

CHAPTER 144
HOUSE BILL No. 2689

AN ACT concerning insurance; establishing the property/casualty flex-rating regulatory improvement act; pertaining to personal lines insurance written on risks in this state by any insurer authorized to do business in this state; pertaining to risk-based capital requirements; amending K.S.A. 2007 Supp. 40-2c01 and repealing the existing section.

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

Section 1. K.S.A. 2007 Supp. 40-2c01 is hereby amended to read as follows: 40-2c01. As used in this act:

(a) "Adjusted RBC report" means an RBC report which has been adjusted by the commissioner in accordance with K.S.A. 40-2c04, and amendments thereto.

(b) "Corrective order" means an order issued by the commissioner specifying corrective actions which the commissioner has determined are required to address a RBC level event.

(c) "Domestic insurer" means any insurance company or risk retention group which is licensed and organized in this state.

(d) "Foreign insurer" means any insurance company or risk retention group not domiciled in this state which is licensed or registered to do business in this state pursuant to article 41 of chapter 40 of the Kansas Statutes Annotated or K.S.A. 40-209, and amendments thereto.

(e) "NAIC" means the national association of insurance commissioners.

(f) "Life and health insurer" means any insurance company licensed under article 4 or 5 of chapter 40 of the Kansas Statutes Annotated or a licensed property and casualty insurer writing only accident and health insurance.

(g) "Property and casualty insurer" means any insurance company licensed under articles 9, 10, 11, 12, 12a, 15 or 16 of chapter 40 of the Kansas Statutes Annotated, but shall not include monoline mortgage guaranty insurers, financial guaranty insurers and title insurers.

(h) "Negative trend" means, with respect to a life and health insurer, a negative trend over a period of time, as determined in accordance with the "trend test calculation" included in the RBC instructions defined in subsection (j).

(i) "RBC" means risk-based capital.

(j) "RBC instructions" mean the risk-based capital instructions promulgated by the NAIC, which are in effect on December 31, ~~2006~~ 2007.

(k) "RBC level" means an insurer's company action level RBC, regulatory action level RBC, authorized control level RBC, or mandatory control level RBC where:

(1) "Company action level RBC" means, with respect to any insurer, the product of 2.0 and its authorized control level RBC;

(2) "regulatory action level RBC" means the product of 1.5 and its authorized control level RBC;

(3) "authorized control level RBC" means the number determined under the risk-based capital formula in accordance with the RBC instructions; and

(4) "mandatory control level RBC" means the product of .70 and the authorized control level RBC.

(l) "RBC plan" means a comprehensive financial plan containing the elements specified in K.S.A. 40-2c06, and amendments thereto. If the commissioner rejects the RBC plan, and it is revised by the insurer, with or without the commissioner's recommendation, the plan shall be called the "revised RBC plan."

(m) "RBC report" means the report required by K.S.A. 40-2c02, and amendments thereto.

(n) "Total adjusted capital" means the sum of:

(1) An insurer's capital and surplus or surplus only if a mutual insurer; and

(2) such other items, if any, as the RBC instructions may provide.

(o) "Commissioner" means the commissioner of insurance.

New Sec. 2. Notwithstanding the requirements of K.S.A. 40-952 and 40-955, and amendments thereto, a filing made by an insurer for personal insurance under this section that provides for an overall statewide rate increase or decrease of no more than 12% in the aggregate for all coverages that are subject to the filing may take effect the date it is filed.

The 12% limitation shall not apply on an individual insured basis. No more than one rate filing may be made by an insurer pursuant to the expedited process provided in this section during any period of 12 consecutive months, unless the combination of such rate filing and all other rate filings made by such insurer within the preceding period of 12 consecutive months does not result in an overall statewide increase or decrease of more than 12% in the aggregate for all coverages that are subject to such filing.

New Sec. 3. Any rate filing which falls outside the limitations specified in section 2, and amendments thereto, shall be subject to K.S.A. 40-952 and 40-955, and amendments thereto, unless such filing is otherwise exempt pursuant to another provision of Chapter 40 of the Kansas Statutes Annotated and acts amendatory thereof and supplemental thereto.

New Sec. 4. (a) Any filing submitted pursuant to section 2, and amendments thereto, shall be deemed to comply with state law unless the commissioner determines that the filing is inadequate or unfairly discriminatory. If the commissioner determines that the filing is inadequate or unfairly discriminatory, the commissioner shall issue a written order specifying in detail:

(1) Each provision of Chapter 40 of the Kansas Statutes Annotated, and acts amendatory thereof and supplemental thereto, the insurer has violated;

(2) the reasons the filing is inadequate or unfairly discriminatory; and

(3) stating a reasonable future date on which the filing shall be considered no longer effective.

(b) If the commissioner issues an order pursuant to this section more than 30 days after the date on which the commissioner received the rate filing, the effect of such order shall be prospective only and shall not affect any contract issued or made before the effective date of such order.

New Sec. 5. Within the limitation specified in section 2, and amendments thereto, no rate increase may be implemented with regard to an individual existing policy, unless such increase is applied at the time of a renewal or conditional renewal of an existing policy and the insurer mails or delivers to the named insured, at the address shown in the policy, a written notice that clearly and conspicuously discloses its intention to change the rate, at least 30 days in advance of the end of the insured's policy period. A notice of renewal or conditional renewal that clearly and conspicuously discloses the renewal premium applicable to the policy shall be deemed to comply with this section.

New Sec. 6. For purposes of sections 2 through 7:

(a) "Commissioner" means the commissioner of insurance.

(b) "Personal insurance" shall have the meaning ascribed to it in K.S.A. 2007 Supp. 40-5103 (l) and amendments thereto.

(c) "Unfairly discriminatory" shall have the meaning ascribed to it in K.S.A. 40-953 and amendments thereto. The term "unfairly discriminatory" includes a rate for a risk that is classified in whole or in part on the basis of race, color, creed or national origin.

New Sec. 7. Sections 2 through 7, and amendments thereto, shall be known and may be cited as the property/casualty flex-rating regulatory improvement act.

Sec. 8. K.S.A. 2007 Supp. 40-2c01 is hereby repealed.

Sec. 9. This act shall take effect and be in force from and after its publication in the statute book.

Approved May 13, 2008.
