to the commissioner of insurance fees and
 66 taxes specified in the following schedule:

- 67 A
 68 Insurance companies organized under the laws of this state:
- 69 1. Capital stock insurance companies ~~other than burial insurance companies~~
 70 and mutual legal reserve life insurance companies:
 71 Filing application for sale of stock or certificates of indebtedness \$25.00
 72 Admission fees:
 73 Examination of charter and other documents ~~55.00~~ 1000.00
 74 Filing annual statement 100.00
 75 Certificate of authority 10.00
 76 Annual fees:
 77 Filing annual statement 100.00
 78 Continuation of certificate of authority 10.00
 - 79 2. Mutual life, accident and health associations:
 80 Admission fees:
 81 Examination of charter and other documents ~~\$55.00~~ 1000.00
 82 Filing annual statement 100.00
 83 Certificate of authority 10.00
 84 Annual fees:
 85 Filing annual statement 100.00
 86 Continuation of certificate of authority 10.00
 - 87 3. Mutual fire, hail, casualty and multiple line insurers and reciprocal or
 88 interinsurance exchanges:
 89 Admission fees:
 90 Examination of charter and other documents ~~\$55.00~~ 1000.00
 91 Filing annual statement 100.00
 92 Certificate of authority 10.00
 93 Annual fees:
 94 Filing annual statement 100.00
 95 Continuation of certificate of authority 10.00
 - 96 ~~4. Burial insurance companies:
 97 Filing application for sale of stock \$25.00
 98 Annual fees:
 99 Filing annual statement 100.00
 100 Continuation of certificate of authority 10.00~~

101
 102 In addition to the above fees and as a condition precedent to the continuation of
 103 the certificate of authority provided in this code, all such companies shall pay a fee of
 104 \$2 for each agent certified by the company and shall also pay a tax annually upon all
 105 premiums received on risk located in this state at the rate of 1% per annum less any
 106 taxes paid on business in this state pursuant to the provisions of K.S.A. 40-1701 and 75-
 107 1508, and any amendments thereto. In the computation of the gross premiums all such
 108 companies shall be entitled to deduct any premiums returned on account of
 109 cancellations, all premiums received for reinsurance from any other company
 110 authorized to do business in this state, dividends returned to policyholders and
 111 premiums received in connection with the funding of a pension, deferred compensation,
 112 annuity or profit-sharing plan qualified or exempt under sections 401, 403, 404, 408,
 113 457 or 501 of the United States internal revenue code. Should any such company
 114 remove or maintain, or both, either their home, principal or executive office or offices
 115 from this state, every such company shall be subject to the provisions of subsection D
 116 of this section.

- 117 B
 118 Fraternal benefit societies organized under the laws of this state:
 119 Admission fees:
 120 Examination of charter and other documents ~~\$55.00~~ 1000.00
 121 Filing annual statement 100.00
 122 Certificate of authority 10.00
 123 Annual fees:
 124 Filing annual statement 100.00
 125 Continuation of certificate of authority 10.00

126 C
 127 Mutual nonprofit hospital service corporations, nonprofit medical service corporations,
 128 nonprofit dental service corporations and nonprofit optometric service corporations
 129 organized under the laws of this state:

- 130 1. Mutual nonprofit hospital service corporations:
 131 Admission fees:
 132 Examination of charter and other documents ~~\$55.00~~ 1000.00
 133 Filing annual statement 100.00
 134 Certificate of authority 10.00
 135 Annual fees:
 136 Filing annual statement 100.00
 137 Continuation of certificate of authority 10.00
 138 2. Nonprofit medical service corporations:
 139 Admission fees:
 140 Examination of charter and other documents ~~\$55.00~~ 1000.00
 141 Filing annual statement 100.00
 142 Certificate of authority 10.00
 143 Annual fees:
 144 Filing annual statement 100.00
 145 Continuation of certificate of authority 10.00
 146 3. Nonprofit dental service corporations:
 147 Admission fees:
 148 Examination of charter and other documents ~~\$55.00~~ 1000.00
 149 Filing annual statement 100.00
 150 Certificate of authority 10.00
 151 Annual fees:
 152 Filing annual statement 100.00
 153 Continuation of certificate of authority 10.00
 154 4. Nonprofit optometric service corporations:
 155 Admission fees:
 156 Examination of charter and other documents ~~\$55.00~~ 1000.00
 157 Filing annual statement 100.00
 158 Certificate of authority 10.00
 159 Annual fees:
 160 Filing annual statement 100.00
 161 Continuation of certificate of authority 10.00

162 In addition to the above fees and as a condition precedent to the continuation of
 163 the certificate of authority, provided in this code, every corporation or association
 164 shall pay annually to the commissioner of insurance a privilege fee in an amount equal
 165 to 1% per annum of the total of all premiums, subscription charges, or any other term
 166 which may be used to describe the charges made by such corporation or association to
 167 subscribers for hospital, medical or other health services or indemnity received during
 168 the preceding year. In such computations all such corporations or associations shall be
 169 entitled to deduct any premiums or subscription charges returned on account of
 170 cancellations and dividends returned to members or subscribers.

- 171 D
 172 Insurance companies organized under the laws of any other state, territory or country:
 173 1. Capital stock insurance companies ~~other than burial insurance companies,~~
 174 and mutual legal reserve life insurance companies:
 175 Filing application for sale of stock or certificates of indebtedness \$25.00
 176 Admission fees:
 177 Examination of charter and other documents ~~55.00~~ 1000.00
 178 Filing annual statement 100.00
 179 Certificate of authority 10.00
 180 Annual fees:
 181 Filing annual statement 100.00
 182 Continuation of certificate of authority 10.00

183 In addition to the above fees all such companies shall pay \$5 for each agent
 184 certified by the company, except as otherwise provided by law.

185 As a condition precedent to the continuation of the certificate of authority,
 186 provided in this code, every company organized under the laws of any other state of
 187 the United States or of any foreign country shall pay a tax upon all premiums received
 188 during the preceding year at the rate of 2% per annum. In the computation of the
 189 gross premiums all such companies shall be entitled to deduct any premiums returned
 190 on account of cancellations, dividends returned to policyholders and all premiums
 191 received for reinsurance from any other company authorized to do business in this
 192 state and premiums received in connection with the funding of a pension, deferred
 193 compensation, annuity or profit-sharing plan qualified or exempt under sections 401,
 194 403, 404, 408, 457 or 501 of the United States internal revenue code.

261 In addition to the above fees and as a condition precedent to the continuation of
262 the certificate of authority, provided in this code, every corporation or association
263 shall pay annually to the commissioner of insurance a privilege fee in an amount equal
264 to 2% per annum of the total of all premiums, subscription charges, or any other term
265 which may be used to describe the charges made by such corporation or association to
266 subscribers in this state for hospital, medical or other health services or indemnity
267 received during the preceding year. In such computations all such corporations or
268 associations shall be entitled to deduct any premiums or subscription charges returned
269 on account of cancellations and dividends returned to members or subscribers.

G

270 All insurers shall pay a fee of \$10 for issuance of an amended certificate of authority.
271 For the purpose of insuring the collection of the tax upon premiums, assessments
272 and charges as set out in subsection A, C, D and F, every insurance company,
273 corporation or association shall at the time it files its annual statement, as required by
274 the provisions of K.S.A. 40-225, make a return, verified by affidavits of its president
275 and secretary or other chief officers, to the commissioner of insurance, stating the
276 amount of all premiums, assessments and charges received by the companies or
277 corporations in this state, whether in cash or notes, during the year ending on the
278 December 31 next preceding. Upon the receipt of such returns the commissioner of
279 insurance shall verify the same and assess the taxes upon such companies, corporations
280 or associations on the basis and at the rate provided herein and such taxes shall
281 thereupon become due and payable.
282

H

283 The fee prescribed for the examination of charters and other documents shall apply to
284 each company's initial application for admission and shall not be refundable for any
285 reason.
286

287 Sec. 3. K.S.A. 40-209 and K.S.A. 40-252 are hereby repealed.

288 Sec. 4. This act shall take effect and be in force from and after its publication
289 in the statute book.

EXPLANATORY MEMORANDUM FOR
LEGISLATIVE PROPOSAL NO. 5

Currently and since its inception K.S.A. 1982 Supp. 40-3413 has provided for a specific expiration of the health care provider insurance availability plan. This is the plan that assures health care providers a means of obtaining necessary professional liability insurance and there is no indication that the need for such a mechanism is abating. As a result, this proposal would eliminate the expiration provision in its entirety. By so doing, the legislature would avoid the need to periodically consider an extension yet, should it become evidence that a plan of this kind was no longer necessary or desirable, the entire enabling statute could be repealed.

LEGISLATIVE PROPOSAL NO. 5

AN ACT relating to insurance; health care providers; apportionment of risk; expiration of availability plan; amending K.S.A. 40-3413 and repealing the existing section.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF KANSAS:

1 Section 1. K.S.A. 40-3413 is hereby amended to read as follows: 40-
2 3413. (a) Every insurer and every rating organization shall cooperate in the
3 preparation of a plan or plans for the equitable apportionment among such insurers of
4 applicants for professional liability insurance and such other liability insurance as may
5 be included in or added to the plan, who are in good faith entitled to such insurance but
6 are unable to procure the same through ordinary methods. Such plan or plans shall be
7 prepared and filed with the commissioner within a reasonable time but not exceeding
8 60 calendar days from the effective date of this act. Such plan or plans shall provide:

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

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

14 (3) a method whereby annually the plan shall compare the premiums earned to
15 the losses and expenses sustained by the plan for the preceding fiscal year. If there is
16 any surplus of premiums over losses and expenses received for that year such surplus
17 shall be transferred to the fund. If there is any excess of losses and expenses over
18 premiums earned such losses shall be transferred from the fund;

19 (4) the limits of liability which the plan shall be required to provide, but in no
20 event shall such limits be less than those limits provided for in subsection (a) of K.S.A.
21 40-3402;

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

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

38 (c) If no plan meeting the standards set forth in subsection (a) is submitted to
39 the commissioner within 60 calendar days from the effective date of this act or within
40 the period stated in any order disapproving an existing plan, the commissioner shall
41 after hearing, if necessary to carry out the purpose of this act, prepare and promulgate
42 a plan meeting such requirements.

43 (d) If, after a hearing the commissioner finds that any activity or practice of any
44 insurer or rating organization in connection with the operation of such plan or plans is
45 unfair or unreasonable or otherwise inconsistent with the provisions of this act the
46 commissioner may issue a written order specifying in what respects such activity or
47 practice is unfair or unreasonable or otherwise inconsistent with the provisions of this
48 act and requiring discontinuance of such activity or practice.

49 (e) For every such plan or plans, there shall be a governing board which shall
50 meet at least annually to review and prescribe operating rules. Such board shall
51 consist of nine members to be appointed by the commissioner as follows: Three
52 members shall be representatives of foreign insurers, two members shall be
53 representatives of domestic insurers, two members shall be representatives of the
54 general public, one member shall be a licensed insurance agent actively engaged in the
55 solicitation of casualty insurance and one member shall be a health care provider. The
56 members shall be appointed for a term of two years.

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

62 ~~(g) The provisions of this section shall expire on July 1, 1984, but any plan~~
63 ~~created hereunder shall continue to exist for the purpose of allowing policies then in~~
64 ~~effect to expire, transferring surplus to the fund, completing the payment of claims~~
65 ~~and receiving reimbursement therefor.~~

66 Sec. 2. K.S.A. 40-3413 is hereby repealed.

67 Sec. 3. This act shall take effect and be in force from and after its publication
68 in the statute book.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF KANSAS:

Section I. K.S.A. 40-246 is hereby amended to read as follows:

40-246. The commissioner of insurance is prohibited from issuing any license or authority to write policies of insurance, or to solicit and obtain such policies, to any person, agent or corporation, unless such person, agent or corporation is a legal resident of this state at the time such license or authority is issued. Under such regulations and restrictions as may be deemed necessary by the commissioner of insurance, licenses may be issued to nonresident agents, who are licensed by the state in which they reside, upon the payment of an annual fee of ten dollars (\$10). Whenever any other state imposes on Kansas companies or agents additional or greater fees, obligations, or prohibitions, the same shall be imposed on similar companies and agents of such other state. ~~Such agents shall not countersign any policy or contract of insurance but that all policies and contracts shall be signed by resident agents only, such countersignature requirement shall not apply to any policy or contract of life insurance.~~ Except for a policy or contract of life insurance, all policies or contracts shall be signed by a resident agent or a nonresident agent of a state which (1) does not require a countersignature or; (2) will permit Kansas residents possessing a nonresident agent's license of that state to countersign. By prior written agreement between a licensed resident agent and the issuing company, a facsimile signature, or the printing of the name and address of such licensed resident agent on the policy form or endorsement, shall be deemed to meet the countersignature and signature requirements of this section. Whenever any person, agent or corporation so authorized to issue policies of insurance and solicit and transact insurance business shall remove from this state the authority issued to such person, agent or corporation shall be revoked, and the same shall be null and void.

To the end that the state may receive the full tax imposed by law upon the premium receipts of insurance companies, and to the end, that proper supervision of the business may be vested in the state, it shall be unlawful for any fire, marine or fire and marine insurance company or casualty or surety company or association not incorporated under the laws of this state to make, write, place or cause to be made, written or placed any policy or bonds issued by any company, authorized to contract of insurance of any kind or character or any indemnity agreement upon property or persons situated in this state, except bid bonds issued by any company, authorized to issue such bonds and to do business in this state, in connection with any public or private construction contract and professional liability insurance policies issued to members of a professional association having in excess of ten thousand (10,000) members insured when the premium for such policies is paid by the association from the association's funds, ~~unless the same is signed by a resident agent of this state regularly commissioned and licensed as such, who shall receive the usual and customary commission thereon when the premium is paid.~~ unless the same is signed by a resident agent or a nonresident agent of a state which (1) does not require a countersignature or; (2) will permit Kansas residents possessing a nonresident agent's license of that state to countersign who shall receive the usual and customary commission thereon when the premium is paid.

Nothing contained in this section shall apply to direct insurance covering the rolling stock belonging to and used in the operation and maintenance of the plant and business of railroad corporations or other common carriers, or property in transit, while in the possession or custody of railroad corporations or other common carriers.

Section II. K.S.A. 40-246 is hereby repealed.

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