

CHAPTER 122
HOUSE BILL No. 2112

AN ACT concerning insurance companies; relating to corporate seals; pertaining to merger authority; pertaining to the preparation and filing of certain reports; amending K.S.A. 40-218, 40-252, 40-309 and 40-1702 and K.S.A. 2006 Supp. 40-3213 and 75-1508 and repealing the existing sections.

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

Section 1. K.S.A. 40-218 is hereby amended to read as follows: 40-218. Every insurance company, or fraternal benefit society, on applying for authority to transact business in this state, and as a condition precedent to obtaining such authority, shall file in the insurance department its written consent, irrevocable, that any action or garnishment proceeding may be commenced against such company or fraternal benefit society in the proper court of any county in this state in which the cause of action shall arise or in which the plaintiff may reside by the service of process on the commissioner of insurance of this state, and stipulating and agreeing that such service shall be taken and held in all courts to be as valid and binding as if due service had been made upon the president or chief officer of such corporation. Such consent shall be executed by the president and secretary of the company, ~~authenticated by the seal of the corporation,~~ and shall be accompanied by a duly certified copy of the order or resolution of the board of directors, trustees or managers authorizing the president and secretary to execute the same. The summons, accompanied by a fee of \$25, shall be directed to the commissioner of insurance, and shall require the defendant to answer by a certain day, not less than 40 days from its date.

Service on the commissioner of insurance of any process, notice or demand against an insurance company or fraternal benefit society shall be made by delivering to and leaving with the commissioner or the commissioner's designee, the original of the process and two copies of the process and the petition, notice of demand, or the clerk of the court may send the original process and two copies of both the process and petition, notice or demand directly to the commissioner by certified mail, return receipt requested. In the event that any process, notice or demand is served on the commissioner, the commissioner shall immediately cause a copy thereof to be forwarded by certified mail, return receipt requested to the insurance company or fraternal benefit society address to its general agent if such agent resides in this state or to the secretary of the insurance company or fraternal benefit society sued at its registered or principal office in any state in which it is domesticated. The commissioner of insurance shall make return of the summons to the court from whence it issued, showing the date of its receipt, the date of forwarding such copies, and the name and address of each person to whom a copy was forwarded. Such return shall be under the hand and seal of office, and shall have the same force and effect as a due and sufficient return made on process directed to a sheriff. The commissioner of insurance shall keep a suitable record in which shall be docketed every action commenced against an insurance company, the time when commenced, the date and manner of service; also the date of the judgment, its amount and costs, and the date of payment thereof, which shall be certified from time to time by the clerk of the court.

Sec. 2. K.S.A. 40-309 is hereby amended to read as follows: 40-309. (a) (1) Any insurance company *and any health maintenance organization* of this state may unite, merge or consolidate with any other company or companies of this or any other state engaged in like business and having similar corporate powers, upon such terms and conditions, including the reinsurance of the business in force, as may be approved at a meeting of the stockholders of any such company or companies of this state, called for that purpose, such approval to be by vote of stockholders owning not less than two-thirds of the shares of stock of any such company or companies of this state. The agreement for such union, merger, consolidation and reinsurance shall be subject to the approval of the commissioner of insurance. There shall be filed with the commissioner of insurance a verified schedule by the actuaries of the companies *or health maintenance organizations* interested showing that the legal reserve for the policyholders of each of the several companies is of the amount required by law.

(2) Where companies of other states are uniting, consolidating, merg-

ing and reinsuring with a company or health maintenance organization of this state the commissioner of insurance also shall approve in the same manner such amendments to the articles of incorporation of such companies of this state as may be necessary and proper. Such agreement shall provide for payment in cash to any dissenting stockholder of an amount equal to the fair value of the stock if the stockholder shall refuse to assent to the union, merger or consolidation.

(3) When a company or health maintenance organization of this state shall be merged, consolidated or united with a company organized under the laws of any other state, the commissioner of insurance in the commissioner's order of approval shall direct that the assets of the domestic company or health maintenance organization be delivered to the company with which the domestic company is united, merged or consolidated.

(b) For the purposes of this section the term "health maintenance organization" shall have the meaning ascribed to it in K.S.A. 40-3202, and amendments thereto.

Sec. 3. K.S.A. 40-252 is hereby amended to read as follows: 40-252. Every insurance company or fraternal benefit society organized under the laws of this state or doing business in this state shall pay to the commissioner of insurance fees and taxes specified in the following schedule:

A

Insurance companies organized under the laws of this state:

1. Capital stock insurance companies and mutual legal reserve life insurance companies:	
Filing application for sale of stock or certificates of indebtedness	\$25
Admission fees:	
Examination of charter and other documents	500
Filing annual statement	100
Certificate of authority	10
Annual fees:	
Filing annual statement	100
Continuation of certificate of authority	10
2. Mutual life, accident and health associations:	
Admission fees:	
Examination of charter and other documents	\$500
Filing annual statement	100
Certificate of authority	10
Annual fees:	
Filing annual statement	100
Continuation of certificate of authority	10
3. Mutual fire, hail, casualty and multiple line insurers and reciprocal or interinsurance exchanges:	
Admission fees:	
Examination of charter and other documents	\$500
Filing annual statement	100
Certificate of authority	10
Annual fees:	
Filing annual statement	100
Continuation of certificate of authority	10

In addition to the above fees and as a condition precedent to the continuation of the certificate of authority provided in this code, all such companies shall pay a fee of \$2 for each agent certified by the company and shall also pay a tax annually upon all premiums received on risk located in this state at the rate of 1% for tax year 1997, and 2% for all tax years thereafter per annum less (1) for tax years prior to 1984, any taxes paid on business in this state pursuant to the provisions of K.S.A. 40-1701 to 40-1707, inclusive, and 75-1508 and amendments thereto and (2) for tax years 1984 and thereafter, any taxes paid on business in this state pursuant to the provisions of K.S.A. 75-1508 and amendments thereto and the amount of the firefighters relief tax credit determined by the commissioner of insurance. The amount of the firefighters relief tax credit for a company for the current tax year shall be determined by the commissioner of insurance by dividing (A) the total amount of credits against the tax imposed by this section for taxes paid by all such companies on business in this state under K.S.A. 40-1701 to 40-1707, inclusive, and amendments thereto for tax year 1983, by (B) the total amount of taxes paid by all such companies on business in this state under K.S.A. 40-1703 and amendments thereto for the tax year immediately preceding the current tax year, and by multiplying the result so obtained by (C) the amount of taxes paid by the company on business in this state under K.S.A. 40-1703 and amendments thereto for the current tax year.

In the computation of the gross premiums all such companies shall be entitled to deduct any premiums returned on account of cancellations, including funds accepted before January 1, 1997, and declared and taxed as annuity premiums which, on or after January 1, 1997, are withdrawn

before application to the purchase of annuities, all premiums received for reinsurance from any other company authorized to do business in this state, dividends returned to policyholders and premiums received in connection with the funding of a pension, deferred compensation, annuity or profit-sharing plan qualified or exempt under sections 401, 403, 404, 408, 457 or 501 of the United States internal revenue code of 1986. Funds received by life insurers for the purchase of annuity contracts and funds applied by life insurers to the purchase of annuities shall not be deemed taxable premiums or be subject to tax under this section for tax years commencing on or after January 1, 1997.

B

Fraternal benefit societies organized under the laws of this state:

Admission fees:

Examination of charter and other documents	\$500
Filing annual statement	100
Certificate of authority	10

Annual fees:

Filing annual statement	100
Continuation of certificate of authority	10

C

Mutual nonprofit hospital service corporations, nonprofit medical service corporations, nonprofit dental service corporations, nonprofit optometric service corporations and nonprofit pharmacy service corporations organized under the laws of this state:

1. Mutual nonprofit hospital service corporations:

Admission fees:

Examination of charter and other documents	\$500
Filing annual statement	100
Certificate of authority	10

Annual fees:

Filing annual statement	100
Continuation of certificate of authority	10
2. Nonprofit medical service corporations:

Admission fees:

Examination of charter and other documents	\$500
Filing annual statement	100
Certificate of authority	10

Annual fees:

Filing annual statement	100
Continuation of certificate of authority	10
3. Nonprofit dental service corporations:

Admission fees:

Examination of charter and other documents	\$500
Filing annual statement	100
Certificate of authority	10

Annual fees:

Filing annual statement	100
Continuation of certificate of authority	10
4. Nonprofit optometric service corporations:

Admission fees:

Examination of charter and other documents	\$500
Filing annual statement	100
Certificate of authority	10

Annual fees:

Filing annual statement	100
Continuation of certificate of authority	10
5. Nonprofit pharmacy service corporations:

Admission fees:

Examination of charter and other documents	\$500
Filing annual statement	100
Certificate of authority	10

Annual fees:

Filing annual statement	100
Continuation of certificate of authority	10

In addition to the above fees and as a condition precedent to the continuation of the certificate of authority, provided in this code, every corporation or association shall pay annually to the commissioner of insurance a tax in an amount equal to 1% for tax year 1997, and 2% for all tax years thereafter per annum of the total of all premiums, subscription charges, or any other term which may be used to describe the charges made by such corporation or association to subscribers for hospital, medical or other health services or indemnity received during the preceding year. In such computations all such corporations or associations shall be entitled to deduct any premiums or subscription charges returned on account of cancellations and dividends returned to members or subscribers.

D

Insurance companies organized under the laws of any other state, territory or country:

1. Capital stock insurance companies and mutual legal reserve life insurance companies:

Filing application for sale of stock or certificates of indebtedness.....	\$25
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Admission fees:

Examination of charter and other documents	500
Filing annual statement	100
Certificate of authority	10

Annual fees:

Filing annual statement	100
Continuation of certificate of authority	10

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

As a condition precedent to the continuation of the certificate of authority, provided in this code, every company organized under the laws of any other state of the United States or of any foreign country shall pay a tax upon all premiums received during the preceding year at the rate of 2% per annum.

In the computation of the gross premiums all such companies shall be entitled to deduct any premiums returned on account of cancellations, including funds accepted before January 1, 1997, and declared and taxed as annuity premiums which, on or after January 1, 1997, are withdrawn before application to the purchase of annuities, dividends returned to policyholders and all premiums received for reinsurance from any other company authorized to do business in this state and premiums received in connection with the funding of a pension, deferred compensation, annuity or profit-sharing plan qualified or exempt under sections 401, 403, 404, 408, 457 or 501 of the United States internal revenue code of 1986. Funds received by life insurers for the purchase of annuity contracts and funds applied by life insurers to the purchase of annuities shall not be deemed taxable premiums or be subject to tax under this section for tax years commencing on or after January 1, 1997.

2. Mutual life, accident and health associations:

Admission fees:

Examination of charter and other documents	\$500
Filing annual statement	100
Certificate of authority	10

Annual fees:

Filing annual statement	100
Continuation of certificate of authority	10

In addition to the above fees, every such company organized under the laws of any other state of the United States shall pay \$5 for each agent certified by the company, and shall pay a tax annually upon all premiums received at the rate of 2% per annum.

In the computation of the gross premiums all such companies shall be entitled to deduct any premiums returned on account of cancellations, including funds accepted before January 1, 1997, and declared and taxed as annuity premiums which, on or after January 1, 1997, are withdrawn before application to the purchase of annuities, dividends returned to policyholders and all premiums received for reinsurance from any other company authorized to do business in this state and premiums received in connection with the funding of a pension, deferred compensation, annuity or profit-sharing plan qualified or exempt under sections 401, 403, 404, 408, 457 or 501 of the United States internal revenue code of 1986. Funds received by life insurers for the purchase of annuity contracts and funds applied by life insurers to the purchase of annuities shall not be deemed taxable premiums or be subject to tax under this section for tax years commencing on or after January 1, 1997.

3. Mutual fire, casualty and multiple line insurers and reciprocal or interinsurance exchanges:

Admission fees:

Examination of charter and other documents and issuance of certificate of authority	\$500
Filing annual statement	100
Certificate of authority	10

Annual fees:

Filing annual statement	100
Continuation of certificate of authority	10

In addition to the above fees, every such company or association organized under the laws of any other state of the United States shall pay a fee of \$5 for each agent certified by the company and shall also pay a tax annually upon all premiums received at the rate of 2% per annum.

For tax years 1998 and thereafter, the annual tax shall be reduced by the "applicable percentage" of (1) any taxes paid on business in this state pursuant to the provisions of K.S.A. 75-1508 and amendments thereto and (2) the amount of the firefighters relief tax credit determined by the commissioner of insurance. The amount of the firefighters relief tax credit for a company taxable under this subsection for the current tax year shall be determined by the commissioner of insurance by dividing (A) the total

amount of taxes paid by all such companies on business in this state under K.S.A. 40-1701 to 40-1707 and amendments thereto for tax year 1983 as then in effect, by (B) the total amount of taxes paid by all such companies on business in this state under K.S.A. 40-1703 and amendments thereto for the tax year immediately preceding the current tax year, and by multiplying the result so obtained by (C) the amount of taxes paid by the company on business in this state under K.S.A. 40-1703 and amendments thereto for the current tax year. The “applicable percentage” shall be as follows:

<i>Tax Year</i>	<i>Applicable Percentage</i>
1998	10%
1999	20%
2000	30%
2001	40%
2002	50%
2003	60%
2004	70%
2005	80%
2006	90%
2007 and thereafter	100%

In the computation of the gross premiums all such companies shall be entitled to deduct any premiums returned on account of cancellations, all premiums received for reinsurance from any other company authorized to do business in this state, and dividends returned to policyholders.

E

Fraternal benefit societies organized under the laws of any other state, territory or country:

Admission fees:

Examination of charter and other documents	\$500
Filing annual statement	100
Certificate of authority	10

Annual fees:

Filing annual statement	100
Continuation of certificate of authority	10

F

Mutual nonprofit hospital service corporations, nonprofit medical service corporations, nonprofit dental service corporations, nonprofit optometric service corporations and nonprofit pharmacy service corporations organized under the laws of any other state, territory or country:

1. Mutual nonprofit hospital service corporations:

Admission fees:

Examination of charter and other documents	\$500
Filing annual statement	100
Certificate of authority	10

Annual fees:

Filing annual statement	100
Continuation of certificate of authority	10

2. Nonprofit medical service corporations, nonprofit dental service corporations, nonprofit optometric service corporations and nonprofit pharmacy service corporations:

Admission fees:

Examination of charter and other documents	\$500
Filing annual statement	100
Certificate of authority	10

Annual fees:

Filing annual statement	100
Continuation of certificate of authority	10

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

G

Payment of Taxes.

For the purpose of insuring the collection of the tax upon premiums, assessments and charges as set out in subsection A, C, D or F, every insurance company, corporation or association shall at the time it files its annual statement, as required by the provisions of K.S.A. 40-225, and amendments thereto, make a return, ~~verified by affidavits generated by~~ *or at the direction* of its president and secretary or other chief officers, *under penalty of K.S.A. 21-3711, and amendments thereto,* to the commissioner of insurance, stating the amount of all premiums, assessments and charges received by the companies or corporations in this state,

whether in cash or notes, during the year ending on the December 31 next preceding.

Commencing in 1985 and annually thereafter the estimated taxes shall be paid as follows: On or before June 15 and December 15 of such year an amount equal to 50% of the full amount of the prior year's taxes as reported by the company shall be remitted to the commissioner of insurance. As used in this paragraph, "prior year's taxes" includes (1) taxes assessed pursuant to this section for the prior calendar year, (2) fees and taxes assessed pursuant to K.S.A. 40-253, and amendments thereto, for the prior calendar year, and (3) taxes paid for maintenance of the department of the state fire marshal pursuant to K.S.A. 75-1508, and amendments thereto, for the prior calendar year.

Upon the receipt of such returns the commissioner of insurance shall verify the same and assess the taxes upon such companies, corporations or associations on the basis and at the rate provided herein and the balance of such taxes shall thereupon become due and payable giving credit for amounts paid pursuant to the preceding paragraph, or the commissioner shall make a refund if the taxes paid in the prior June and December are in excess of the taxes assessed.

H

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

Sec. 4. K.S.A. 40-1702 is hereby amended to read as follows: 40-1702. (a) On or before April 1 of each year, every insurance company doing business in this state shall return to the commissioner of insurance a just and true account, ~~verified by oath~~ *generated by or at the direction of its president and secretary or other chief officers, under penalty of K.S.A. 21-3711, and amendments thereto*, of all premiums received for fire and lightning insurance covering risks located within this state during the year ending December 31, or the fire and lightning portion of any other insurance transacted by the insurance company covering risks within this state. Every insurance company shall include in its return an account of all premiums received for fire and lightning insurance covering risks located within this state.

(b) Each firefighters relief association shall prepare and file with the commissioner a plat drawn to scale showing the area provided fire protection service by the fire department of the firefighters relief association and the location of each fire department house. No such plat shall include any part of any area served by another fire department.

Sec. 5. K.S.A. 2006 Supp. 40-3213 is hereby amended to read as follows: 40-3213. (a) Every health maintenance organization and medicare provider organization subject to this act shall pay to the commissioner the following fees:

- (1) For filing an application for a certificate of authority, \$150;
- (2) For filing each annual report, \$50;
- (3) For filing an amendment to the certificate of authority, \$10.

(b) Every health maintenance organization subject to this act which has operated for a period of three years but not more than five years shall pay annually to the commissioner at the time such organization files its annual report a privilege fee in an amount equal to one-half of one per cent (.005) per annum of the total of all premiums, subscription charges or any other term which may be used to describe the charges made by such organization to enrollees; and after operating for a period of more than five years from the time of organization a health maintenance organization shall pay annually to the commissioner at the time such organization files its annual report, a privilege fee in an amount equal to 1% per annum of the total of all premiums, subscription charges or any other term which may be used to describe the charges made by such organization to enrollees. In such computations all such organizations shall be entitled to deduct therefrom any premiums or subscription charges returned on account of cancellations and dividends returned to enrollees. If the commissioner shall determine at any time that the application of the privilege fee would cause a denial of, reduction in or elimination of federal financial assistance to the state or to any health maintenance organization subject to this act, the commissioner is hereby authorized to terminate the operation of such privilege fee.

(c) For the purpose of insuring the collection of the privilege fee provided for by subsection (b), every health maintenance organization

subject to this act and required by subsection (b) to pay such privilege fee shall at the time it files its annual report, as required by K.S.A. 40-3220, and amendments thereto, make a return, ~~verified by affidavits of~~ *generated by or at the direction of* its chief officer or principal managing director, *under penalty of K.S.A. 21-3711, and amendments thereto*, to the commissioner, stating the amount of all premiums, assessments and charges received by the health maintenance organization, whether in cash or notes, during the year ending on the last day of the preceding calendar year. Upon the receipt of such returns the commissioner of insurance shall verify the same and assess the fees upon such organization on the basis and at the rate provided herein and such fees shall thereupon become due and payable.

(d) Premiums or other charges received by an insurance company from the operation of a health maintenance organization subject to this act shall not be subject to any fee or tax imposed under the provisions of K.S.A. 40-252, and amendments thereto.

(e) Fees charged under this section shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the state general fund.

Sec. 6. K.S.A. 2006 Supp. 75-1508 is hereby amended to read as follows: 75-1508. (a) For the purpose of maintaining the department of the state fire marshal and the payment of the expenses incident thereto, each fire insurance company doing business in this state shall pay to the commissioner of insurance, on or before March 15 each year, in addition to the taxes, fees and charges now required by law to be paid by it, such levy as may be made by the state fire marshal. The levy shall not be more than .80% for calendar year 2004, and each calendar year thereafter, of a sum equal to the gross cash receipts as premiums of such company on all fire business transacted by it in the state of Kansas during the calendar year next preceding, as shown by its annual statement under oath to the state insurance department.

(b) For the purposes of maintaining the emergency medical services board and the payment of the expenses incident thereto, each fire insurance company doing business in this state shall pay to the commissioner of insurance, on or before March 15 each year, beginning with calendar year 2002 and each calendar year thereafter, in addition to the taxes, fees and charges now required by law to be paid by it, such levy as may be made by the emergency medical services board. The levy shall not be more than .25% of a sum equal to the gross cash receipts as premiums of such company on all fire business transacted by it in the state of Kansas during the calendar year next preceding, as shown by its annual statement ~~under oath~~ *generated by or at the direction of its president and secretary or other chief officers under penalty of K.S.A. 21-3711 and amendments thereto*.

(c) For the purposes of maintaining the fire service training program of the university of Kansas and the payment of the expenses incident thereto, each fire insurance company doing business in this state shall pay to the commissioner of insurance, on or before March 15 each year, beginning with calendar year 2004, and each calendar year thereafter, in addition to the taxes, fees and charges now required by law to be paid by it, such levy as may be made by the Kansas fire service training commission. The levy shall not be more than .20% of a sum equal to the gross cash receipts as premiums of such company on all fire business transacted by it in the state of Kansas during the calendar year next preceding, as shown by its annual statement under oath to the state insurance department.

(d) The director of the fire service training program of the university of Kansas shall submit a report concerning expenditures and activities of the fire service training program of the university of Kansas to the house committee on appropriations on or before February 1, 2005, and each ensuing year thereafter.

Sec. 7. K.S.A. 40-218, 40-252, 40-309 and 40-1702 and K.S.A. 2006 Supp. 40-3213 and 75-1508 are hereby repealed.

Sec. 8. This act shall take effect and be in force from and after its publication in the statute book.

