

MINUTES OF THE SENATE COMMITTEE ON COMMERCIAL AND FINANCIAL INSTITUTIONS

The meeting was called to order by Sen. Neil H. Arasmith at  
Chairperson

9:00 a.m./~~p.m.~~ on January 18, 1984 in room 529-S of the Capitol.

All members were present except:

Committee staff present:

Bill Wolff, Legislative Research  
Myrta Anderson, Legislative Research  
Bruce Kinzie, Revisor of Statutes

Conferees appearing before the committee:

Jim Maag, Kansas Bankers Association  
Ron Todd, Kansas Insurance Department  
Rebecca Kupper, Kansas Hospital Association

It was called to the committee's attention by the Chairman that the minutes of January 17 should be corrected in the sixth paragraph by deleting "the title of" from the first sentence. The minutes were approved as amended.

The meeting continued with a request for the introduction of a bill by Jim Maag, Kansas Bankers Association. (See Attachment I.) Mr. Maag explained that the bill would allow remote service unit operations beyond the State of Kansas. He pointed out to the committee that there is a difference in the law as to how it relates to savings and loan associations.

Sen. Reilly made a motion to introduce the bill. Sen. Harder seconded the motion. The motion carried.

Ron Todd, Kansas Insurance Department, began his request for the introduction of two bills. (See Attachment II.)

Sen. Reilly made a motion to introduce both bills. Sen. Harder seconded the motion. The motion carried.

The committee's attention was then turned to SB 471 dealing with the definition of "creditor" under the UCCC. Rebecca Kupper, Kansas Hospital Association, began her testimony. (See Attachment III.) She noted that her testimony stems from the interim study done on the UCCC and that her association's attorney felt that the bill should be amended to clarify the exemption they requested.

Sen. Pomeroy asked Ms. Kupper if she would want the amendment presently in the bill in addition to the two that she recommended in her testimony. Ms. Kupper answered that she would.

Sen. Werts had a question regarding new subsection (40) as to if it would be contradictory to say that an oral agreement is not an agreement. Sen. Pomeroy answered that new subsection (40) defines "written agreement" and so the reference to "oral agreement" is not contradictory.

The Chairman asked Ms. Kupper if she would prefer the bill to be left in its current form with the addition of the two amendments she had offered in her testimony, and she answered that she would.

The Chairman offered some background information to the committee regarding Ms. Kupper's requests. He explained that during the interim study, testimony had shown that some hospitals had voluntarily registered with the Consumer Credit Commissioner's office and paid the \$15 fee. The Commissioner's office subsequently sent letters to all hospitals regarding the fee. The letters resulted in the hospital's concerns as expressed by Ms. Kupper.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON COMMERCIAL AND FINANCIAL INSTITUTIONS,  
room 529-S, Statehouse, at 9:00 a.m./~~p.m.~~ on January 18, 1984

Sen. Reilly asked Ms. Kupper if she knew how many health care institutions were involved. Ms. Kupper could give no specific number. The Chairman said that it was learned during the interim study that 12 or 15 hospitals had purchased licenses, feeling that they came under the code.

Sen. Karr asked how the bill would affect bad debts sold by the hospital for collection. Ms. Kupper answered that the bill would not apply in that situation. Sen. Karr asked what the Consumer Credit Commissioner's feelings were regarding the amendments she offered. The Chairman noted that he knew of no objections by the Commissioner during the interim study and that the Commissioner was aware of this committee meeting. With no further questions, the hearing on SB 471 was concluded.

Sen. Pomeroy made a motion to amend the bill as proposed. Sen. McCray seconded the motion. The motion carried.

Sen. Pomeroy made a motion to recommend SB 471 favorably as amended. Sen. Reilly seconded the motion. The motion carried.

The meeting was adjourned.

SENATE COMMITTEE

ON

COMMERCIAL AND FINANCIAL INSTITUTIONS

OBSERVERS  
(Please print)

DATE	NAME	ADDRESS	REPRESENTING
1-18-84	John Spurgeon	Lawrence	Budget Division
"	Jim Mang	Topeka	FBA
"	Rebecca Kupper	"	Ka Hosp. Assoc.
"	Marion C. Umbelitz	"	KU L
"	Joseph R. ...	"	IIAK
	Ann Todd	"	Ins Dept
	Tom Futzler	"	Gen Hess
	Dick Brock	"	Ins Dept.

Section 1. K.S.A. 9-1111 is hereby amended to read as follows:

9-1111. The general business of every bank . . .

(f) any state bank or national banking association having its principal office and main banking house in this state, ~~individually or jointly with one or more state banks or national banking associations having their principal offices and main banking houses in this state,~~ may provide, and engage in banking transactions by means of, remote service units ~~located anywhere within the state of Kansas, wherever located,~~ which remote service units shall not be considered branch banks, or branch offices, agencies or places of business, or detached auxiliary services facilities authorized herein. Any banking transaction effected by use of a remote service unit shall be deemed to be transacted at a bank and not at a remote service unit; . . . .

Sec. 2. K.S.A. 9-1111 is hereby repealed.

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

Attachment I



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.

*Attachment II*

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 or 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. 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.

- 195 2. Mutual life, accident and health associations:  
 196 Admission fees;  
 197 Examination of charter and other documents ~~\$55.00~~ 1000.00  
 198 Filing annual statement 100.00  
 199 Certificate of authority 10.00  
 200 Annual fees:  
 201 Filing annual statement 100.00  
 202 Continuation of certificate of authority 10.00

203 In addition to the above fees, every such company organized under the laws of  
 204 any other state of the United States shall pay \$5 for each agent certified by the  
 205 company, and shall pay a tax annually upon all premiums received at the rate of 2%  
 206 per annum. In the computation of the gross premiums all such companies shall be  
 207 entitled to deduct any premiums returned on account of cancellations, dividends  
 208 returned to policyholders and all premiums received for reinsurance from any other  
 209 company authorized to do business in this state and premiums received in connection  
 210 with the funding of a pension, deferred compensation, annuity or profit-sharing plan  
 211 qualified or exempt under sections 401, 403, 404, 408, 457 or 501 of the United States  
 212 internal revenue code.

- 213 3. Mutual fire, casualty and multiple line insurers and reciprocal or  
 214 interinsurance exchanges:  
 215 Admission fees:  
 216 Examination of charter and other documents and issuance of certificate of  
 217 authority ~~\$55.00~~ 1000.00  
 218 Filing annual statement 100.00  
 219 Certificate of authority 10.00  
 220 Annual fees:  
 221 Filing annual statement 100.00  
 222 Continuation of certificate of authority 10.00

223 In addition to the above fees, every such company or association organized under  
 224 the laws of any other state of the United States shall pay a fee of \$5 for each agent  
 225 certified by the company and shall also pay a tax annually upon all premiums received  
 226 at the rate of 2% per annum. In the computation of the gross premiums all such  
 227 companies shall be entitled to deduct any premiums returned on account of  
 228 cancellations, all premiums received for reinsurance from any other company  
 229 authorized to do business in this state, and dividends returned to policyholders.

- 230 E  
 231 Fraternal benefit societies organized under the laws of any other state, territory or  
 232 country:  
 233 Admission fees:  
 234 Examination of charter and other documents ~~\$55.00~~ 1000.00  
 235 Filing annual statement 100.00  
 236 Certificate of authority 10.00  
 237 Annual fees:  
 238 Filing annual statement 100.00  
 239 Continuation of certificate of authority 10.00

- 240 F  
 241 Mutual nonprofit hospital service corporations and nonprofit medical service  
 242 corporations, nonprofit dental service corporations and nonprofit optometric service  
 243 corporations organized under the laws of any other state, territory or country:  
 244 1. Mutual nonprofit hospital service corporations:  
 245 Admission fees:  
 246 Examination of charter and other documents ~~\$55.00~~ 1000.00  
 247 Filing annual statement 100.00  
 248 Certificate of authority 10.00  
 249 Annual fees:  
 250 Filing annual statement 100.00  
 251 Continuation of certificate of authority 10.00  
 252 2. Nonprofit medical service corporations, nonprofit dental service  
 253 corporations and nonprofit optometric service corporations:  
 254 Admission fees:  
 255 Examination of charter and other documents ~~\$55.00~~ 1000.00  
 256 Filing annual statement 100.00  
 257 Certificate of authority 10.00  
 258 Annual fees:  
 259 Filing annual statement 100.00  
 260 Continuation of certificate of authority 10.00

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

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.

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.

STATEMENT OF THE KANSAS HOSPITAL ASSOCIATION

The Kansas Hospital Association appears before you today in support of minor amendments to the Kansas Uniform Consumer Credit Code that would relieve small hospitals that do not engage in true credit transactions of the obligation to register with the Consumer Credit Commissioner or comply with the numerous disclosure requirements.

The present version of the UCCC provides that it is applicable to "consumer credit transactions" made in this state. K.S.A. 16a-1-201(1). The term "consumer credit transaction" is then defined in K.S.A. 1982 Supp. 16a-1-301(11) as a "consumer credit sale, consumer lease, or consumer loan" or change in terms of one of those three types of transactions. Each of the terms "consumer credit sale," "consumer lease," and "consumer loan" are further defined in the definitions section of the UCCC, K.S.A. 1982 Supp. 16a-1-301. The provision that is of most interest to hospitals is the definition of "consumer credit sale," found in K.S.A. 1982 Supp. 16a-1-301(10). Subsection (a) of that provision provides as follows:

(a) Except as provided in paragraph (b), a "consumer credit sale" is a sale of goods, services, or an interest in land in which:

(i) Credit is granted either by a seller who regularly engages as a seller in credit transactions of the same kind or pursuant to a credit card other than a lender credit card,

(ii) the buyer is a person other than an organization,

(iii) the goods, services, or interest in land are purchased primarily for a personal, family or household purpose,

(iv) either the debt is payable in installments or a finance charge is made, and

(v) with respect to a sale of goods or services, the amount financed does not exceed \$25,000.

K.S.A. 1982 Supp. 16a-1-301(10)(a) (emphasis added).

*Attachment*

As applied to hospitals, the most important provisions in the definition of "consumer credit sale" are those underlined, subsections (i) and (iv). Subsection (i) of the definition defines the entity that must grant the "credit" (defined in section (14) of the definition as a right granted to defer payment by a "creditor"). Subsection (iv) of the definition -- one that has a major impact upon hospitals -- provides that a transaction that meets the other definitional elements of "consumer credit sale" falls under the Code if a finance charge is imposed or if the debt is "payable in installments."

The Kansas Hospital Association does not suggest that those hospitals that impose a finance charge on unpaid bills should be excluded from the coverage of the act. Rather, the concern of the Association is with the term "payable in installments." That term is specifically defined in K.S.A. 1982 Supp. 16a-1-301(27), in part, as an arrangement by which payment is required or permitted "by agreement" in four or more payments. In turn, the term "agreement" is defined in K.S.A. 16a-1-301(3) as simply the "bargain of the parties" as indicated by all of the circumstances.

The Consumer Credit Commissioner has interpreted the definition of "agreement" quite broadly so as to encompass an informal arrangement by which a hospital permits a patient to pay off a bill by paying an amount each month until it is fully satisfied. Indeed, the Commissioner appears to have interpreted the language so as to include even an informal arrangement by which a hospital accepts installments made by a patient without prior discussion with the hospital.

Because of the Commissioner's position that all such arrangements constitute consumer credit sales, all hospitals in the state would be subject to registration. The Kansas Hospital Association believes that the legislature did not intend such informal arrangements to be subject to the act. If a hospital is to be subjected to the act because of such informal arrangements, much more is involved than mere registration and payment of a small fee to the Consumer Credit Commissioner. Various disclosure requirements are imposed by the UCCC in K.S.A. 16a-3-201 - 3-206. The most burdensome is that which requires complete disclosure, pursuant to the federal Truth-In-Lending Act, of all terms of the transaction. The federal Truth-In-Lending Act is an extremely complex act that is constantly changing because of new interpretations based upon minor technicalities. Small hospitals simply do not have the staff or resources to monitor that Act and comply with its ever-changing requirements.



The Kansas Hospital Association suggests that the amendment to the term "creditor" presently in Senate Bill 471 does not solve the problem of small hospitals that informally allow patients to pay bills in installments. As was pointed out previously, the impact of the Act upon small hospitals is caused by two separate subsections in the general definition of "consumer credit sale." The present proposed amendment addresses only one of those problems.

The proposed amendment to the definition of the term "creditor" would exclude hospitals that only occasionally enter into arrangements for payment of a hospital bill in installments. However, it fails to address the principal problem of informal arrangements for repayment made with patients on a relatively frequent basis. The initial element of a consumer credit sale, as stated in subsection (i) of the definition, is that there be an extension of "credit." That term is defined, in turn, in K.S.A. 1982 Supp. 16a-1-301(14) as a right granted by a "creditor" to defer payment. The proposed definition of the term "creditor" in SB 471 would make clear that institutions that only rarely enter into credit transactions are not intended to be within the scope of the Act. However, the change in the definition "creditor" would not appear to alter the interpretation of the Consumer Credit Commissioner as to particular transactions.

In other words, the proposed amendment would mean that the coverage of the Act is limited to those institutions that regularly extend credit payable by written agreement in more than four installments or for which payment of a finance charge is required. The proposed amendment does not affect the language that defines a particular consumer credit sale as simply a debt that is payable in installments, whether by written agreement or otherwise. That means that the principal concern of Kansas hospitals -- that they not be required to comply with the Act when an informal payment schedule is agreed to -- would not be solved.

The Kansas Hospital Association recognizes that concerns as to the practices of other types of institutions may make the committee reluctant to modify other definitions of the UCCC. For that reason, the Kansas Hospital Association proposes the following language as an amendment to K.S.A. 16a-1-202, which provides certain exclusions from the act:

(6) any agreement between a medical care facility licensed by the Department of Health and Environment and a patient or a person responsible for a patient's bill for payment of such bill in installments if no finance charge is imposed by the medical care facility upon the unpaid balance.



In the alternative, the Kansas Hospital Association suggests that the applicable provisions of the UCCC be amended so as to make clear that it is not intended to apply to the informal repayment of a bill without a finance charge. The proposed amendments are attached hereto as Exhibit A.

SB 471

3

0083 (10) "Consumer credit sale":

0084 (a) Except as provided in paragraph (b), a "consumer credit  
0085 sale" is a sale of goods, services, or an interest in land in which:

0086 (i) Credit is granted either by a seller who regularly engages  
0087 as a seller in credit transactions of the same kind or pursuant to a  
0088 credit card other than a lender credit card,

0089 (ii) the buyer is a person other than an organization,

0090 (iii) the goods, services, or interest in land are purchased  
0091 primarily for a personal, family or household purpose,

0092 ~~(iv) either the debt is payable in installments or a finance  
0093 charge is made, and~~

0094 (v) with respect to a sale of goods or services, the amount  
0095 financed does not exceed \$25,000.

0096 (b) A "consumer credit sale" does not include:

0097 (i) A sale in which the seller allows the buyer to purchase  
0098 goods or services pursuant to a lender credit card ; or

0099 (ii) unless the sale is made subject to K.S.A. 16a-1-101  
0100 through 16a-9-102, and amendments thereto, by agreement (sec-  
0101 tion 16a-1-109), a sale of an interest in land, other than sales  
0102 governed by subsection (10)(b)(iii) of this section, if the finance  
0103 charge does not exceed 12% per year calculated according to the  
0104 actuarial method on the unpaid balances of the amount financed  
0105 on the assumption that the debt will be paid according to the  
0106 agreed terms and will not be paid before the end of the agreed  
0107 term; or

0108 (iii) a sale by contract for deed of real estate the interest rate  
0109 of which is governed by subsection (b) or (h) of K.S.A. 16-207,  
0110 and any amendments thereto.

0111 (11) "Consumer credit transaction" means a consumer credit  
0112 sale, consumer lease, or consumer loan or a modification thereof  
0113 including a refinancing, consolidation, or deferral.

0114 (12) "Consumer lease": A "consumer lease" is a lease of  
0115 goods:

0116 (a) Which a lessor regularly engaged in the business of leas-  
0117 ing makes to a person, other than an organization, who takes  
0118 under the lease primarily for a personal, family or household  
0119 purpose;

(iv) either the debt is by  
written agreement payable in  
installments or a finance charge is  
made, and

0305 the lessee has an option to purchase the interest and all or a  
0306 substantial part of the rental or other payments previously made  
0307 by the lessee are applied to the purchase price.

0308 (34) "Sale of services" means furnishing or agreeing to fur-  
0309 nish services and includes making arrangements to have services  
0310 furnished by another.

0311 (35) "Seller": Except as otherwise provided, "seller" in-  
0312 cludes an assignee of the seller's right to payment but use of the  
0313 term does not in itself impose on an assignee any obligation of  
0314 the seller with respect to events occurring before the assign-  
0315 ment.

0316 (36) "Services" includes (a) work, labor, and other personal  
0317 services, (b) privileges with respect to transportation, hotel and  
0318 restaurant accommodations, education, entertainment, recre-  
0319 ation, physical culture, hospital accommodations, funerals, cem-  
0320 etery accommodations, and the like, and (c) insurance.

0321 (37) "Supervised financial organization" means a person,  
0322 other than an insurance company or other organization primarily  
0323 engaged in an insurance business:

0324 (a) Organized, chartered, or holding an authorization certifi-  
0325 cate under the laws of this state or of the United States which  
0326 authorize the person to make loans and to receive deposits,  
0327 including a savings, share, certificate or deposit account; and

0328 (b) subject to supervision by an official or agency of this state  
0329 or of the United States.

0330 (38) "Supervised lender" means a person authorized to make  
0331 or take assignments of supervised loans, either under a license  
0332 issued by the administrator (section 16a-2-301); or as a super-  
0333 vised financial organization (section 16a-1-301(37)) or as an agri-  
0334 cultural credit corporation (section 16a-2-301).

0335 (39) "Supervised loan" means a consumer loan, including a  
0336 loan made pursuant to open end credit, in which the rate of the  
0337 finance charge, calculated according to the actuarial method,  
0338 exceeds 12% per year.

0339 Sec. 2. K.S.A. 1983 Supp. 16a-1-301 is hereby repealed.

0340 Sec. 3. This act shall take effect and be in force from and  
0341 after its publication in the statute book.

(40) "Written agreement" means an agreement such as a promissory note, contract or lease that is evidence of the indebtedness; a letter that merely confirms an oral agreement does not constitute a written agreement for purposes of this section.