

HOUSE BILL No. 2334

AN ACT concerning insurance; relating to captive insurance companies; providing for incorporated cell captive insurance companies and protected cell captive insurance companies; enacting the Kansas protected cell captive insurance company act; providing for the redomestication of a foreign or alien captive insurance company; providing for a provisional certificate of authority; expanding the types of insurance that a captive insurance company may provide; extending the period of time in between financial examinations conducted by the commissioner; exempting a redomesticated foreign or alien captive insurance company from paying premium tax for one year; reducing insurance company premium tax rates; discontinuing remittance and crediting of a portion of the premium tax to the insurance department service regulation fund; updating the licensing requirements for insurance agents and public adjusters relating to the suspension, revocation, denial of licensure and license renewal; authorizing insurers to file certain travel insurance policies under the accident and health line of insurance; authorizing the commissioner of insurance to select and announce the version of certain instructions, calculations and documents in effect for the upcoming calendar year and cause such announcement to be published in the Kansas register; allowing certain life insurers to follow health financial reports; adopting certain provisions from the national association of insurance commissioners holding company system regulatory act relating to group capital calculations and liquidity stress testing; exempting certain entities from state regulations as health benefit plans; amending K.S.A. 40-112, 40-202, 40-252, 40-2d01, 40-3302, 40-3305, 40-3306, 40-3307, 40-3308, 40-4304, 40-4312, 40-4314, 40-4602 and 40-5510 and K.S.A. 2024 Supp. 40-2,239, 40-2c01, 40-4302, 40-4308 and 40-4909 and repealing the existing sections.

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

New Section 1. Sections 1 through 10, and amendments thereto, shall be known and may be cited as the Kansas protected cell captive insurance company act.

New Sec. 2. (a) One or more sponsors may form a protected cell captive insurance company under this act. This act shall apply to protected cell captive insurance companies.

(b) A protected cell captive insurance company shall be incorporated as a stock insurer with its capital divided into shares and held by the stockholders as a mutual corporation, as a nonprofit corporation with one or more members or as a limited liability company.

New Sec. 3. As used in this act, unless the context requires otherwise:

(a) "Act" means the Kansas protected cell captive insurance company act;

(b) "general account" means all assets and liabilities of a protected cell captive insurance company not attributable to a protected cell;

(c) "participant" means a person or an entity, authorized to be a participant by section 5, and amendments thereto, or any affiliate of a participant, that is insured by a protected cell captive insurance company if the losses of the participant are limited through a participant contract;

(d) "participant contract" means a contract by which a protected cell captive insurance company insures the risks of a participant and limits the losses of each such participant to its pro rata share of the assets of one or more protected cells identified in such participant contract;

(e) "protected cell" means a separate account that is established by a protected cell captive insurance company formed or licensed pursuant to this act and in which an identified pool of assets and liabilities are segregated and insulated by means of this act from the remainder of the protected cell captive insurance company's assets and liabilities in accordance with the terms of one or more participant contracts to fund the liability of the protected cell captive insurance company with respect to the participants as set forth in the participant contracts;

(f) "protected cell assets" means all assets, contract rights and general intangibles identified with and attributable to a specific protected cell of a protected cell captive insurance company;

(g) "protected cell captive insurance company" means any captive insurance company:

(1) In which the minimum capital and surplus required by the chapter are provided by one or more sponsors;

(2) that is formed or licensed under this act;

(3) that insures the risks of separate participants through participant contracts; and

(4) that funds its liability to each participant through one or more protected cells and segregates the assets of each protected cell from the assets of other protected cells and from the assets of the protected cell captive insurance company's general account;

(h) "protected cell liabilities" means all liabilities and other obligations identified with and attributed to a specific protected cell of a protected cell captive insurance company; and

(i) "protected cell liabilities" means all liabilities and other obligations identified with and attributed to a specific protected cell of a protected cell captive insurance company; and

(j) "sponsor" means any person or entity that is approved by the commissioner to provide all or part of the capital and surplus required by this act and organize and operate a protected cell captive insurance company.

New Sec. 4. In addition to the information required by K.S.A. 40-4302, and amendments thereto, each applicant-protected cell captive insurance company shall file with the commissioner the following:

(a) Materials demonstrating how the applicant will account for the loss and expense experience of each protected cell at a level of detail found to be sufficient by the commissioner, and how it will report such experience to the commissioner;

(b) a statement acknowledging that all financial records of the applicant, including records pertaining to any protected cells, shall be made available for inspection or examination by the commissioner or the commissioner's designated agent;

(c) all contracts or sample contracts between the applicant and any participants; and

(d) evidence that expenses shall be allocated to each protected cell in a fair and equitable manner.

New Sec. 5. A protected cell captive insurance company formed or licensed under this chapter may establish and maintain one or more incorporated or unincorporated protected cells to insure risks of one or more participants, subject to the following conditions:

(a) (1) A protected cell captive insurance company may establish one or more protected cells if the commissioner has approved in writing a plan of operation or amendments to a plan of operation submitted by the protected cell captive insurance company with respect to each protected cell. A plan of operation includes, but is not limited to, the specific business objectives and investment guidelines of the protected cell, except that the commissioner may require additional information in the plan of operation. The commissioner may put into effect a plan of operation or amendments to a plan of operation on or before the date that the approval is signed if the effective date is not earlier than the date that the plan of operation or amendments to the plan of operation were filed with the department;

(2) upon the commissioner's written approval of the plan of operation, the protected cell captive insurance company, in accordance with the approved plan of operation, may attribute insurance obligations with respect to its insurance business to the protected cell;

(3) a protected cell shall have its own distinct name or designation that shall include the words "protected cell" or "incorporated cell." An incorporated cell formed as a series of a limited liability company shall bear a distinct name or designation as reflected in its formation documents and include the words "series cell." Such names or designations may also be reasonably abbreviated, including, without limitation, pc or p.c. for "protected cell," ic, i.c., ipc, or i.p.c. for "incorporated cell" and sc, s.c., spc or s.p.c. for "series cell";

(4) the protected cell captive insurance company shall transfer all assets attributable to a protected cell to one or more separately established and identified protected cell accounts bearing the name or designation of such protected cell. Protected cell assets shall be held in the protected cell accounts for the purpose of satisfying the obligations

of such protected cell;

(5) an incorporated protected cell may be organized and operated in any form of business organization authorized by the commissioner, including, but not limited to, an individual series of a limited liability company as provided for in the Kansas revised limited liability company act. Each incorporated protected cell of a protected cell captive insurer shall be treated as a captive insurer for purposes of this act and shall have the power to enter into contracts, including an individual series of a limited liability company. Unless otherwise permitted by the organizational documents of a protected cell captive insurer, each incorporated protected cell of the protected cell captive insurer shall have the same directors, secretary and registered office as the protected cell captive insurer; and

(6) all attributions of assets and liabilities between a protected cell and the general account shall be in accordance with the plan of operation and participant contracts approved by the commissioner. No other attribution of assets or liabilities shall be made by a protected cell captive insurance company between the protected cell captive insurance company's general account and its protected cells. Any attribution of assets and liabilities between the general account and a protected cell shall be in cash or in readily marketable securities with established market values.

(b) The creation of a protected cell does not create, with respect to such protected cell, a legal person separate from the protected cell captive insurance company unless the protected cell is an incorporated cell. Amounts attributed to a protected cell under this section, including assets transferred to a protected cell account, are deemed to be owned by the protected cell. No protected cell captive insurance company shall be, or represent itself as a trustee with respect to those protected cell assets of such protected cell account. Notwithstanding the provisions of this subsection, the protected cell captive insurance company may allow for a security interest to attach to protected cell assets or a protected cell account when in favor of a creditor of the protected cell and otherwise allowed under applicable law.

(c) This act shall not be construed to prohibit the protected cell captive insurance company from contracting with or arranging for an investment advisor, commodity trading advisor or other third party to manage the protected cell assets of a protected cell if all remuneration, expenses and other compensation of the third-party advisor or manager are payable from the protected cell assets of such protected cell and not from the protected cell assets of other protected cells or the assets of the protected cell captive insurance company's general account.

(d) (1) A protected cell captive insurance company shall establish administrative and accounting procedures necessary to properly identify the one or more protected cells of the protected cell captive insurance company and the protected cell assets and protected cell liabilities attributable to the protected cells. The directors of a protected cell captive insurance company shall keep protected cell assets and protected cell liabilities:

(A) Separate and separately identifiable from the assets and liabilities of the protected cell captive insurance company's general account; and

(B) attributable to one protected cell that is separate and separately identifiable from protected cell assets and protected cell liabilities attributable to other protected cells.

(2) If subsection (d)(1) is violated, then the remedy of tracing is applicable to protected cell assets when commingled with protected cell assets of other protected cells or the assets of the protected cell captive insurance company's general account. The remedy of tracing shall not be construed as an exclusive remedy.

(e) When establishing a protected cell, the protected cell captive insurance company shall attribute to the protected cell assets a value that is at least equal to the reserves and other insurance liabilities attributed to such protected cell.

(f) Each protected cell shall be accounted for separately on the books and records of the protected cell captive insurance company to reflect the financial condition and results of operations of such protected cell, net income or loss, dividends or other distributions to participants and such other factors as may be provided in the participant contract or required by the commissioner.

(g) No asset of a protected cell shall be chargeable with liabilities arising out of any other insurance business that the protected cell captive insurance company may conduct.

(h) No sale, exchange or other transfer of assets shall be made by such protected cell captive insurance company between or among any of its protected cells without the consent of such protected cells.

(i) No sale, exchange, transfer of assets, dividend or distribution shall be made from a protected cell to another protected cell captive insurance company or participant without the commissioner's approval. In no event shall the commissioner's approval be given if the sale, exchange, transfer, dividend or distribution would result in the insolvency or impairment of a protected cell.

(j) All attributions of assets and liabilities to the protected cells and the general account shall be in accordance with the plan of operation approved by the commissioner. No other attribution of assets or liabilities shall be made by a protected cell captive insurance company between its general account and any protected cell or between any protected cells. The protected cell captive insurance company shall attribute all insurance obligations, assets and liabilities relating to a reinsurance contract entered into with respect to a protected cell to such protected cell. The performance under such reinsurance contract and any tax benefits, losses, refunds or credits allocated pursuant to a tax allocation agreement to which the protected cell captive insurance company is a party, including any payments made by or due to be made to the protected cell captive insurance company pursuant to the terms of such agreement, shall reflect the insurance obligations, assets and liabilities relating to the reinsurance contract that are attributed to such protected cell.

(k) In connection with the conservation, rehabilitation or liquidation of a protected cell captive insurance company, the assets and liabilities of a protected cell shall, to the extent that the commissioner determines that such assets and liabilities are separable, at all times be kept separate from and shall not be commingled with those of other protected cells and the protected cell captive insurance company.

(l) Each protected cell captive insurance company shall annually file with the commissioner such financial reports as required by the commissioner. Any such financial report shall include, without limitation, accounting statements detailing the financial experience of each protected cell.

(m) Each protected cell captive insurance company shall notify the commissioner in writing within 10 business days of any protected cell that is insolvent or otherwise unable to meet its claim or expense obligations.

(n) No participant contract shall take effect without the commissioner's prior written approval. The addition of each new protected cell, the withdrawal of any participant or the termination of any existing protected cell shall constitute a change in the plan of operation requiring the commissioner's prior written approval.

(o) The business written by a protected cell captive insurance company, with respect to each protected cell, shall be:

(1) Fronted by an insurance company licensed under the laws of any state;

(2) reinsured by a reinsurer authorized or approved by this state;

or

(3) secured by a trust fund in the United States for the benefit of policyholders and claimants or funded by an irrevocable letter of credit or other arrangement that is acceptable to the commissioner. The

amount of security provided shall be not less than the reserves associated with those liabilities that are neither fronted nor reinsured, including reserves for losses, allocated loss adjustment expenses, incurred but not reported losses and unearned premiums for business written through the participant's protected cell. The commissioner may require the protected cell captive insurance company to increase the funding of any security arrangement established under this subsection. If the form of security is a letter of credit, the letter of credit shall be issued or confirmed by a bank approved by the commissioner. A trust maintained pursuant to this subsection shall be established in a form and upon such terms approved by the commissioner.

(p) Notwithstanding this act or other laws of Kansas, and in addition to article 36 of chapter 40 of the Kansas Statutes Annotated, and amendments thereto, in the event of an insolvency of a protected cell captive insurance company in which the commissioner determines that one or more protected cells remain solvent, the commissioner may separate such cells from the protected cell captive insurance company and may allow, on application of the protected cell captive insurance company, for the conversion of such protected cells into one or more new or existing protected cell captive insurance companies or one or more other captive insurance companies, pursuant to such plan of operation as the commissioner deems acceptable.

(q) Biographical affidavits shall not be required for participants in unincorporated cells. Biographical affidavits shall be required for owners of incorporated cells, including series members of a series LLC.

(r) A protected cell captive insurance company formed or licensed under this act may establish and operate unincorporated and incorporated protected cells.

New Sec. 6. (a) Associations, corporations, limited liability companies, partnerships, trusts and other business entities may be participants in any protected cell captive insurance company formed or licensed under this chapter.

(b) A sponsor may be a participant in a protected cell captive insurance company.

(c) A participant shall not be required to be a shareholder of the protected cell captive insurance company or any affiliate thereof.

(d) A participant shall insure only such participant's own risks through a protected cell captive insurance company, unless otherwise approved by the commissioner.

New Sec. 7. (a) Notwithstanding the provisions of section 4, and amendments thereto, the assets of two or more protected cells may be combined for purposes of investment, and such combination shall not be construed as defeating the segregation of such assets for accounting or other purposes.

(b) Notwithstanding any other provision of this act, the commissioner may approve the use of alternative reliable methods of valuation and rating.

New Sec. 8. (a) Except as otherwise provided in this section the insurers supervision, rehabilitation and liquidation act shall apply to a protected cell captive insurance company.

(b) Upon any order of supervision, rehabilitation, or liquidation of a protected cell captive insurance company, the receiver shall manage the assets and liabilities of the protected cell captive insurance company pursuant to this section.

(c) Notwithstanding the provisions of the insurers supervision, rehabilitation and liquidation act:

(1) No assets of a protected cell shall be used to pay any expenses or claims other than those attributable to such protected cell; and

(2) a protected cell captive insurance company's capital and surplus shall be available at all times to pay any expenses of or claims against the protected cell captive insurance company.

New Sec. 9. (a) The pleadings in any legal action brought by or against a protected cell captive insurance company shall specify which protected cell or cells should be named as a party to the suit. If the

general account is party to this suit, it shall be separately identified in the pleadings as if it were a protected cell.

(b) A legal action brought against a protected cell captive insurance company that does not specify one or more protected cells shall be deemed to have been brought against the general account only.

(c) Any protected cell that is not named in the pleadings of the legal action shall not be deemed to be a party to the legal action. Any protected cell that is erroneously named as a party or named without proper cause shall be entitled to prompt dismissal from the legal action.

(d) Unless specified by the plan of operation, participant contract or other prior contractual agreement, the assets of one protected cell may not be encumbered or seized to satisfy the obligations of or a judgment against any other protected cell. No protected cell shall have a duty to defend the rights and obligations of any other protected cell.

(e) In any legal action involving a protected cell captive insurance company or a protected cell, any papers, documents or property of a nonparty protected cell shall be afforded the same status during discovery as the documents or property of any other unrelated third party. A nonparty protected cell shall have standing to appear and petition for any appropriate relief to protect the confidentiality of its papers or documents.

New Sec. 10. (a) (1) Upon the application of a protected cell captive insurance company, one of its protected cells may be converted to any form of captive insurance company authorized pursuant to chapter 40 of the Kansas Statutes Annotated, and amendments thereto, with the consent of the commissioner. The commissioner may issue to the converting protected cell a certificate of authority with an effective date of its original date of formation as a protected cell.

(2) The following shall be the criteria for determining the filing or submission requirements of:

(A) A series of a limited liability company, the cell shall file organizational documents with the secretary of state that comply with article 43 of chapter 40 and chapters 17 and 56A of the Kansas Statutes Annotated, and amendments thereto, as applicable. The organizational documents shall include the date of formation as a series. Upon conversion, the formation date of the series shall be deemed as the formation date of the new entity. The new entity shall possess all assets and liabilities, including outstanding insurance liabilities, owned by the predecessor series;

(B) any other type of incorporated protected cell entity, then the converting protected cell shall submit amended organizational documents to the secretary of state that comply with article 43 of chapter 40 and chapters 17 and 56A of the Kansas Statutes Annotated, and amendments thereto, as applicable; or

(C) neither a series of a limited liability company nor an incorporated protected cell, the cell shall file organizational documents with the secretary of state that comply with article 43 of chapter 40 and chapters 17 and 56A of the Kansas Statutes Annotated, and amendments thereto, as applicable, or any other applicable provision governing formation of that type of entity. The organizational documents shall include the date of formation as a cell. Upon conversion, the formation date of the cell shall be deemed as the formation date of the new entity. The new entity shall possess all assets and liabilities, including outstanding insurance liabilities, owned by the predecessor cell.

(b) A captive insurance company may apply to the commissioner for conversion to become a protected cell captive insurance company under any form permitted under this section. Upon compliance with this section, approval by the commissioner and the filing of amended organizational documents with the secretary of state, the captive insurance company shall be issued a revised certificate of authority. The effective date of the revised protected cell captive insurance company's certificate of authority shall remain the same as the effective date of the prior captive insurance company.

New Sec. 11. (a) A foreign or alien insurer may become a domestic captive insurance company by complying with all of the requirements of chapter 40 of the Kansas Statutes Annotated, and amendments thereto, relating to the organization and licensing of a domestic captive insurance company of the same type, with the approval of the commissioner. A company redomesticating to this state pursuant to this section may be organized under any lawful corporate form permitted by chapter 40 of the Kansas Statutes Annotated, and amendments thereto.

(b) A redomestication pursuant to this section shall be authorized for insurance companies domiciled in foreign or alien jurisdictions that authorize the redomestication of insurance companies if, as a result of the actions taken by the company pursuant to this section to redomesticate to this state, such insurance company will no longer be a domestic legal entity of foreign or alien jurisdiction. A company wishing to redomesticate pursuant to this section shall provide evidence that the applicable regulatory authority of its domicile consents to the redomestication.

(c) An insurance company wishing to redomesticate under this section shall file organizational documents with the secretary of state that comply with article 43 of chapter 40 and chapters 17 and 56a of the Kansas Statutes Annotated, and amendments thereto, as applicable, or any other applicable provision governing formation of such type of entity.

(d) The insurance company shall file a copy of the secretary of state's acknowledgement letter with the commissioner, who shall then issue a certificate of authority, pursuant to K.S.A. 40-4302, and amendments thereto.

(e) Upon the completion of a redomestication under this section, the captive insurance company shall be subject to the laws of this state and considered domiciled in this state. Such captive insurance company shall be deemed to have a formation date corresponding to its original formation date in the foreign or alien domicile.

(f) For the purposes of the financial examination required pursuant to K.S.A. 40-4308, and amendments thereto, any examination conducted by the foreign or alien domicile that is substantially similar to an examination that would have been done in this state had the company been domiciled in this state shall be recognized for the purposes of establishing the period of time when the next examination is due.

New Sec. 12. (a) The commissioner is hereby authorized to select and announce the version of insurance calculations, instructions promulgated by the NAIC or other documents required by the NAIC that shall be in effect for the next calendar year. Not later than December 1 of each year, the commissioner shall cause such announcement to be published in the Kansas register.

(b) Calculations and instructions include, but are not limited to, risk-based capital instructions, as used in K.S.A. 40-2c01, and amendments thereto, risk-based capital managed care instructions, as used in K.S.A. 40-2d01, and amendments thereto, and group capital calculation instructions, as used in K.S.A. 40-3302, and amendments thereto.

Sec. 13. K.S.A. 40-112 is hereby amended to read as follows: 40-112. (a) For the purpose of maintaining the insurance department and the payment of expenses incident thereto, there is hereby established the insurance department service regulation fund in the state treasury, which shall be administered by the commissioner of insurance. All expenditures from the insurance department service regulation fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the commissioner of insurance or by a person or persons designated by the commissioner.

(b) On and after ~~the effective date of this act~~ *January 1, 2026*, all fees received by the commissioner of insurance pursuant to any statute

~~and 1% of taxes received pursuant to K.S.A. 40-252, and amendments thereto,~~ 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 insurance department service regulation fund.

(c) Except as otherwise provided by this section, the commissioner of insurance shall make an annual assessment on each group of affiliated insurers whose certificates of authority to do business in this state are in good standing at the time of the assessment. The total amount of all such assessments for a fiscal year shall be equal to the amount sufficient ~~which~~*that*, when combined with the total amount to be credited to the insurance department service regulation fund pursuant to subsection (b) is equal to the amount approved by the legislature to fund the insurance company regulation program. With respect to each group of affiliated insurers, such assessment shall be in proportion to the amount of total assets of the group of affiliated insurers as reported to the commissioner of insurance pursuant to K.S.A. 40-225, and amendments thereto, for the immediately preceding calendar year, shall not be less than \$500 and shall not be more than the amount equal to .0000015 of the amount of total assets of the group of affiliated insurers or \$25,000, whichever is less. The total assessment for any fiscal year shall not increase by any amount greater than 15% of the total budget approved by the legislature to fund the insurance company regulation program for the fiscal year immediately preceding the fiscal year for which the assessment is made. In the event the total amount of the assessment would be less than the aggregate amount resulting by assessing the \$500 minimum on each insurer, the commissioner may establish a lower minimum to be assessed equally on each insurer.

(d) If, by the laws of any state other than Kansas or by the retaliatory laws of any state other than Kansas, any insurer domiciled in Kansas shall be required to pay any fee or tax in such other state of licensure, and the fee or tax is due and payable either because the insurance department service regulation fee imposed by this section on insurers licensed in Kansas and organized or domiciled in such other state is greater than the comparable fee or tax assessed in such other state, or such other state has no comparable fee or tax but requires payment on a retaliatory basis, then to the extent such fee or tax amounts are legally due and are paid in such other state, any insurer domiciled in Kansas may claim a dollar-for-dollar credit for such fees paid against insurer's annual premium taxes due the state of Kansas under K.S.A. 40-252, and amendments thereto, or privilege fee due the state of Kansas under K.S.A. 40-3213, and amendments thereto, but such credit shall only be calculated on the amount ~~which~~*that* would not have been required to be paid in such other state of licensure in the absence of the existence of the insurance department service regulation fee imposed by this section, and in no event shall the credit permitted by this section exceed 90% of the insurer's annual premium tax or privilege fee due the state of Kansas. The insurance commissioner shall prescribe the forms for reporting such credits.

(e) Assessments payable under this section shall be past due if not paid to the insurance department within 45 days of the billing date of such assessment. A penalty equal to 10% of the amount assessed shall be imposed upon any past due payment and the total amount of the assessment and penalty shall bear interest at the rate of 1.5% per month or any portion thereof.

(f) When there exists in the insurance department service regulation fund a deficiency ~~which~~*that* would render such fund temporarily insufficient during any fiscal year to meet the insurance department's funding requirements, the commissioner of insurance shall certify the amount of the insufficiency. Upon receipt of any such certification, the director of accounts and reports shall transfer an amount of moneys equal to the amount so certified from the state

general fund to the insurance department service regulation fund. On June 30 of any fiscal year during which an amount or amounts are certified and transferred under this subsection, the director of accounts and reports shall provide for the repayment of the amounts so transferred and shall transfer the amount equal to the total of all such amounts transferred during the fiscal year from the insurance department service regulation fund to the state general fund.

(g) Any unexpended balance in the insurance department service regulation fund at the close of a fiscal year shall remain credited to the insurance department service regulation fund for use in the succeeding fiscal year and shall be used to reduce future assessments or to accommodate cash flow demands on the fund.

(h) The commissioner of insurance shall exempt the assessment of any insurer ~~which that~~, as of December 31 of the calendar year preceding the assessment, has a surplus of less than two times the minimum amount of surplus required for a certificate of authority on and after May 1, 1994, and ~~which~~ is subject to the premium tax or privilege fee liability imposed on insurers organized under the laws of this state. The commissioner of insurance may also exempt or defer, in whole or in part, the assessment of any other insurer if, in the opinion of the commissioner of insurance, immediate payment of the total assessment would be detrimental to the solvency of the insurer.

(i) As used in this section:

(1) "Affiliates" or "affiliated" has the meaning ascribed by K.S.A. 40-3302, and amendments thereto;

(2) "group" or "group of affiliated insurers" means the affiliated insurers of a group and also includes an individual, unaffiliated insurer; and

(3) "insurer" means any insurance company, as defined by K.S.A. 40-201, and amendments thereto, any fraternal benefit society, as defined by K.S.A. 40-738, and amendments thereto, any reciprocal or interinsurance exchange under K.S.A. 40-1601 through 40-1614, and amendments thereto, any mutual insurance company organized to provide health care provider liability insurance under K.S.A. 40-12a01 through 40-12a09, and amendments thereto, any nonprofit dental service corporation under K.S.A. 40-19a01 through 40-19a14, and amendments thereto, any nonprofit medical and hospital service corporation under K.S.A. 40-19c01 through 40-19c11, and amendments thereto, any health maintenance organization, as defined by K.S.A. 40-3202, and amendments thereto, or any captive insurance company, as defined by K.S.A. 40-4301, and amendments thereto, ~~which that~~ is authorized to do business in Kansas.

Sec. 14. K.S.A. 40-202 is hereby amended to read as follows: 40-202. Nothing contained in this code shall apply to:

(a) Grand or subordinate lodges of any fraternal benefit society ~~which that~~ admits to membership only persons engaged in one or more hazardous occupations in the same or similar line of business or to fraternal benefit societies as defined in and organized under article 7 of chapter 40 of the Kansas Statutes Annotated, and amendments thereto, unless they be expressly designated;

(b) the employees of a particular person, firm, or corporation;

(c) mercantile associations ~~which that~~ simply guarantee insurance to each other in the same lines of trade and do not solicit insurance from the general public;

(d) the Swedish mutual aid association of Rapp, Osage county, Kansas;

(e) the Scandia mutual protective insurance company; of Chanute, Kansas;

(f) the Seneca and St. Benedict mutual fire insurance company of Nemaha county, Kansas;

(g) the mutual insurance system practiced in the Mennonite church, in accordance with an old custom, either by the congregation themselves or by special associations, of its members in Kansas;

(h) the Kansas state high-school activities association;

- (i) the mutual aid association of the church of the brethren; ~~or~~
- (j) a voluntary noncontractual mutual aid arrangement whereby the needs of participants are announced and accommodated through subscriptions to a monthly publication;
- (k) a self-funded health plan established or maintained for its employees by the state or a subdivision of the state, a school district, any public authority or by a county or city government or any political subdivision, agency or instrumentality thereof; or
- (l) a self-funded health plan established or maintained for its employees by a church or by a convention or association of churches that is exempt from tax under section 501 of the internal revenue code.

Sec. 15. 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 tax year 2025 and 1.98% for tax year 2026, and~~ 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~~ *that*, 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 *tax year 2025 and 1.98% for tax year 2026, and* all tax years thereafter, per annum of the total of all premiums, subscription charges, or any other term ~~which~~ *that* 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

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% for tax year 2025 and 1.98% for tax year 2026, and all tax years thereafter, 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~~ *that*, 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% for tax year 2025 and 1.98% for tax year 2026, and all tax years thereafter, 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 that, 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% for tax year 2025 and 1.98% for tax year 2026, and all tax years thereafter, 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: 100%.

Tax Year	Applicable Percentage
1998	10%
1999	20%
2000	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% for tax year 2025 and 1.98% for tax year 2026, and all tax years thereafter, per annum of the total of all premiums, subscription charges, or any other term ~~which~~ that 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, generated by or at the direction of its president and secretary or other chief officers, under penalty of

K.S.A. 21-5824, 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.

All reports and returns required by this act and rules and regulations adopted pursuant thereto shall be preserved for three years and thereafter until the commissioner orders them to be destroyed.

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. 16. K.S.A. 2024 Supp. 40-2,239 is hereby amended to read as follows: 40-2,239. (a) Notwithstanding any other provision of chapter 40 of the Kansas Statutes Annotated, and amendments thereto, travel insurance shall be classified and filed for purposes of rates and forms under an inland marine line of insurance. *Travel insurance that provides coverage for sickness, accident, disability or death occurring during travel either exclusively, or in conjunction with related coverages of emergency evacuation or repatriation of remains, may be classified and filed under either an accident and health or an inland marine line of insurance.*

(b) Travel insurance may be in the form of an individual, group or blanket policy.

(c) Eligibility and underwriting standards for travel insurance may be developed and provided based on travel protection plans designed for individual or identified marketing or distribution channels, ~~provided~~ if those standards also meet underwriting standards of the state for inland marine insurance.

Sec. 17. K.S.A. 2024 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 that 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 that the commissioner has determined are required to address an RBC level event.

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

(d) "Foreign insurer" means any insurance company or risk retention group not domiciled in this state that is licensed or registered to do business in this state pursuant to article 41 of chapter 40 of the Kansas Statutes Annotated, and amendments thereto, 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, and amendments thereto, 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, and amendments thereto, but does 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" means the risk-based capital instructions promulgated by the NAIC that are in effect ~~on December 31, 2023, or any later version promulgated by the NAIC as may be adopted by the commissioner under K.S.A. 40-2e29 pursuant to section 12,~~ and amendments thereto.

(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 0.70 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.

Sec. 18. K.S.A. 40-2d01 is hereby amended to read as follows: 40-2d01. As used in K.S.A. 40-2d01 through 40-2d30, and amendments thereto:

(a) "Adjusted RBC report" means an RBC report ~~which~~ *that* has been adjusted by the commissioner in accordance with K.S.A. 40-2d04, and amendments thereto.

(b) "Corrective order" means an order issued by the commissioner specifying corrective actions ~~which~~ *that* the commissioner has determined are required.

(c) "Domestic health organization" means any health organization ~~which~~ *that* is licensed and organized in this state.

(d) "Foreign health organization" means any health organization not domiciled in this state ~~which~~ *that* is licensed to do business in this state pursuant to articles 19a, 19c or 32 of chapter 40 of the Kansas Statutes Annotated, and amendments thereto.

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

(f) "Health organization" means a health maintenance organization, limited health service organization, dental or vision plan, hospital, medical and dental indemnity or service corporation or other managed care organization licensed under articles 19a, 19c or 32 of chapter 40 of the Kansas Statutes Annotated, and amendments thereto. ~~This definition shall, or an organization that is licensed as a life and~~

health insurer under article 4 of chapter 40 of the Kansas Statutes Annotated, and amendments thereto, and has been determined by the commissioner to report predominantly health lines of business in accordance with a health statement test. "Health organization" does not include an organization that is licensed as either a life and health insurer or a property and casualty insurer under articles 4, 5, 9, 10, 11, 12, 12a, 15 or 16 of chapter 40 of the Kansas Statutes Annotated, and amendments thereto, and that is otherwise subject to either the life or property and casualty RBC requirements in K.S.A. 40-2c01 et seq., and amendments thereto.

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

(h) "RBC instructions" means the risk-based capital instructions for managed care organizations promulgated by the NAIC ~~which that~~ are in effect ~~on December 31, 1999, or any later version as adopted by as announced and noticed by the commissioner in rules and regulations pursuant to section 12, and amendments thereto.~~

(i) "RBC level" means a health organization'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 health organization, 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.

(j) "RBC plan" means a comprehensive financial plan containing the elements specified in K.S.A. 40-2d05, and amendments thereto. If the commissioner rejects the RBC plan, and it is revised by the health organization, with or without the commissioner's recommendation, the plan shall be called the "revised RBC plan."

(k) "RBC report" means the report required by K.S.A. 40-2d02, 40-2d03 and 40-2d04, and amendments thereto.

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

(1) A health organization's capital and surplus as determined in accordance with the annual financial statements required to be filed under ~~articles 19a, 19e or 32 of~~ chapter 40 of the Kansas Statutes Annotated, and amendments thereto; and

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

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

Sec. 19. K.S.A. 40-3302 is hereby amended to read as follows: 40-3302. As used in the insurance holding company act, unless the context otherwise requires:

(a) "Affiliate" of, or person "affiliated" with, a specific person, means a person that directly, or indirectly through one or more intermediaries, controls, is controlled by, or is under common control with, the person specified.

(b) "Commissioner of insurance" or "commissioner" means the commissioner of insurance, the commissioner's deputies, or the insurance department, as appropriate.

(c) "Control" including the terms "controlling," "controlled by" and "under common control with," means the possession, direct or indirect, of the power to direct or cause the direction of the management or policies of a person, whether through the ownership of voting securities, by contract other than a commercial contract for goods or nonmanagement services, or otherwise, unless the power is the result of an official position with or corporate office held by the person. Control shall be presumed to exist if any person, directly or indirectly, owns, controls, holds with the power to vote, or holds proxies representing 10% or more of the voting securities of any other person. This presumption may be rebutted by a showing made in the

manner provided by K.S.A. 40-3305(k), and amendments thereto, that control does not exist in fact. The commissioner of insurance may determine, after a hearing in accordance with the provisions of the Kansas administrative procedure act, that control exists in fact, notwithstanding the absence of a presumption to that effect.

(d) "Enterprise risk" means any activity, circumstance, event or series of events involving one or more affiliates of an insurer that, if not remedied promptly, is likely to have a material adverse effect upon the financial condition or liquidity of the insurer or its insurance holding company system as a whole, including, but not limited to, anything that would cause the insurer's risk-based capital to fall into company action level RBC, as such term is defined in either K.S.A. 40-2c01 et seq. ~~and amendments thereto~~, or ~~K.S.A. 40-2d01 et seq.~~, and amendments thereto, as appropriate, or would cause the insurer to be in hazardous financial condition as set forth in K.S.A. 40-222b, 40-222c and 40-222d, and amendments thereto.

(e) *"Financial analysis handbook" means the version of the NAIC financial analysis handbook adopted by the NAIC and in effect that has been selected and noticed by the commissioner pursuant to section 12, and amendments thereto.*

(f) *"Group capital calculation instructions" means the group capital calculation instructions selected and announced by the commissioner pursuant to section 12, and amendments thereto.*

(g) "Group-wide supervisor" means the regulatory official authorized to engage in conducting and coordinating group-wide supervision activities who is determined or acknowledged by the commissioner under K.S.A. 40-3318, and amendments thereto, to have sufficient significant contacts with the internationally active insurance group.

~~(h)~~(h) "Insurance holding company system" means two or more affiliated persons, one or more of which is an insurer.

~~(g)~~(i) "Insurer" means any corporation, company, association, society, fraternal benefit society, health maintenance organization, nonprofit medical and hospital service corporation, nonprofit dental service corporation, reciprocal exchange, person or partnership writing contracts of insurance, indemnity or suretyship in this state upon any type of risk or loss except lodges, societies, persons or associations transacting business pursuant to the provisions of K.S.A. 40-202, and amendments thereto.

~~(h)~~(j) "Internationally active insurance group" means an insurance holding company system that:

(1) Includes an insurer registered under K.S.A. 40-3305, and amendments thereto; and

(2) meets the following criteria:

(A) Has premiums written in at least three countries;

(B) the percentage of gross premiums written outside the United States is at least 10% of the insurance holding company system's total gross written premiums; and

(C) based on a three-year rolling average, the total assets of the insurance holding company system are at least \$50,000,000,000 or the total gross written premiums of the insurance holding company system are at least \$10,000,000,000.

~~(i)~~(k) *"NAIC" means the national association of insurance commissioners.*

(l) *"NAIC liquidity stress test framework" means the separate NAIC publication that includes the history of the NAIC's development of regulatory liquidity stress testing, the scope criteria applicable for a specific data year and the liquidity stress test instructions and reporting templates for a specific data year and such scope criteria, instructions and reporting templates as adopted by the NAIC and as amended by the NAIC from time to time in accordance with the procedures adopted by the NAIC and as selected and announced by the commissioner pursuant to section 12, and amendments thereto.*

(m) "Person" means an individual, corporation, a partnership, an

association, a joint stock company, a trust, an unincorporated organization, any similar entity or any combination of the foregoing acting in concert.

(n) "Scope criteria," as detailed in the NAIC liquidity stress test framework, are the designated exposure bases along with minimum magnitudes thereof for the specified data year; used to establish a preliminary list of insurers considered scoped into the NAIC liquidity stress test framework for such specified data year.

(o) "Securityholder" of a specified person means one who owns any security of such person, including common stock, preferred stock, debt obligations; and any other security convertible into or evidencing the right to acquire any of the foregoing.

(p) "Subsidiary" of a specified person means an affiliate controlled by such person, directly; or indirectly, through one or more intermediaries.

(q) "Voting security" means any security convertible into or evidencing a right to acquire a voting security.

Sec. 20. K.S.A. 40-3305 is hereby amended to read as follows: 40-3305. (a) Every insurer that is authorized to do business in this state and that is a member of an insurance holding company system shall register with the commissioner of insurance, except a foreign insurer subject to registration requirements and standards adopted by statute or regulation in the jurisdiction of its domicile that are substantially similar to those contained in this section. Any insurer that is subject to registration under this section shall register within 15 days after it becomes subject to registration; and annually thereafter by May 1 of each year unless for the previous calendar year the commissioner of insurance for good cause shown extends the time for registration, and then within such extended time. The commissioner of insurance may require any authorized insurer that is a member of an insurance holding company system and that is not subject to registration under this section to furnish a copy of the registration statement, the summary specified in subsection (c) or other information filed by such insurance company with the insurance regulatory authority of domiciliary jurisdiction.

(b) Pursuant to subsection (a), every insurer subject to registration shall file a registration statement on a form provided by the commissioner of insurance; that shall contain current information about regarding:

(1) The capital structure, general financial condition, ownership and management of the insurer and any person controlling the insurer;

(2) the identity and relationship of every member of the insurance holding company system;

(3) the following agreements in force and transactions currently outstanding or that occurred during the last calendar year between such insurer and its affiliates:

(A) Loans, other investments, or purchases, sales or exchanges of securities of the affiliates by the insurer or of the insurer by its affiliates;

(B) purchases, sales or exchanges of assets;

(C) transactions not in the ordinary course of business;

(D) guarantees or undertakings for the benefit of an affiliate that result in an actual contingent exposure of the insurer's assets to liability, other than insurance contracts entered into in the ordinary course of the insurer's business;

(E) all management agreements, service contracts and cost sharing arrangements;

(F) reinsurance agreements;

(G) dividends and other distributions to shareholders; and

(H) consolidated tax allocation agreements;

(4) other matters concerning transactions between registered insurers and any affiliates as may be included from time to time in any registration forms adopted or approved by the commissioner of insurance;

(5) any pledge of the insurer's stock, including stock of any subsidiary or controlling affiliate, for a loan made to any member of the insurance holding company system;

(6) financial statements of or within an insurance holding company system, including all affiliates, if requested by the commissioner of insurance. Financial statements may include, but are not *be* limited to, annual audited financial statements filed with the U.S. securities and exchange commission—(, SEC), pursuant to the securities act of 1933, as amended, or the securities exchange act of 1934, as amended. An insurer required to file financial statements pursuant to this paragraph may satisfy the request by providing the commissioner of insurance with the most recently filed parent corporation financial statements that have been filed with the SEC;

(7) statements that the insurer's board of directors and principal officers oversee corporate governance and internal controls and that the insurer's principal officers have approved, implemented and continue to maintain and monitor corporate governance and internal control procedures; and

(8) any other information required by the commissioner of insurance by rules and regulations.

(c) All registration statements shall be accompanied by a summary outlining all items in the current registration statement representing changes from the prior registration statement.

(d) No information need be disclosed on the registration statement filed pursuant to subsection (b) if such information is not material for the purpose of this section. Unless the commissioner of insurance by rules and regulations or order provides otherwise, sales, purchases, exchanges, loans or extensions of credit, investments or guarantees, involving 0.5% or less of an insurer's admitted assets as of the December 31—~~immediately~~ *next* preceding shall be deemed immaterial for purposes of this section.

(e) Each registered insurer shall keep current the information required to be disclosed in such insurer's registration statement by reporting all material changes or additions on amendment forms provided by the commissioner of insurance within 15 days after the end of the month in which it learns of each such change or addition, except *that* each registered insurer shall report all dividends and other distributions to shareholders within five business days following its declaration. Any such dividend or distribution shall not be paid for at least 10 business days from the commissioner's receipt of the notice of its declaration.

(f) Any person within an insurance holding company system subject to registration shall provide complete and accurate information to an insurer, ~~where~~ *if* such information is reasonably necessary to enable the insurer to comply with the provisions of this act.

(g) The commissioner—~~of insurance~~ shall terminate the registration of any insurer that demonstrates that such insurer *is* no longer—~~is~~ a member of an insurance holding company system.

(h) The commissioner—~~of insurance~~ may require or allow two or more affiliated insurers subject to registration hereunder to file a consolidated registration statement.

(i) The commissioner—~~of insurance~~ may allow an insurer that is authorized to do business in this state and ~~that is~~ part of an insurance holding company system to register on behalf of any affiliated insurer that is required to register under subsection (a) and—~~to~~ file all information and material required to be filed under this section.

(j) The provisions of this section shall not apply to any information or transaction if and to the extent the commissioner—~~of insurance~~ by rule and regulation or order exempts the same from the provisions of this section.

(k) Any person may file with the commissioner—~~of insurance~~ a disclaimer of affiliation with any authorized insurer or such a disclaimer may be filed by such insurer or any member of an insurance holding company system. The disclaimer shall fully disclose all

material relationships and bases for affiliation between such person and such insurer as well as the basis for disclaiming such affiliation. After a disclaimer has been filed, the insurer shall be relieved of any duty to register or report under this section ~~which~~ *that* may arise out of the insurer's relationship with such person unless and until the commissioner ~~of insurance~~ disallows such a disclaimer. The commissioner ~~of insurance~~ shall disallow such a disclaimer only after furnishing all parties in interest with notice and opportunity to be heard in accordance with the provisions of the Kansas administrative procedure act.

(1) (1) Except as provided in paragraph (2), the ultimate controlling person of every insurer subject to registration also shall file an annual enterprise risk report. The report, to the best of the ultimate controlling person's knowledge and belief, shall identify the material risks within the insurance holding company system that could pose enterprise risk to the insurer. The report shall be appropriate to the nature, scale and complexity of the insurer. The report shall be filed with the lead state commissioner of insurance of the insurance holding company system as determined by the procedures within the financial analysis handbook adopted by the ~~national association of insurance commissioners~~ *NAIC*. The first enterprise risk report shall be filed ~~no~~ *not* later than May 1, 2015, and annually thereafter by May 1 of each year unless the commissioner ~~of insurance~~ extends the time for filing for good cause shown.

(2) ~~The ultimate controlling person of a domestic insurer that is authorized, admitted or eligible to engage in the business of insurance only in this state with total direct and assumed annual premiums of less than \$300 million is not required to submit an enterprise risk report under paragraph (1) unless the ultimate controlling person of the domestic insurer also controls other insurers that do not meet the requirements of this subsection. For the purposes of this subsection, an insurer is not considered to be authorized, admitted or eligible to engage in the business of insurance only in this state if the insurer directly or indirectly writes or assumes insurance in any other manner in another state (A) Except as provided hereunder, the ultimate controlling person of every insurer subject to registration shall concurrently file with the registration an annual group capital calculation as directed by the lead state commissioner. The report shall be completed in accordance with the NAIC group capital calculation instructions, which may permit the lead state commissioner to allow a controlling person that is not the ultimate controlling person to file the group capital calculation. The report shall be filed with the lead state commissioner of the insurance holding company system as determined by the commissioner of insurance in accordance with the procedures within the financial analysis handbook. An insurance holding company system shall be exempt from filing the group capital calculation if:~~

(i) *It has only one insurer within its holding company structure, only writes business is only licensed in its domestic state and assumes no business from any other insurer;*

(ii) *it is required to perform a group capital calculation specified by the board of governors of the federal reserve system. The lead state commissioner shall request the calculation from the federal reserve board under the terms of information sharing agreements in effect. If the federal reserve board cannot share the calculation with the lead state commissioner, the insurance holding company shall not be exempt from the group capital calculation filing;*

(iii) *its non-United States group-wide supervisor is located within a reciprocal jurisdiction, as defined in K.S.A. 40-221a, and amendments thereto, that recognizes the United States regulatory approach to group supervision and group capital; and*

(iv) *it is an insurance holding company system:*

(a) *That provides information to the lead state that meets the requirements for accreditation under the NAIC financial standards and accreditation program, either directly or indirectly through the group-*

wide supervisor, who has determined that such information is satisfactory to allow the lead state to comply with the NAIC group supervision approach, as detailed in the NAIC financial analysis handbook; and

(b) whose non-United States group-wide supervisor who is not in a reciprocal jurisdiction recognizes and accepts, as specified by the commissioner in rules and regulations, the group capital calculation as the worldwide group capital assessment for United States insurance groups that operate in that jurisdiction.

(B) Notwithstanding the provisions of K.S.A. 40-3305, and amendments thereto, a lead state commissioner shall require the group capital calculation for the United States operations of any non-United States based insurance holding company system if, after any necessary consultation with other supervisors or officials, it is deemed appropriate by the lead state commissioner for prudential oversight and solvency monitoring purposes or for ensuring the competitiveness of the insurance marketplace.

(C) Notwithstanding the exemptions from filing the group capital calculation stated in K.S.A. 40-3305, and amendments thereto, the lead state commissioner has the discretion to exempt the ultimate controlling person from filing the annual group capital calculation or to accept a limited group capital filing or report in accordance with criteria specified by the commissioner in regulation.

(D) If the lead state commissioner determines that an insurance holding company system no longer meets one or more of the requirements for an exemption from filing the group capital calculation under this section, the insurance holding company system shall file the group capital calculation at the next annual filing date unless given an extension by the lead state commissioner based on reasonable grounds shown.

(E) The ultimate controlling person of every insurer subject to registration and also scoped into the NAIC liquidity stress test framework shall file the results of a specific year's liquidity stress test. The filing shall be made to the lead state insurance commissioner of the insurance holding company system as determined by the procedures within the financial analysis handbook and that:

(i) The NAIC liquidity stress test framework includes scope criteria applicable to a specific data year. These scope criteria are reviewed at least annually by the financial stability task force or its successor. Any change to the NAIC liquidity stress test framework or to the data year for which the scope criteria are to be measured shall be effective on January 1 of the year following the calendar year in which such changes are adopted. Insurers meeting at least one threshold of the scope criteria are considered scoped into the NAIC liquidity stress test framework for the specified data year, unless the lead state insurance commissioner, in consultation with the NAIC financial stability task force or its successor, determines that such insurer should not be scoped into the framework for that data year. Similarly, insurers that do not trigger at least one threshold of the scope criteria are considered scoped out of the NAIC liquidity stress test framework for the specified data year, unless the lead state insurance commissioner, in consultation with the NAIC financial stability task force or its successor, determines that the insurer should be scoped into the framework for that data year.

(ii) The lead state insurance commissioner, in consultation with the financial stability task force or its successor, shall assess the concerns of regulators that wish to avoid having insurers scoped in and out of the NAIC liquidity stress test framework on a frequent basis as part of the determination for an insurer.

(F) The performance and filing of the results of a specific year's liquidity stress test shall comply with the NAIC liquidity stress test framework instructions and reporting templates for that year and any lead state insurance commissioner determinations, in consultation with the financial stability task force or its successor, provided within the

framework.

(m) The failure of an insurer or an ultimate controlling person of the insurer to file a registration statement, any summary of the registration statement or enterprise risk filing within the specified time for filing shall be a violation by the insurer or by the ultimate controlling person of the insurer, as applicable.

Sec. 21. K.S.A. 40-3306 is hereby amended to read as follows: 40-3306. (a) ~~Material~~ Transactions by registered insurers with their affiliates shall be subject to the following standards:

- (1) The terms shall be fair and reasonable;
- (2) agreements for cost-sharing services and management shall include such provisions as required by rules and regulations adopted by the commissioner of insurance;
- (3) the charges or fees for services performed shall be reasonable;
- (4) expenses incurred and payment received with respect to such transactions shall be allocated to the insurer in conformity with the requirements of K.S.A. 40-225, and amendments thereto;
- (5) the books, accounts and records of each party to all such transactions shall be so maintained as to clearly and accurately disclose the nature and details of the transactions including such accounting information necessary to support the reasonableness of the charges or fees to the respective parties; and
- (6) the insurer's surplus as regards policyholders following any transactions, dividends or distributions to shareholder affiliates shall be reasonable in relation to the insurer's outstanding liabilities and adequate to its financial needs.

(b) (1) If an insurer subject to this act is deemed by the commissioner of insurance to be in a hazardous financial condition as defined by K.S.A. 40-222d, and amendments thereto, or a condition that would be grounds for supervision, conservation or a delinquency proceeding, then the commissioner may require the insurer to secure and maintain either a deposit, held by the commissioner, or a bond, as determined by the insurer at the insurer's discretion, for the protection of the insurer for the duration of the contract or agreement or the existence of the condition for which the commissioner required the deposit or the bond.

(2) In determining whether a deposit or a bond is required, the commissioner shall consider whether concerns exist with respect to the affiliated person's ability to fulfill the contract or agreement if the insurer were to be put into liquidation. Once the insurer is deemed to be in a hazardous financial condition or a condition that would be grounds for supervision, conservation or a delinquency proceeding and a deposit or bond is necessary, the commissioner shall have the discretion to determine the amount of the deposit or bond, not to exceed the value of the contract or agreement in any one year, and whether such deposit or bond should be required for a single contract, multiple contracts or a contract only with a specific person;

(c) All records and data of the insurer held by an affiliate are and shall remain the property of the insurer, are subject to control of the insurer, are identifiable and are segregated or readily capable of segregation, at no additional cost to the insurer from all other persons' records and data. All records and data that are otherwise the property of the insurer, in whatever form maintained, including, but not limited to, claims and claim files, policyholder lists, application files, litigation files, premium records, rate books, underwriting manuals, personnel records, financial records or similar records within the possession, custody or control of the affiliate shall remain the property of the insurer. At the request of the insurer, the affiliate shall provide that the receiver may obtain a complete set of all records of any type that pertain to the insurer's business, obtain access to the operating systems upon which the data is maintained, obtain the software that runs those systems either through assumption of licensing agreements or otherwise and restrict the use of the data by the affiliate if it is not operating the insurer's business. The affiliate shall provide a waiver of

any landlord lien or other encumbrance to provide the insurer with access to all records and data in the event of the affiliate's default under a lease or other agreement; and

(d) Premiums or other funds belonging to the insurer that are collected or held by an affiliate shall be deemed the exclusive property of and subject to the control of such insurer. Any right of offset in the event that an insurer is placed into receivership shall be subject to K.S.A. 40-3605 et seq., and amendments thereto.

~~(b)~~(e) The following transactions involving a domestic insurer and any person in such insurer's insurance holding company system, including amendments or modifications of affiliate agreements previously filed pursuant to this section, may not be entered into unless the insurer has notified the commissioner of insurance in writing of such insurer's intention to enter into such transaction at least 30 days prior thereto, or such shorter period as the commissioner of insurance may permit, and the commissioner of insurance has not disapproved such transaction within such period.

(1) Sales, purchases, exchanges, loans or extensions of credit, guarantees or investments provided such transactions are equal to or exceed:

(A) With respect to nonlife insurers, the lesser of 3% of the insurer's admitted assets or 25% of surplus as regards policyholders; or

(B) with respect to life insurers, 3% of the insurer's admitted assets, each as of December 31 immediately preceding.

(2) Loans or extensions of credit to any person who is not an affiliate, ~~where~~ *if* the insurer makes such loans or extensions of credit with the agreement or understanding that the proceeds of such transactions, in whole or in substantial part, are to be used to make loans or extensions of credit to, purchase assets of, or make investments in; any affiliate of the insurer making such loans or extensions of credit—~~provided~~ *if* such transactions are equal to or exceed:

(A) With respect to nonlife insurers, the lesser of 3% of the insurer's admitted assets or 25% of surplus as regards policyholders;

(B) with respect to life insurers, 3% of the insurer's admitted assets, each as of December 31 immediately preceding.

(3) Reinsurance agreements or modifications thereto, including:

(A) All reinsurance pooling agreements; and

(B) agreements in which the reinsurance premium or a change in the insurer's liabilities, or the projected reinsurance premium or a projected change in the insurer's liabilities in any of the next three consecutive years equals or exceeds 5% of the insurer's surplus as regards policyholders, as of December 31 immediately preceding, including those agreements ~~which~~ *that* may require as consideration the transfer of assets from an insurer to a nonaffiliate, if an agreement or understanding exists between the insurer and nonaffiliate that any portion of such assets will be transferred to one or more affiliates of the insurer;

(4) all management agreements, service contracts, tax allocation agreements and all cost-sharing arrangements; and

(5) any material transactions, specified by rules and regulations, ~~which~~ *that* the commissioner of insurance determines may adversely affect the interests of an insurer's policyholders.

Nothing ~~herein~~ *contained in this subsection* shall be deemed to authorize or permit any transactions ~~which~~, *that* in the case of an insurer not a member of the same insurance holding company system, would be otherwise contrary to law.

~~(e)~~(f) A domestic insurer ~~may~~ *shall* not enter into transactions ~~which~~ *that* are part of a plan or series of like transactions with persons within the insurance holding company system if the purpose of those separate transactions is to avoid the threshold amount required under this section and thus avoid the review that would occur otherwise. If the commissioner of insurance determines that such separate transactions were entered into over any 12-month period for such purpose, the

commissioner of insurance may exercise authority under K.S.A. 40-3311, and amendments thereto.

~~(d)~~(g) The commissioner of insurance, in reviewing transactions pursuant to subsection ~~(b)~~(e), shall consider whether the transactions comply with the standards set forth in subsection (a), and whether such transactions may adversely affect the interests of policyholders.

~~(e)~~(h) The commissioner of insurance shall be notified within 30 days of any investment of the domestic insurer in any one corporation if the total investment in such corporation by the insurance holding company system exceeds 10% of such corporation's voting securities.

~~(f)~~(i) A transaction subject to approval by the commissioner of insurance pursuant to K.S.A. 40-3304, and amendments thereto, shall not be subject to the requirements of this section.

~~(g)~~(j) (1) No insurer subject to registration under K.S.A. 40-3305, and amendments thereto, shall pay any extraordinary dividend or make any other extraordinary distribution to such insurer's shareholders until:

(A) 30 days after the commissioner of insurance has received notice of the declaration thereof and has not within such period disapproved such payment; or

(B) the commissioner of insurance has approved such payment within such 30-day period.

(2) (A) For purposes of this section, an extraordinary dividend or distribution includes any dividend or distribution of cash or other property, the fair market value of which, together with that of other dividends or distributions made within the preceding 12 months, exceeds the greater of:

(i) 10% of such insurer's surplus as regards policyholders as of December 31-immediately preceding; or

(ii) the net gain from operations of such insurer, if such insurer is a life insurer, or the net income, if such insurer is not a life insurer, not including realized capital gains for the 12-month period ending December 31-immediately *next* preceding, but shall not include pro rata distributions of any class of the insurer's own securities.

(B) In determining whether a dividend or distribution is extraordinary, an insurer, other than a life insurer, may carry forward net income from the previous two calendar years that has not already been paid out as dividends. This ~~carry-forward~~ *carryforward* shall be computed by taking the net income from the second and third preceding calendar years, not including realized capital gains, less dividends paid in the second and immediately preceding calendar years.

(C) An extraordinary dividend or distribution shall also include any dividend or distribution made or paid out of any funds other than earned surplus arising from the insurer's business, as defined in K.S.A. 40-233, and amendments thereto. The provisions of K.S.A. 40-233, and amendments thereto, shall not be construed so as to prohibit an insurer, subject to registration under K.S.A. 40-3305, and amendments thereto, from making or paying an extraordinary dividend or distribution in accordance with this section.

(3) Notwithstanding any other provisions of law, an insurer may declare an extraordinary dividend or distribution—~~which~~ *that* is conditional upon the approval of the commissioner of insurance. No declaration shall confer any rights upon shareholders until:

(A) The commissioner of insurance has approved the payment of such dividend or distribution; or

(B) the commissioner of insurance has not disapproved such payment within the 30-day period referred to above.

~~(h)~~(k) (1) Notwithstanding the control of a domestic insurer by any person, the officers and directors of the insurer shall not thereby be relieved of any obligation or liability to which they would otherwise be subject by law, and the insurer shall be managed so as to assure its separate operating identity consistent with this act.

(2) Nothing herein shall preclude a domestic insurer from having or sharing a common management or cooperative or joint use of personnel, property or services with one or more other persons under

arrangements meeting the standards of K.S.A. 40-3306, and amendments thereto.

(i) For purposes of this act, in determining whether an insurer's surplus as regards policyholders is reasonable in relation to the insurer's outstanding liabilities and adequate to such insurer's financial needs, the following factors, among others, shall be considered:

(1) The size of the insurer as measured by such insurer's assets, capital and surplus, reserves, premium writings, insurance in force and other appropriate criteria;

(2) the extent to which the insurer's business is diversified among the several lines of insurance;

(3) the number and size of risks insured in each line of business;

(4) the extent of the geographical dispersion of the insurer's insured risks;

(5) the nature and extent of the insurer's reinsurance program;

(6) the quality, diversification and liquidity of the insurer's investment portfolio;

(7) the recent past and projected future trend in the size and performance of the insurer's surplus as regards policyholders;

(8) the surplus as regards policyholders maintained by other comparable insurers;

(9) the adequacy of the insurer's reserves;

(10) the quality and liquidity of investments in affiliates. The commissioner of insurance may treat any such investment as a disallowed asset for purposes of determining the adequacy of surplus as regards policyholders whenever in the judgment of the commissioner of insurance such investment so warrants; and

(11) the quality of the insurer's earnings and the extent to which the reported earnings include extraordinary items.

Sec. 22. K.S.A. 40-3307 is hereby amended to read as follows: 40-3307. (a) Subject to the limitation contained in this section and in addition to the powers ~~which~~ *that* the commissioner of insurance has under K.S.A. 40-222 and K.S.A. 40-222a, and amendments thereto, relating to the examination of insurers, the commissioner of insurance shall have the power to examine any insurer registered under K.S.A. 40-3305, and amendments thereto, and such insurer's affiliates to ascertain the financial condition, ~~including enterprise risk~~, of such insurer *including the enterprise risk to the insurer by the ultimate controlling party or by any entity or combination of entities within the insurance holding company system or by the insurance holding company system on a consolidated basis*.

(b) (1) The commissioner of insurance may order any insurer registered under K.S.A. 40-3305, and amendments thereto, to produce such records, books or other information in the possession of the insurer or its affiliates as are reasonably necessary to determine compliance with this act.

(2) To determine compliance with this act, the commissioner of insurance may order any insurer registered under K.S.A. 40-3305, and amendments thereto, to produce information not in the possession of the insurer, if the insurer can obtain access to such information pursuant to contractual relationships, statutory obligations or another method. In the event *that* the insurer cannot obtain the information requested by the commissioner of insurance, the insurer shall provide the commissioner of insurance a detailed explanation of the reason that the insurer cannot obtain the information and the identity of the holder of information. Whenever it appears to the commissioner of insurance that the detailed explanation is without merit, the commissioner of insurance may require, after notice and hearing, the insurer to pay a penalty of not more than \$1,000 for each day's delay; or may suspend or revoke the license of the insurer.

(c) The commissioner of insurance may retain at the registered insurer's expense such attorneys, actuaries, accountants and other experts not otherwise a part of the staff of the commissioner of insurance as the commissioner of insurance shall determine to be

reasonably necessary to assist in the conduct of the examination under subsection (a). Any persons so retained shall be under the direction and control of the commissioner of insurance and shall act in a purely advisory capacity.

(d) Each registered insurer producing examination records, books and papers pursuant to subsection (a) shall be liable for and shall pay the expense of such examination in accordance with K.S.A. 40-223 and ~~K.S.A. 40-253~~, and amendments thereto.

(e) The commissioner of insurance shall have the power to issue subpoenas, administer oaths and examine under oath any person for purposes of determining compliance with this section. Upon the failure or refusal of any person to obey a subpoena, the commissioner of insurance may petition a court of competent jurisdiction, and upon proper showing, the court may enter an order compelling the witness to appear and testify or produce documentary evidence. Failure to obey the court order shall be punishable as contempt of court. Every person subpoenaed shall be obliged to attend as a witness at the place specified in the subpoena, when subpoenaed, anywhere within the state. Such subpoenaed person shall be entitled to the same fees and mileage, if claimed, as a witness in K.S.A. 28-125, and amendments thereto. Fees, mileage and actual expense, if any, necessarily incurred in securing the attendance and testimony of witnesses shall be itemized, charged against and paid by the company being examined.

Sec. 23. K.S.A. 40-3308 is hereby amended to read as follows: 40-3308. (a) Documents, materials or other information obtained by or disclosed to the commissioner of insurance or any other person in the course of an examination or investigation made pursuant to K.S.A. 40-3307, and amendments thereto, and all information reported pursuant to K.S.A. 40-3304, 40-3305 and 40-3306, and amendments thereto, shall:

- (1) Be confidential and privileged;
- (2) not be subject to disclosure under the Kansas open records act, K.S.A. 45-215 et seq., and amendments thereto;
- (3) not be subject to subpoena; and
- (4) not be subject to discovery or admissible in evidence in any private civil action.

(b) (1) The commissioner of insurance shall not otherwise make the documents, materials or other information public without the prior written consent of the insurer to which it pertains unless the commissioner of insurance, after giving the insurer and its affiliates who would be affected thereby notice and opportunity to be heard in accordance with the provisions of the Kansas administrative procedure act, determines that the interests of policyholders, shareholders or the public would be served by the publication thereof, in which event, the commissioner of insurance may publish all or any part thereof in such a manner as the commissioner of insurance may deem appropriate. In making such determination, the commissioner of insurance also shall take into consideration any potential adverse consequences of the disclosure thereof.

(2) *For purposes of the information reported and provided to the commissioner pursuant to K.S.A. 40-3304 through 40-3307, and amendments thereto, the commissioner shall maintain the confidentiality of the:*

(A) *Group capital calculation and group capital ratio produced within the calculation and any group capital information received from an insurance holding company supervised by the federal reserve board or any United States group-wide supervisor; and*

(B) *liquidity stress test results and supporting disclosures and any liquidity stress test information received from an insurance holding company supervised by the federal reserve board and non-United States group-wide supervisors.*

(c) Neither the commissioner of insurance nor any person who received documents, materials or other information while acting under the authority of the commissioner of insurance or with whom such documents, materials or other information are shared pursuant to this

section shall be permitted or required to testify in any private civil action concerning any confidential documents, materials or information subject to subsection (a).

(d) In order to assist in the performance of the commissioner of insurance's duties, the commissioner of insurance:

(1) May share documents, materials or other information, including the confidential and privileged documents, materials or information subject to subsection (a), with other state, federal and international regulatory agencies, ~~with the national association of insurance commissioners and its affiliates and subsidiaries, and with state, federal and international law enforcement authorities, including members of any supervisory college described in K.S.A. 40-3316, and amendments thereto,~~ provided that the recipient agrees in writing to maintain the confidentiality and privileged status of the document, material or other information, and has verified in writing the legal authority to maintain confidentiality;

(2) notwithstanding the provisions of paragraph (1) ~~above~~, the commissioner of insurance may only share confidential and privileged documents, material or information reported pursuant to subsection (1) of K.S.A. 40-3305, and amendments thereto, with the commissioner of insurance or corresponding official of any state having statutes or regulations substantially similar to subsections (a) ~~and~~, (b) *and* (c), and who has agreed in writing ~~not to~~ *not* disclose such information;

(3) may receive documents, materials or information, including otherwise confidential and privileged documents, materials or information from the national association of insurance commissioners, and its affiliates and subsidiaries, and from regulatory and law enforcement officials of other foreign or domestic jurisdictions, and shall maintain as confidential or privileged any document, material or information received with notice or the understanding that it is confidential or privileged under the laws of the jurisdiction that is the source of the document, material or information. Documents received pursuant to this section shall not be subject to disclosure pursuant to the open records act, K.S.A. 45-215 et seq., and amendments thereto; and

(4) shall enter into written agreements with the national association of insurance commissioners governing sharing and use of information provided pursuant to this act consistent with this subsection that shall:

(i) Specify procedures and protocols regarding the confidentiality and security of information shared with the national association of insurance commissioners and its affiliates and subsidiaries pursuant to this act, including procedures and protocols for sharing by the national association of insurance commissioners with other state, federal or international regulators;

(ii) specify that ownership of information shared with the national association of insurance commissioners and its affiliates and subsidiaries pursuant to this act remains with the commissioner of insurance; and ~~that the national association of insurance commissioners' NAIC's~~ use of the information is subject to the direction of the commissioner of insurance;

(iii) *exclude documents, material or information reported pursuant to K.S.A. 40-3305, and amendments thereto, and prohibit the NAIC and its affiliates and subsidiaries from storing the information shared pursuant to the insurance holding company act in a permanent database after the underlying analysis is completed;*

(iv) require prompt notice to be given to an insurer and its affiliates whose confidential information in the possession of the ~~national association of insurance commissioners~~ NAIC, pursuant to this act, is subject to a request or subpoena to the ~~national association of insurance commissioners~~ NAIC for disclosure or production; and

(iv)(v) require the ~~national association of insurance commissioners~~ NAIC and its affiliates and subsidiaries to consent to intervention by an insurer in any judicial or administrative action in which the ~~national association of insurance commissioners~~ NAIC and its affiliates and

subsidiaries may be required to disclose confidential information about the insurer and its affiliates *that are shared with the national association of insurance commissioners NAIC and its affiliates and subsidiaries pursuant to this the insurance holding company act; and*

(vi) for documents, material or information reporting pursuant to K.S.A. 40-3305, and amendments thereto, in the case of an agreement involving a third-party consultant, provide for notification of the identity of the consultant to the applicable insurers.

(e) The sharing of information by the commissioner of insurance, pursuant to this act, shall not constitute a delegation of regulatory authority or ~~rule-making~~ *rulemaking* authority, and the commissioner of insurance is solely responsible for the administration, execution and enforcement of the provisions of this act.

(f) No waiver of any applicable privilege or claim of confidentiality in the documents, materials or information shall occur as a result of disclosure to the commissioner of insurance under this act or as a result of sharing as authorized in subsection (d).

(g) Documents, materials or other information in the possession or control of the national association of insurance commissioners shall be confidential by law and privileged, shall not be subject to the open records act, K.S.A. 45-215 et seq., and amendments thereto, shall not be subject to subpoena; and shall not be subject to discovery or admissible in evidence in any private civil action.

(h) (1) The group capital calculation and resulting group capital ratio required under K.S.A. 40-3305, and amendments thereto, and the liquidity stress test along with its results and supporting disclosures required under K.S.A. 40-3305, and amendments thereto, shall be deemed regulatory tools for assessing group risks and capital adequacy and group liquidity risks, respectively, and shall not be construed as a means to rank insurers or insurance holding company systems.

(2) Except as otherwise may be required under the provisions of the insurance holding company act, the making, publishing, disseminating, circulating, placing before the public or causing directly or indirectly to be made, published, disseminated, circulated or placed before the public in a newspaper, magazine or other publication, in the form of a notice, circular, pamphlet, letter or poster; broadcast by any radio or television station or by any electronic means of communication available to the public, or in any other way as an advertisement, announcement or statement containing a representation or statement with regard to the group capital calculation, group capital ratio, the liquidity stress test results, or supporting disclosures for the liquidity stress test of any insurer or any insurer group, or of any component derived in the calculation by any insurer, broker, or other person engaged in any manner in the insurance business could be misleading and is therefore prohibited.

(3) If any materially false statement with respect to the group capital calculation, resulting group capital ratio, an inappropriate comparison of any amount to an insurer's or insurance group's group capital calculation or resulting group capital ratio, liquidity stress test result, supporting disclosures for the liquidity stress test or an inappropriate comparison of any amount to an insurer's or insurance group's liquidity stress test result or supporting disclosures is published in any written publication and the insurer is able to demonstrate to the commissioner with substantial proof the falsity or inappropriateness of such statement, then the insurer may publish announcements in a written publication if the sole purpose of the announcement is to rebut the materially false statement.

(i) The provisions of this section shall not be subject to the provisions of K.S.A. 45-229, and amendments thereto.

Sec. 24. K.S.A. 2024 Supp. 40-4302 is hereby amended to read as follows: 40-4302. (a) Any captive insurance company, when permitted by its organizational documents, may apply to the commissioner for a certificate of authority to do any and all insurance comprised in K.S.A.

40-901 et seq., 40-1102(1)(a), (1)(c) through (1)(n), and amendments thereto, and to issue life, accident and health insurance policies ~~provided, except~~ that:

(1) ~~No~~A pure captive insurance company shall *not* insure any risks other than those of its parent and affiliated companies ~~and, upon prior approval of the commissioner, any controlled unaffiliated business up to 5% of total direct written premium or combination thereof;~~

(2) no association captive insurance company shall insure any risks other than those of its association and those of the member organizations of its association. No association captive insurance company shall expose itself to loss on any one risk or hazard in an amount exceeding 10% of its paid-up capital and surplus;

(3) no captive insurance company shall provide personal lines of insurance, ~~workers' compensation,~~ employers' liability insurance coverage, long-term care coverage, critical care coverage, surety, title insurance, credit insurance or any component thereof, except that a technology-enabled fiduciary financial institution insurance company shall be permitted to provide contracts of suretyship and credit insurance in accordance with K.S.A. 2024 Supp. 40-4354, and amendments thereto;

(4) ~~no~~a captive insurance company ~~shall accept or cede~~ *may provide workers compensation insurance, insurance in the nature of workers compensation insurance and the reinsurance—except as provided in K.S.A. 40-4311, and amendments thereto of such policies unless prohibited by federal law, the provisions of chapter 40 of the Kansas Statutes Annotated, and amendments thereto, or any other state having jurisdiction over the transaction;*

(5) *a captive insurance company may provide excess or stop-loss accident and health insurance unless prohibited by federal law or the laws of the state having jurisdiction over the transaction;*

(6) *any captive insurance company may provide workers compensation insurance, insurance in the nature of workers' compensation insurance and reinsurance of such policies unless prohibited by federal law, the laws of the state of Kansas or any other state having jurisdiction over the transaction;*

(7) no captive insurance company shall provide accident and health, life insurance or annuities on a direct basis;

~~(6)~~(8) no captive insurance company authorized as a life insurance company shall transact business other than life insurance; and

~~(7)~~(9) no captive insurance company authorized to transact business under article 9 or 11 of chapter 40 of the Kansas Statutes Annotated, and amendments thereto, shall engage in the business of life insurance.

(b) No captive insurance company organized under the laws of this state shall do any insurance business in this state unless *such captive insurance company:*

(1) ~~It~~First obtains from the commissioner a certificate of authority authorizing it to do insurance business in this state;

(2) *has* its board of directors, members, partners, managers, committee of managers or other governing body ~~holds~~ *hold* at least one meeting each year in this state;

(3) ~~it~~maintains its principal place of business in this state; and

(4) ~~it~~authorizes the commissioner to accept service of process on its behalf in accordance with K.S.A. 40-218, and amendments thereto.

(c) Before receiving a certificate of authority, an applicant captive insurance company shall file with the commissioner:

(1) A copy of the applicant captive insurance company's organizational documents; and

(2) a plan of operation or a feasibility study describing the anticipated activities and results of the applicant captive insurance company that shall include:

(A) The company's loss prevention program of its parent and insureds, as applicable;

(B) historical and expected loss experience of the risks to be

insured or reinsured by the applicant captive insurance company;

(C) pro forma financial statements and projections of the proposed business operations of the applicant captive insurance company;

(D) an analysis of the adequacy of the applicant captive insurance company's proposed premiums, assets and capital and surplus levels relative to the risks to be insured or reinsured by the captive insurance company;

(E) a statement of the applicant captive insurance company's net retained limited liability on any contract of insurance or reinsurance—~~if~~ *that such insurance company* intends to issue and the nature of any reinsurance it intends to cede;

(F) a statement certifying that the applicant captive insurance company's investment policy is in compliance with this act and specifying the type of investments to be made;

(G) a statement identifying the geographic areas in which the applicant captive insurance company intends to operate;

(H) a statement identifying the persons or organizations that will perform the applicant captive insurance company's major operational functions, including management, underwriting, accounting, asset investment, claims adjusting and loss control and the adequacy of the expertise, experience and character of such persons or organizations; and

(I) whenever required by the commissioner, an appropriate opinion by a qualified independent actuary regarding the adequacy of the applicant captive insurance company's proposed capital, surplus and premium levels;

(3) a description of the coverages, deductibles, coverage limits, rates and forms, together with any additional information that the commissioner may require;

(4) such other items deemed *to be* relevant by the commissioner in ascertaining whether the proposed captive insurance company will be able to meet its obligations; and

(5) any modification or change in the items required under this subsection that shall require the prior approval of the commissioner.

(d) Notwithstanding any other provision of this act, the commissioner may issue a provisional certificate of authority to any applicant captive insurance company if the commissioner deems that the public interest will be served by the issuance of such a provisional certificate.

(1) As a condition precedent to the issuance of a provisional certificate of authority under this subsection, the applicant shall have filed a complete application containing all information required in subsection (c) and paid all necessary fees. The commissioner shall have made a preliminary finding that the expertise, experience and character of the person who shall control and manage the applicant captive are acceptable.

(2) The commissioner may by order limit the authority of any provisional certificate holder in any way deemed to be necessary in order to protect insureds and the public. The commissioner may revoke a provisional certificate holder if the interests of the insureds or the public are endangered. If the applicant fails to complete the regular application for a certificate of authority, the provisional certificate of authority shall terminate by operation of law.

(3) The commissioner may enact all rules and regulations necessary to implement a program for the issuance of provisional certificates of authority.

~~(d)~~*(e)* Each captive insurance company ~~not in existence on January 1, 2018;~~ shall pay to the commissioner a nonrefundable fee of ~~\$10,000~~ *up to \$2,500* for examining, investigating and processing its application for a certificate of authority. The commissioner is authorized to retain legal, financial, actuarial, analysis and examination services from outside the department, the reasonable costs of which shall be charged against the applicant. In addition, it shall pay a renewal fee of *\$2,500* for each year thereafter ~~of \$10,000~~.

~~(e)~~(f) Each captive insurance company ~~already in existence on January 1, 2018~~; shall pay an annual renewal fee of \$110 until January 1, 2028, after which date, the provisions of subsection ~~(d)~~ (e) shall apply.

~~(f)~~(g) If the commissioner is satisfied that the documents and statements that such captive insurance company has filed comply with the provisions of this act, the commissioner may grant a certificate of authority authorizing a:

(1) Captive insurance company other than a technology-enabled fiduciary financial institution to do insurance business in this state until March 1 thereafter, which certificate of authority may be renewed; and

(2) technology-enabled fiduciary financial institution insurance company to do insurance business in this state until the later of March 1 thereafter or the maturity date of the last payment-in-kind asset held by such technology-enabled fiduciary financial institution insurance company pursuant to this act.

~~(g)~~(h) Information submitted under this section shall be and remain confidential; and shall not be made public by the commissioner or any employee or agent of the commissioner without the written consent of the company, except that:

(1) Such information may be discoverable by a party in a civil action or contested case to which the captive insurance company that submitted such information is a party, upon a showing by the party seeking to discover such information that:

(A) The information sought is relevant to and necessary for the furtherance of such action or case;

(B) the information sought is unavailable from other ~~non-confidential~~ *nonconfidential* sources;

(C) a subpoena issued by a judicial or administrative officer or competent jurisdiction has been submitted to the commissioner; and

(D) the privacy of a qualified policyholder shall be protected in any court proceeding concerning such qualified policyholder if the technology-enabled fiduciary financial institution insurance company so petitions the court. Upon the filing of such petition, any information, including, but not limited to, an instrument, inventory, statement or verified report produced by the technology-enabled fiduciary financial institution insurance company regarding a policy issued to a qualified policyholder or payment-in-kind assets held by the technology-enabled fiduciary financial institution insurance company to satisfy claims of such qualified policyholder, all payment-in-kind policies, all petitions relevant to such information and all court orders thereon, shall be sealed upon filing and shall not be made a part of the public record of the proceeding, except that such petition shall be available to the court, the commissioner, the technology-enabled fiduciary financial institution insurance company, their attorneys and to such other interested persons as the court may order upon a showing of good cause;

(2) the commissioner may disclose such information to a public officer having jurisdiction over the regulation of insurance in another state, provided that:

(A) Such public official shall agree in writing to maintain the confidentiality of such information; and

(B) the laws of the state in which such public official serves requires such information to be and to remain confidential;

(3) access may also be granted to the national association of insurance commissioners and its affiliates, and the international association of supervisors and its affiliates. Such parties must agree in writing prior to receiving the information to provide to it the same confidential treatment as required by this section, unless the company gives prior written consent; and

(4) the privacy of those who have established an affiliated fidfin trust or alternative asset custody account shall be protected in any court proceeding concerning such trust or custody account if the acting trustee, custodian, trustor or any beneficiary so petition the court. Upon

the filing of such a petition, the instrument, inventory, statement filed by any trustee or custodian, annual verified report of the trustee or custodian and all petitions relevant to trust administration and all court orders thereon shall be sealed upon filing and shall not be made a part of the public record of the proceeding, except that such petition shall be available to the court, the trustor, the trustee, the custodian, any beneficiary, their attorneys and to such other interested persons as the court may order upon a showing of good cause.

Sec. 25. K.S.A. 40-4304 is hereby amended to read as follows: 40-4304. (a) No captive insurance company shall be issued a certificate of authority unless ~~it~~ *such company* shall possess and thereafter maintain unimpaired paid-in capital and surplus of *not less than*:

(1) ~~In the case of a pure captive insurance company, not less than \$250,000, in the case of a pure captive insurance company; and~~

(2) ~~in the case of an association captive insurance company incorporated as a stock insurer, not less than \$500,000, in the case of an association captive insurance company incorporated as a stock insurer; and~~

(3) *\$100,000, in the case of a protected cell captive insurance company.*

(b) Such capital may be in the form of cash or, upon approval of the commissioner, an irrevocable letter of credit issued by a bank chartered by the state of Kansas or the United States comptroller of currency, domiciled in Kansas, and approved by the commissioner.

(c) In connection with the issuance of a certificate of authority, the commissioner may prescribe additional minimum capital and surplus based upon the type, volume and nature of the insurance business transacted.

(d) Loans of minimum capital and surplus funds shall be prohibited. Notwithstanding the foregoing, the minimum capital and surplus funds may be received by the issuance of a surplus note as approved by the commissioner.

(e) No pure captive insurance company shall make a loan or an investment in its parent company or affiliates without prior written approval of the commissioner, and any such loan or investment shall be evidenced by documentation approved by the commissioner.

Sec. 26. K.S.A. 2024 Supp. 40-4308 is hereby amended to read as follows: 40-4308. (a) Whenever the commissioner deems necessary, but at least once every ~~three~~ *five* years, the commissioner may make, or direct to be made, a financial examination of any captive insurance company in the process of organization or applying for admission or doing business in Kansas. The commissioner may engage in continuous analysis for the preparation of the examination. In addition, at the commissioner's discretion, the commissioner may make, or direct to be made, a market regulation examination of any insurance company doing business in Kansas.

(b) In scheduling and determining the nature, scope and frequency of examinations of financial condition, the commissioner shall consider such matters as the results of financial statement analyses and ratios, changes in management or ownership, actuarial opinions, reports of independent certified public accountants and other criteria as set forth in the examiner's handbook adopted by the national association of insurance commissioners in effect when the commissioner exercises discretion under this subsection.

(c) The commissioner shall have free access to the books and papers of any such company that relate to its business and to the books and papers kept by any of its agents and may examine under oath, which the commissioner shall be empowered to administer, the directors, officers, agents or employees of any such company in relation to its affairs, transactions and condition.

(d) For the purpose of such analysis, the commissioner may require reports and other documents be filed with the commissioner.

(e) The commissioner may also examine or investigate any person, or the business of any person, insofar as such examination or

investigation is, in the sole discretion of the commissioner, necessary or material to the examination of the company, but such examination or investigation shall not infringe upon or extend to any communications or information accorded privileged or confidential status under any other laws of this state.

(f) Upon determining that an examination should be conducted, the commissioner or the commissioner's designee shall appoint one or more examiners to perform the examination and instruct such examiners as to the scope of the examination. The commissioner may also employ such other guidelines or procedures as the commissioner may deem appropriate.

(g) When making an examination under this act, the commissioner may retain attorneys, appraisers, independent actuaries, independent certified public accountants or other professionals and specialists as examiners, the reasonable cost of which shall be paid by the company that is the subject of the examination.

(h) (1) Not later than 30 days following completion of the examination or at such earlier time as the commissioner shall prescribe, the examiner in charge shall file with the department a verified written report of examination under oath. Not later than 30 days following receipt of the verified report, the department shall transmit the report to the company examined, together with a notice that shall afford such company examined a reasonable opportunity of not more than 30 days to make a written submission or rebuttal with respect to any matters contained in the examination report.

(2) Within 30 days of the end of the period allowed for the receipt of written submissions or rebuttals, the commissioner shall fully consider and review the report, together with any written submissions or rebuttals and any relevant portions of the examiners' workpapers, and enter an order:

(A) Adopting the examination report as filed or with modification or corrections. If the examination report reveals that the company is operating in violation of any law, rule and regulation or prior order of the commissioner, the commissioner may order the company to take any action the commissioner considers necessary and appropriate to cure such violations;

(B) rejecting the examination report with directions to the examiners to reopen the examination for purposes of obtaining additional data, documentation or information; or

(C) call for and conduct a fact-finding hearing in accordance with K.S.A. 40-281, and amendments thereto, for purposes of obtaining additional documentation, data, information and testimony.

(3) All orders entered as a result of revelations contained in the final examination report shall be accompanied by findings and conclusions resulting from the commissioner's consideration and review of the examination report, relevant examiner work papers and any written submissions or rebuttals. Within 30 days of the issuance of the adopted report, the company shall file affidavits executed by each of its directors stating under oath that they have received a copy of the adopted report and related orders.

(4) Upon the adoption of the examination report of an association captive insurance company, the commissioner shall hold the content of the examination report as private and confidential as to the pure captive insurance company. Nothing contained in this act shall be construed to limit the commissioner's authority to use and, if appropriate, to make public any final or preliminary examination report in the furtherance of any legal or regulatory action that the commissioner may, in the commissioner's discretion, deem appropriate.

(i) Nothing contained in this act shall be construed to limit the commissioner's authority to terminate or suspend any examination in order to pursue other legal or regulatory action pursuant to the insurance laws of this state.

(j) All examination reports, preliminary examination reports or results, working papers, recorded information, documents and copies

thereof produced by, obtained by or disclosed to the commissioner or any other person in the course of an examination made under this section are confidential and are not subject to subpoena and may not be made public by the commissioner or an employee or agent of the commissioner without the written consent of the company, except to the extent provided in this subsection. Nothing in this subsection shall prevent the commissioner from using such information in furtherance of the commissioner's regulatory authority under this act. The commissioner may grant access to such information to public officers having jurisdiction over the regulation of insurance in any other state or country or to law enforcement officers of Kansas or any other state or agency of the federal government at any time. Access may also be granted to the national association of insurance commissioners and its affiliates and the international association of insurance supervisors and its affiliates. Persons receiving such information must agree in writing prior to receiving the information to provide to it the same confidential treatment as required by this section, unless the prior written consent of the company to which it pertains has been obtained.

(k) The commissioner may receive documents, materials or information, including otherwise confidential and privileged documents, materials or information, from the national association of insurance commissioners, and its affiliates and subsidiaries, and from regulatory and law enforcement officials of other foreign or domestic jurisdictions and shall maintain as confidential or privileged any document, material or information received with notice or the understanding that it is confidential or privileged under the laws of the jurisdiction that is the source of the document, material or information. Documents received pursuant to this section shall not be subject to disclosure pursuant to the open records act, K.S.A. 45-215 et seq., and amendments thereto.

Sec. 27. K.S.A. 40-4312 is hereby amended to read as follows: 40-4312. No captive insurance company shall be required to join a rating organization or a policy form organization.

Sec. 28. K.S.A. 40-4314 is hereby amended to read as follows: 40-4314. (a) Each captive insurance company shall, at the time it files the report required by K.S.A. 40-4307, and amendments thereto, pay a tax on all premiums received on risks located in this state.

(b) Each captive insurance company shall pay the commissioner a tax at the rate of $\frac{2}{10}$ of 1% on each dollar of direct premiums collected or contracted for, during the year ending December 31 next preceding, on policies or contracts of insurance written by the captive insurance company, after deducting from the direct premiums subject to the tax amounts paid to policyholders as return premiums with respect to such preceding year only, which amounts shall include only dividends or distributions of unabsorbed premiums or premium deposits returned or credited to policyholders, up to a maximum tax for such year of \$500,000, except that no tax shall be due or payable as a consideration received for annuity contracts.

(c) Each captive insurance company shall pay to the commissioner no later than March 1 of each year a tax at the rate of $\frac{1}{10}$ of 1% on each dollar assumed reinsurance premiums collected or contracted for, during the year end December 31 next preceding, on policies or contracts of insurance written by the captive insurance company, up to a maximum tax for such year of \$300,000. However, no such tax applies to premiums for risks or portion of risks that are subject to taxation on a direct basis pursuant to subsection (b), and no such tax shall be payable in connection with the receipt of assets in exchange for the assumption of loss reserves and other liabilities of another insurer under common ownership and control if such transaction is part of a plan to discontinue the operations of such other insurer and if the intent of the company by the state or any county, city or municipality within Kansas, except ad valorem taxes on real and personal property used in the production of income.

(d) (1) *A company redomesticating under section 11, and*

amendments thereto, shall only be liable for taxes due pursuant to subsections (b) and (c) on premiums paid to the company after redomestication.

(2) A company redomesticating under this section after July 1 of any year shall only be subject to 1/2 of the minimum premium tax specified in subsections (b) and (c).

(3) A foreign or alien company redomesticating pursuant to section 11, and amendments thereto, shall report all premium taxes due pursuant to subsections (b) and (c) but may, in either its first or its second year of operations, but not both, after redomesticating into this state, elect to forego the payment of premium taxes. A company making such an election that surrenders its certificate of authority or redomesticates to another jurisdiction within five years of redomestication into this state shall immediately pay a tax in an amount equal to the foregone premium tax plus 10% per annum from the date of the foregone premium.

(e) The tax provided in this section shall be calculated on an annual basis, notwithstanding that policies or contracts of insurance or contracts of reinsurance are issued on a multi-year basis. In the case of multi-year policies or contracts, the premium shall be prorated for purposes of determining the tax under this section.

(f) The tax provided for in this section shall constitute all taxes collectible under the laws of the state of Kansas from any captive insurance company, and no other occupation tax or any other tax shall be levied or collected from any captive insurance company by the state or any political subdivision thereof.

Sec. 29. K.S.A. 40-4602 is hereby amended to read as follows: 40-4602. As used in this act:

(a) "Emergency medical condition" means the sudden and, at the time, unexpected onset of a health condition that requires immediate medical attention, where failure to provide medical attention would result in serious impairment to bodily functions or serious dysfunction of a bodily organ or part, or would place the person's health in serious jeopardy.

(b) "Emergency services" means ambulance services and ~~health care~~ *healthcare* items and services furnished or required to evaluate and treat an emergency medical condition, as directed or ordered by a physician.

(c) "Health benefit plan" means any hospital or medical expense policy, health, hospital or medical service corporation contract, a plan provided by a municipal group-funded pool, a policy or agreement entered into by a health insurer or a health maintenance organization contract offered by an employer or any certificate issued under any such policies, contracts or plans. "Health benefit plan" does not include policies or certificates covering only accident, credit, dental, disability income, long-term care, hospital indemnity, medicare supplement, specified disease, vision care, coverage issued as a supplement to liability insurance, insurance arising out of a workers compensation or similar law, automobile medical-payment insurance, *a self-funded health plan established or maintained for its employees by the state or a subdivision of the state, a school district, any public authority or by a county or city government or any political subdivision, agency or instrumentality thereof, a self-funded health plan established or maintained for its employees by a church or by a convention or association of churches that is exempt from tax under section 501 of the internal revenue code* or insurance under which benefits are payable with or without regard to fault and ~~which~~ *that* is statutorily required to be contained in any liability insurance policy or equivalent self-insurance.

(d) "Health insurer" means any insurance company, nonprofit medical and hospital service corporation, municipal group-funded pool, fraternal benefit society, health maintenance organization, or any other entity ~~which~~ *that* offers a health benefit plan subject to the Kansas Statutes Annotated.

(e) "Insured" means a person who is covered by a health benefit plan.

(f) "Participating provider" means a provider who, under a contract with the health insurer or with its contractor or subcontractor, has agreed to provide one or more ~~health care~~ *healthcare* services to insureds with an expectation of receiving payment, other than coinsurance, copayments or deductibles, directly or indirectly from the health insurer.

(g) "Provider" means a physician, hospital or other person ~~which~~ *that* is licensed, accredited or certified to perform specified ~~health care~~ *healthcare* services.

(h) "Provider network" means those participating providers who have entered into a contract or agreement with a health insurer to provide items or ~~health care~~ *healthcare* services to individuals covered by a health benefit plan offered by such health insurer.

(i) "Physician" means a person licensed by the state board of healing arts to practice medicine and surgery.

Sec. 30. K.S.A. 2024 Supp. 40-4909 is hereby amended to read as follows: 40-4909. (a) The commissioner may deny, suspend, revoke or refuse renewal of any license issued under this act if the commissioner finds that the applicant or license holder has:

(1) Provided incorrect, misleading, incomplete or untrue information in the license application.

(2) Violated:

(A) Any provision of chapter 40 of the Kansas Statutes Annotated, and amendments thereto, or any rules and regulations promulgated thereunder;

(B) any subpoena or order of the commissioner;

(C) any insurance law or regulation of another state; or

(D) any subpoena or order issued by the regulatory official for insurance in another state.

(3) Obtained or attempted to obtain a license under this act through misrepresentation or fraud.

(4) Improperly withheld, misappropriated or converted any moneys or properties received in the course of doing insurance business.

(5) Intentionally misrepresented the provisions, terms and conditions of an actual or proposed insurance contract or application for insurance.

(6) Been convicted of a misdemeanor or felony.

(7) Admitted to or been found to have committed any insurance unfair trade practice or fraud in violation of K.S.A. 40-2404, and amendments thereto.

(8) Used any fraudulent, coercive, or dishonest practice, or demonstrated any incompetence, untrustworthiness or financial irresponsibility in the conduct of business in this state or elsewhere.

(9) Had an insurance agent license, *public adjuster license*, *securities registration*, or ~~its~~ *their* equivalent, denied, suspended or revoked in any state, district or territory.

(10) Forged another person's name to an application for insurance or to any document related to an insurance transaction.

(11) Improperly used notes or any other reference material to complete an examination for an insurance license issued under this act.

(12) Knowingly accepted insurance business from an individual who is not licensed.

(13) Failed to comply with any administrative or court order imposing a child support obligation upon the applicant or license holder.

(14) Failed to pay any state income tax or comply with any administrative or court order directing payment of state income tax.

(15) Except as otherwise permitted by law, rebated the whole or any part of any insurance premium or offered in connection with the presentation of any contract of insurance any other inducement not contained in the contract of insurance.

(16) Made any misleading representation or incomplete comparison of policies to any person for the purposes of inducing or tending to induce such person to lapse, forfeit or surrender such person's insurance then in force.

(17) Failed to respond to an inquiry from the commissioner within 15 business days.

(b) In addition, the commissioner may deny, suspend, revoke or refuse renewal of any license issued under this act if the commissioner finds that the interests of the insurer or the insurable interests of the public are not properly served under such license.

(c) (1) When considering whether to deny, suspend, revoke or refuse to renew the application of an individual who has been convicted of a misdemeanor or felony, the commissioner shall consider the:

- (A) Applicant's age at the time of the conduct;
- (B) recency of the conduct;
- (C) reliability of the information concerning the conduct;
- (D) seriousness of the conduct;
- (E) factors underlying the conduct;
- (F) cumulative effect of the conduct or information;
- (G) evidence of rehabilitation;
- (H) applicant's social contributions since the conduct;
- (I) applicant's candor in the application process; and
- (J) materiality of any omissions or misrepresentations.

(2) In determining whether to reinstate or grant to an applicant a license that has been revoked, the commissioner shall consider the:

- (A) Present moral fitness of the applicant;
- (B) demonstrated consciousness by the applicant of the wrongful conduct and disrepute that the conduct has brought to the insurance profession;
- (C) extent of the applicant's rehabilitation;
- (D) seriousness of the original conduct;
- (E) applicant's conduct subsequent to discipline;
- (F) amount of time that has elapsed since the original discipline;
- (G) applicant's character, maturity and experience at the time of revocation; and
- (H) applicant's present competence and skills in the insurance industry.

(d) Any action taken under this section that affects any license or imposes any administrative penalty shall be taken only after notice and an opportunity for a hearing conducted in accordance with the provisions of the Kansas administrative procedure act.

(e) The license of any business entity may be suspended, revoked or refused renewal if the insurance commissioner finds that any violation committed by an individual licensee employed by or acting on behalf of such business entity was known by or should have been known by one or more of the partners, officers or managers acting on behalf of the business entity and:

- (1) Such violation was not reported to the insurance commissioner by such business entity; or
- (2) such business entity failed to take any corrective action.

(f) None of the following actions shall deprive the commissioner of any jurisdiction or right to institute or proceed with any disciplinary proceeding against such license, to render a decision suspending, revoking or refusing to renew such license, or to establish and make a record of the facts of any violation of law for any lawful purpose:

- (1) The imposition of an administrative penalty under this section;
- (2) the lapse or suspension of any license issued under this act by operation of law;
- (3) the licensee's failure to renew any license issued under this act;

or

(4) the licensee's voluntary surrender of any license issued under this act. No such disciplinary proceeding shall be instituted against any licensee after the expiration of two years from the termination of the license.

(g) Whenever the commissioner imposes any administrative penalty or denies, suspends, revokes or refuses renewal of any license pursuant to subsection (a), any costs incurred as a result of conducting an administrative hearing authorized under the provisions of this section shall be assessed against the person who is the subject of the hearing or any business entity represented by such person who is the party to the matters giving rise to the hearing. As used in this subsection, "costs"—~~shall include~~ *includes* witness fees, mileage allowances, any costs associated with the reproduction of documents that become a part of the hearing record and the expense of making a record of the hearing.

(h) No person whose license as an agent or broker had been suspended or revoked shall be employed by any insurance company doing business in this state either directly, indirectly, as an independent contractor or otherwise to negotiate or effect contracts of insurance, suretyship or indemnity or perform any act toward the solicitation of or transaction of any business of insurance during the period of such suspension or revocation.

(i) In lieu of taking any action under subsection (a), the commissioner may:

(1) Censure the person; or

(2) issue an order imposing an administrative penalty up to a maximum of \$500 for each violation but not to exceed \$2,500 for the same violation occurring within any six consecutive calendar months from the date of the original violation unless such person knew or should have known that the violative act could give rise to disciplinary action under subsection (a). If such person knew or reasonably should have known the violative act could give rise to any disciplinary proceeding authorized by subsection (a), the commissioner may impose a penalty up to a maximum of \$1,000 for each violation but not to exceed \$5,000 for the same violation occurring within any six consecutive calendar months from the date of the imposition of the original administrative penalty.

(j) (1) An applicant to whom a license has been denied after a hearing shall not apply *again* for a license—~~again~~ until after the expiration of a period of one year from the date of the commissioner's order.

(2) A licensee whose license was revoked shall not apply *again* for a license—~~again~~ until after the expiration of a period of two years from the date of the commissioner's order.

Sec. 31. K.S.A. 40-5510 is hereby amended to read as follows: 40-5510. (a) The commissioner may suspend, revoke or refuse to issue or renew a public adjuster's license for any of the following causes:

(1) Providing incorrect, misleading, incomplete or materially untrue information in the license application;

(2) violating:

(A) Any provision of chapter 40 of the Kansas Statutes Annotated, and amendments thereto, or any rule and regulation promulgated thereunder;

(B) any subpoena or order of the commissioner;

(C) any insurance law or regulation of another state; or

(D) any subpoena or order issued by the regulatory official for insurance in another state;

(3) obtaining or attempting to obtain a license through misrepresentation or fraud;

(4) misappropriating, converting or improperly withholding any monies or properties received in the course of doing insurance business;

(5) intentionally misrepresenting the terms of an actual or proposed insurance contract or application for insurance;

(6) having been convicted of a misdemeanor or felony;

(7) having admitted or committed any insurance unfair trade practice or insurance fraud;

(8) using fraudulent, coercive or dishonest practices or

demonstrating incompetence, untrustworthiness or financial irresponsibility in the conduct of business in this state or elsewhere;

(9) having an insurance license, *public adjuster license, securities registration* or ~~its~~ *their* equivalent, denied, suspended or revoked in any other state, province, district or territory;

(10) forging another's name to an application for insurance or to any document related to an insurance transaction;

(11) cheating, including improperly using notes or any other reference material, to complete an examination for an insurance license;

(12) knowingly accepting insurance business from an individual who is not licensed but who is required to be licensed by the commissioner;

(13) failing to comply with an administrative or court order imposing a child support obligation upon the applicant or license holder; ~~or~~

(14) failing to pay state income tax or comply with any administrative or court order directing payment of state income tax; *or*

(15) *failing to respond to an inquiry from the commissioner within 15 business days.*

(b) In addition, the commissioner may deny, suspend, revoke or refuse renewal of a public adjuster's license if the commissioner finds that the interests of the public are not properly served under such license. Any action taken under this section which affects any license or imposes any administrative penalty shall be taken only after notice and an opportunity for a hearing conducted in accordance with the Kansas administrative procedure act.

(c) In lieu of any action under subsection (a), the commissioner may:

(1) Censure the individual; or

(2) issue an order imposing an administrative penalty up to a maximum of \$500 for each violation, but not to exceed \$2,500 for the same violation occurring within any six consecutive calendar months from the date of the original violation, unless such person knew or should have known that the violative act could give rise to disciplinary action under subsection (a). If such person knew or reasonably should have known the violative act could give rise to any disciplinary proceeding authorized by subsection (a), the commissioner may impose a penalty up to a maximum of \$1,000 for each violation, but not to exceed \$5,000 for the same violation occurring within any six consecutive calendar months from the date of the original violation.

(d) (1) *When considering whether to deny, suspend, revoke or refuse to renew the application of an individual who has been convicted of a misdemeanor or felony, the commissioner shall consider the:*

- (A) *Applicant's age at the time of the conduct;*
- (B) *recency of the conduct;*
- (C) *reliability of the information concerning the conduct;*
- (D) *seriousness of the conduct;*
- (E) *factors underlying the conduct;*
- (F) *cumulative effect of the conduct or the information;*
- (G) *evidence of rehabilitation;*
- (H) *applicant's social contributions since the conduct;*
- (I) *applicant's candor in the application process; and*
- (J) *materiality of any omissions or misrepresentations.*

(2) *In determining whether to reinstate or grant to an applicant a license that has been revoked, the commissioner shall consider the:*

- (A) *Present moral fitness of the applicant;*
- (B) *demonstrated consciousness by the applicant of the wrongful conduct and disrepute that the conduct has brought to the insurance profession;*
- (C) *extent of the applicant's rehabilitation;*
- (D) *seriousness of the original conduct;*
- (E) *applicant's conduct subsequent to discipline;*

(F) amount of time that has elapsed since the original discipline;

(G) applicant's character, maturity and experience at the time of revocation; and

(H) applicant's present competence and skills in the insurance industry.

(e) Any action taken under this section that affects any license or imposes any administrative penalty shall be taken only after notice and an opportunity for a hearing conducted in accordance with the provisions of the Kansas administrative procedure act.

(f) The commissioner shall remit all such fines collected under subsection (c) 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.

(g) Whenever the commissioner imposes any administrative penalty or denies, suspends, revokes or refuses renewal of any license pursuant to subsection (a), any costs incurred as a result of conducting an administrative hearing authorized under the provisions of this section shall be assessed against the person who is the subject of the hearing or any business entity represented by such person who is the party to the matters giving rise to the hearing. As used in this subsection, "costs" includes witness fees, mileage allowances, any costs associated with the reproduction of documents that become a part of the hearing record and the expense of making a record of the hearing.

(h) No person whose license as a public adjuster had been suspended or revoked shall be employed by any insurance company doing business in this state either directly, indirectly, as an independent contractor or otherwise to negotiate or effect contracts of insurance, suretyship or indemnity or perform any act toward the solicitation or transaction of any business of insurance during the period of such suspension or revocation.

(i) The commissioner shall retain the authority to enforce the provisions of and impose any penalty or remedy authorized by this act against any individual who is under investigation for or charged with a violation of this act, even if the individual's license or registration has been surrendered or has lapsed by operation of law.

(1) An applicant to whom a license has been denied after a hearing shall not apply again for a license until after the expiration of a period of one year from the date of the commissioner's order.

(2) A licensee whose license was revoked shall not apply again for a license until after the expiration of a period of two years from the date of the commissioner's order.

Sec. 32. K.S.A. 40-112, 40-202, 40-252, 40-2d01, 40-3302, 40-3305, 40-3306, 40-3307, 40-3308, 40-4304, 40-4312, 40-4314, 40-4602 and 40-5510 and K.S.A. 2024 Supp. 40-2,239, 40-2c01, 40-4302, 40-4308 and 40-4909 are hereby repealed.

Sec. 33. This act shall take effect and be in force from and after its publication in the statute book.

I hereby certify that the above BILL originated in the HOUSE, and was adopted by that body

HOUSE adopted

Conference Committee Report _____

Speaker of the House.

Chief Clerk of the House.

Passed the SENATE

as amended _____

SENATE adopted

Conference Committee Report _____

President of the Senate.

Secretary of the Senate.

APPROVED _____

Governor.