

SENATE BILL No. 121

By Committee on Financial Institutions and Insurance

1-30

1 AN ACT concerning insurance; relating to the regulation thereof;
2 authorizing the commissioner of insurance to select and announce the
3 version of certain instructions, calculations and documents in effect for
4 the upcoming calendar year and cause such announcement to be
5 published in the Kansas register; allowing certain life insurers to follow
6 health financial reports; adopting certain provisions from the national
7 association of insurance commissioners holding company system
8 regulatory act relating to group capital calculations and liquidity stress
9 testing; amending K.S.A. 40-2d01, 40-3302, 40-3305, 40-3306, 40-
10 3307 and 40-3308 and K.S.A. 2024 Supp. 40-2c01 and repealing the
11 existing sections; also repealing K.S.A. 40-249 and 40-2c29.
12

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

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

20 (b) Calculations and instructions include, but are not limited to, risk-
21 based capital instructions, as used in K.S.A. 40-2c01, and amendments
22 thereto, risk-based capital managed care instructions, as used in K.S.A.
23 40-2d01, and amendments thereto, and group capital calculation
24 instructions, as used in K.S.A. 40-3302, and amendments thereto.

25 Sec. 2. K.S.A. 2024 Supp. 40-2c01 is hereby amended to read as
26 follows: 40-2c01. As used in this act:

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

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

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

35 (d) "Foreign insurer" means any insurance company or risk retention
36 group not domiciled in this state that is licensed or registered to do

1 business in this state pursuant to article 41 of chapter 40 of the Kansas
2 Statutes Annotated, and amendments thereto, or K.S.A. 40-209, and
3 amendments thereto.

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

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

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

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

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

20 (j) "RBC instructions" means the risk-based capital instructions
21 promulgated by the NAIC that are in effect ~~on December 31, 2023, or any~~
22 ~~later version promulgated by the NAIC as may be adopted by the~~ *as*
23 *announced and noticed by the commissioner under K.S.A. 40-2c29*
24 *pursuant to section 1, and amendments thereto.*

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

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

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

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

35 (4) "mandatory control level RBC" means the product of 0.70 and the
36 authorized control level RBC.

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

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

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

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

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

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

6 Sec. 3. K.S.A. 40-2d01 is hereby amended to read as follows: 40-
7 2d01. As used in K.S.A. 40-2d01 through 40-2d30, and amendments
8 thereto:

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

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

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

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

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

23 (f) "Health organization" means a health maintenance organization,
24 limited health service organization, dental or vision plan, hospital, medical
25 and dental indemnity or service corporation or other managed care
26 organization licensed under articles 19a, 19c or 32 of chapter 40 of the
27 Kansas Statutes Annotated, and amendments thereto. ~~This definition shall,~~
28 *or an organization that is licensed as a life and health insurer under*
29 *article 4 of chapter 40 of the Kansas Statutes Annotated, and amendments*
30 *thereto, and has been determined by the commissioner to report*
31 *predominantly health lines of business in accordance with a health*
32 *statement test. "Health organization" does not include an organization that*
33 *is licensed as either a life and health insurer or a property and casualty*
34 *insurer under articles 4, 5, 9, 10, 11, 12, 12a, 15 or 16 of chapter 40 of the*
35 *Kansas Statutes Annotated, and amendments thereto, and that is otherwise*
36 *subject to either the life or property and casualty RBC requirements in*
37 *K.S.A. 40-2c01 et seq., and amendments thereto.*

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

39 (h) "RBC instructions" means the risk-based capital instructions for
40 managed care organizations promulgated by the NAIC ~~which~~ *that* are in
41 effect ~~on December 31, 1999, or any later version as adopted by as~~
42 *announced and noticed by the commissioner in rules and regulations*
43 *pursuant to section 1, and amendments thereto.*

1 (i) "RBC level" means a health organization's company action level
2 RBC, regulatory action level RBC, authorized control level RBC, or
3 mandatory control level RBC where:

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

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

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

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

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

18 (k) "RBC report" means the report required by K.S.A. 40-2d02, 40-
19 2d03 and 40-2d04, and amendments thereto.

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

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

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

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

27 Sec. 4. K.S.A. 40-3302 is hereby amended to read as follows: 40-
28 3302. As used in the insurance holding company act, unless the context
29 otherwise requires:

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

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

37 (c) "Control" including the terms "controlling," "controlled by" and
38 "under common control with," means the possession, direct or indirect, of
39 the power to direct or cause the direction of the management or policies of
40 a person, whether through the ownership of voting securities, by contract
41 other than a commercial contract for goods or nonmanagement services, or
42 otherwise, unless the power is the result of an official position with or
43 corporate office held by the person. Control shall be presumed to exist if

1 any person, directly or indirectly, owns, controls, holds with the power to
2 vote, or holds proxies representing 10% or more of the voting securities of
3 any other person. This presumption may be rebutted by a showing made in
4 the manner provided by K.S.A. 40-3305(k), and amendments thereto, that
5 control does not exist in fact. The commissioner of insurance may
6 determine, after a hearing in accordance with the provisions of the Kansas
7 administrative procedure act, that control exists in fact, notwithstanding
8 the absence of a presumption to that effect.

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

20 (e) *"Financial analysis handbook" means the version of the NAIC*
21 *financial analysis handbook adopted by the NAIC and in effect that has*
22 *been selected and noticed by the commissioner pursuant to section 1, and*
23 *amendments thereto.*

24 (f) *"Group capital calculation instructions" means the group capital*
25 *calculation instructions selected and announced by the commissioner*
26 *pursuant to section 1, and amendments thereto.*

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

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

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

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

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

1 amendments thereto; and

2 (2) meets the following criteria:

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

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

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

11 ~~(j)~~(k) "NAIC" means the national association of insurance
12 commissioners.

13 (l) "NAIC liquidity stress test framework" means the separate NAIC
14 publication that includes the history of the NAIC's development of
15 regulatory liquidity stress testing, the scope criteria applicable for a
16 specific data year and the liquidity stress test instructions and reporting
17 templates for a specific data year and such scope criteria, instructions and
18 reporting templates as adopted by the NAIC and as amended by the NAIC
19 from time to time in accordance with the procedures adopted by the NAIC
20 and as selected and announced by the commissioner pursuant to section 1,
21 and amendments thereto.

22 (m) "Person" means an individual, corporation, a partnership, an
23 association, a joint stock company, a trust, an unincorporated organization,
24 any similar entity or any combination of the foregoing acting in concert.

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

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

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

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

38 Sec. 5. K.S.A. 40-3305 is hereby amended to read as follows: 40-
39 3305. (a) Every insurer that is authorized to do business in this state and
40 ~~that~~ is a member of an insurance holding company system shall register
41 with the commissioner of insurance, except a foreign insurer subject to
42 registration requirements and standards adopted by statute or regulation in
43 the jurisdiction of its domicile that are substantially similar to those

1 contained in this section. Any insurer that is subject to registration under
2 this section shall register within 15 days after it becomes subject to
3 registration; and annually thereafter by May 1 of each year ~~unless for the~~
4 *previous calendar year* the commissioner of insurance for good cause
5 shown extends the time for registration, and then within such extended
6 time. The commissioner of insurance may require any authorized insurer
7 that is a member of an insurance holding company system and ~~that~~ is not
8 subject to registration under this section to furnish a copy of the
9 registration statement, the summary specified in subsection (c) or other
10 information filed by such insurance company with the insurance regulatory
11 authority of domiciliary jurisdiction.

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

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

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

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

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

24 (B) purchases, sales or exchanges of assets;

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

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

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

32 (F) reinsurance agreements;

33 (G) dividends and other distributions to shareholders; and

34 (H) consolidated tax allocation agreements;

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

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

41 (6) financial statements of or within an insurance holding company
42 system, including all affiliates, if requested by the commissioner of
43 insurance. Financial statements may include, but ~~are~~ *not be* limited to,

1 annual audited financial statements filed with the U.S. securities and
2 exchange commission (SEC), pursuant to the securities act of 1933, as
3 amended, or the securities exchange act of 1934, as amended. An insurer
4 required to file financial statements pursuant to this paragraph may satisfy
5 the request by providing the commissioner of insurance with the most
6 recently filed parent corporation financial statements that have been filed
7 with the SEC;

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

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

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

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

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

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

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

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

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

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

9 (k) Any person may file with the commissioner ~~of insurance~~ a
10 disclaimer of affiliation with any authorized insurer or such a disclaimer
11 may be filed by such insurer or any member of an insurance holding
12 company system. The disclaimer shall fully disclose all material
13 relationships and bases for affiliation between such person and such
14 insurer as well as the basis for disclaiming such affiliation. After a
15 disclaimer has been filed, the insurer shall be relieved of any duty to
16 register or report under this section ~~which~~ *that* may arise out of the
17 insurer's relationship with such person unless and until the commissioner
18 ~~of insurance~~ disallows such a disclaimer. The commissioner ~~of insurance~~
19 shall disallow such a disclaimer only after furnishing all parties in interest
20 with notice and opportunity to be heard in accordance with the provisions
21 of the Kansas administrative procedure act.

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

35 (2) ~~The ultimate controlling person of a domestic insurer that is~~
36 ~~authorized, admitted or eligible to engage in the business of insurance only~~
37 ~~in this state with total direct and assumed annual premiums of less than~~
38 ~~\$300 million is not required to submit an enterprise risk report under~~
39 ~~paragraph (1) unless the ultimate controlling person of the domestic~~
40 ~~insurer also controls other insurers that do not meet the requirements of~~
41 ~~this subsection. For the purposes of this subsection, an insurer is not~~
42 ~~considered to be authorized, admitted or eligible to engage in the business~~
43 ~~of insurance only in this state if the insurer directly or indirectly writes or~~

1 ~~assumes insurance in any other manner in another state~~(A) Except as
2 provided hereunder, the ultimate controlling person of every insurer
3 subject to registration shall concurrently file with the registration an
4 annual group capital calculation as directed by the lead state
5 commissioner. The report shall be completed in accordance with the NAIC
6 group capital calculation instructions, which may permit the lead state
7 commissioner to allow a controlling person that is not the ultimate
8 controlling person to file the group capital calculation. The report shall be
9 filed with the lead state commissioner of the insurance holding company
10 system as determined by the commissioner of insurance in accordance
11 with the procedures within the financial analysis handbook. An insurance
12 holding company system shall be exempt from filing the group capital
13 calculation if:

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

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

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

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

29 (a) That provides information to the lead state that meets the
30 requirements for accreditation under the NAIC financial standards and
31 accreditation program, either directly or indirectly through the group-wide
32 supervisor, who has determined that such information is satisfactory to
33 allow the lead state to comply with the NAIC group supervision approach,
34 as detailed in the NAIC financial analysis handbook; and

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

40 (B) Notwithstanding the provisions of K.S.A. 40-3305, and
41 amendments thereto, a lead state commissioner shall require the group
42 capital calculation for the United States operations of any non-United
43 States based insurance holding company system if, after any necessary

1 *consultation with other supervisors or officials, it is deemed appropriate*
2 *by the lead state commissioner for prudential oversight and solvency*
3 *monitoring purposes or for ensuring the competitiveness of the insurance*
4 *marketplace.*

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

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

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

23 *(i) The NAIC liquidity stress test framework includes scope criteria*
24 *applicable to a specific data year. These scope criteria are reviewed at*
25 *least annually by the financial stability task force or its successor. Any*
26 *change to the NAIC liquidity stress test framework or to the data year for*
27 *which the scope criteria are to be measured shall be effective on January*
28 *1 of the year following the calendar year in which such changes are*
29 *adopted. Insurers meeting at least one threshold of the scope criteria are*
30 *considered scoped into the NAIC liquidity stress test framework for the*
31 *specified data year; unless the lead state insurance commissioner, in*
32 *consultation with the NAIC financial stability task force or its successor,*
33 *determines that such insurer should not be scoped into the framework for*
34 *that data year. Similarly, insurers that do not trigger at least one threshold*
35 *of the scope criteria are considered scoped out of the NAIC liquidity stress*
36 *test framework for the specified data year; unless the lead state insurance*
37 *commissioner, in consultation with the NAIC financial stability task force*
38 *or its successor, determines that the insurer should be scoped into the*
39 *framework for that data year.*

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

1 *determination for an insurer.*

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

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

13 Sec. 6. K.S.A. 40-3306 is hereby amended to read as follows: 40-
14 3306. (a) ~~Material~~ Transactions by registered insurers with their affiliates
15 shall be subject to the following standards:

16 (1) The terms shall be fair and reasonable;

17 (2) agreements for cost-sharing services and management shall
18 include such provisions as required by rules and regulations adopted by the
19 commissioner of insurance;

20 (3) the charges or fees for services performed shall be reasonable;

21 (4) expenses incurred and payment received with respect to such
22 transactions shall be allocated to the insurer in conformity with the
23 requirements of K.S.A. 40-225, and amendments thereto;

24 (5) the books, accounts and records of each party to all such
25 transactions shall be so maintained as to clearly and accurately disclose the
26 nature and details of the transactions including such accounting
27 information necessary to support the reasonableness of the charges or fees
28 to the respective parties; and

29 (6) the insurer's surplus as regards policyholders following any
30 transactions, dividends or distributions to shareholder affiliates shall be
31 reasonable in relation to the insurer's outstanding liabilities and adequate
32 to its financial needs.

33 (b) (1) *If an insurer subject to this act is deemed by the commissioner*
34 *of insurance to be in a hazardous financial condition as defined by K.S.A.*
35 *40-222d, and amendments thereto, or a condition that would be grounds*
36 *for supervision, conservation or a delinquency proceeding, then the*
37 *commissioner may require the insurer to secure and maintain either a*
38 *deposit, held by the commissioner, or a bond, as determined by the insurer*
39 *at the insurer's discretion, for the protection of the insurer for the duration*
40 *of the contract or agreement or the existence of the condition for which the*
41 *commissioner required the deposit or the bond.*

42 (2) *In determining whether a deposit or a bond is required, the*
43 *commissioner shall consider whether concerns exist with respect to the*

1 *affiliated person's ability to fulfill the contract or agreement if the insurer*
2 *were to be put into liquidation. Once the insurer is deemed to be in a*
3 *hazardous financial condition or a condition that would be grounds for*
4 *supervision, conservation or a delinquency proceeding and a deposit or*
5 *bond is necessary, the commissioner shall have the discretion to*
6 *determine the amount of the deposit or bond, not to exceed the value of the*
7 *contract or agreement in any one year, and whether such deposit or bond*
8 *should be required for a single contract, multiple contracts or a contract*
9 *only with a specific person;*

10 *(c) All records and data of the insurer held by an affiliate are and*
11 *shall remain the property of the insurer, are subject to control of the*
12 *insurer, are identifiable and are segregated or readily capable of*
13 *segregation, at no additional cost to the insurer from all other persons'*
14 *records and data. All records and data that are otherwise the property of*
15 *the insurer, in whatever form maintained, including, but not limited to,*
16 *claims and claim files, policyholder lists, application files, litigation files,*
17 *premium records, rate books, underwriting manuals, personnel records,*
18 *financial records or similar records within the possession, custody or*
19 *control of the affiliate shall remain the property of the insurer. At the*
20 *request of the insurer, the affiliate shall provide that the receiver may*
21 *obtain a complete set of all records of any type that pertain to the insurer's*
22 *business, obtain access to the operating systems upon which the data is*
23 *maintained, obtain the software that runs those systems either through*
24 *assumption of licensing agreements or otherwise and restrict the use of the*
25 *data by the affiliate if it is not operating the insurer's business. The*
26 *affiliate shall provide a waiver of any landlord lien or other encumbrance*
27 *to provide the insurer with access to all records and data in the event of*
28 *the affiliate's default under a lease or other agreement; and*

29 *(d) Premiums or other funds belonging to the insurer that are*
30 *collected or held by an affiliate shall be deemed the exclusive property of*
31 *and subject to the control of such insurer. Any right of offset in the event*
32 *that an insurer is placed into receivership shall be subject to K.S.A. 40-*
33 *3605 et seq., and amendments thereto.*

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

43 (1) *Sales, purchases, exchanges, loans or extensions of credit,*

1 guarantees or investments provided such transactions are equal to or
2 exceed:

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

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

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

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

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

18 (3) Reinsurance agreements or modifications thereto, including:

19 (A) All reinsurance pooling agreements; and

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

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

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

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

38 ~~(e)(f)~~ A domestic insurer—~~may~~ *shall* not enter into transactions—~~which~~
39 *that* are part of a plan or series of like transactions with persons within the
40 insurance holding company system if the purpose of those separate
41 transactions is to avoid the threshold amount required under this section
42 and thus avoid the review that would occur otherwise. If the commissioner
43 of insurance determines that such separate transactions were entered into

1 over any 12-month period for such purpose, the commissioner of insurance
2 may exercise authority under K.S.A. 40-3311, and amendments thereto.

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

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

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

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

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

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

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

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

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

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

40 (C) An extraordinary dividend or distribution shall also include any
41 dividend or distribution made or paid out of any funds other than earned
42 surplus arising from the insurer's business, as defined in K.S.A. 40-233,
43 and amendments thereto. The provisions of K.S.A. 40-233, and

1 amendments thereto, shall not be construed so as to prohibit an insurer,
2 subject to registration under K.S.A. 40-3305, and amendments thereto,
3 from making or paying an extraordinary dividend or distribution in
4 accordance with this section.

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

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

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

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

18 (2) Nothing herein shall preclude a domestic insurer from having or
19 sharing a common management or cooperative or joint use of personnel,
20 property or services with one or more other persons under arrangements
21 meeting the standards of K.S.A. 40-3306, and amendments thereto.

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

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

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

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

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

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

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

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

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

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

42 (10) the quality and liquidity of investments in affiliates. The
43 commissioner of insurance may treat any such investment as a disallowed

1 asset for purposes of determining the adequacy of surplus as regards
2 policyholders whenever in the judgment of the commissioner of insurance
3 such investment so warrants; and

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

6 Sec. 7. K.S.A. 40-3307 is hereby amended to read as follows: 40-
7 3307. (a) Subject to the limitation contained in this section and in addition
8 to the powers ~~which~~ *that* the commissioner of insurance has under K.S.A.
9 40-222 and K.S.A. 40-222a, and amendments thereto, relating to the
10 examination of insurers, the commissioner of insurance shall have the
11 power to examine any insurer registered under K.S.A. 40-3305, and
12 amendments thereto, and such insurer's affiliates to ascertain the financial
13 condition, ~~including enterprise risk~~, of such insurer *including the*
14 *enterprise risk to the insurer by the ultimate controlling party or by any*
15 *entity or combination of entities within the insurance holding company*
16 *system or by the insurance holding company system on a consolidated*
17 *basis.*

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

23 (2) To determine compliance with this act, the commissioner of
24 insurance may order any insurer registered under K.S.A. 40-3305, and
25 amendments thereto, to produce information not in the possession of the
26 insurer, if the insurer can obtain access to such information pursuant to
27 contractual relationships, statutory obligations or another method. In the
28 event *that* the insurer cannot obtain the information requested by the
29 commissioner of insurance, the insurer shall provide the commissioner of
30 insurance a detailed explanation of the reason that the insurer cannot
31 obtain the information and the identity of the holder of information.
32 Whenever it appears to the commissioner of insurance that the detailed
33 explanation is without merit, the commissioner of insurance may require,
34 after notice and hearing, the insurer to pay a penalty of not more than
35 \$1,000 for each day's delay; or may suspend or revoke the license of the
36 insurer.

37 (c) The commissioner of insurance may retain at the registered
38 insurer's expense such attorneys, actuaries, accountants and other experts
39 not otherwise a part of the staff of the commissioner of insurance as the
40 commissioner of insurance shall determine to be reasonably necessary to
41 assist in the conduct of the examination under subsection (a). Any persons
42 so retained shall be under the direction and control of the commissioner of
43 insurance and shall act in a purely advisory capacity.

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

5 (e) The commissioner of insurance shall have the power to issue
6 subpoenas, administer oaths and examine under oath any person for
7 purposes of determining compliance with this section. Upon the failure or
8 refusal of any person to obey a subpoena, the commissioner of insurance
9 may petition a court of competent jurisdiction, and upon proper showing,
10 the court may enter an order compelling the witness to appear and testify
11 or produce documentary evidence. Failure to obey the court order shall be
12 punishable as contempt of court. Every person subpoenaed shall be
13 obliged to attend as a witness at the place specified in the subpoena, when
14 subpoenaed, anywhere within the state. Such subpoenaed person shall be
15 entitled to the same fees and mileage, if claimed, as a witness in K.S.A.
16 28-125, and amendments thereto. Fees, mileage and actual expense, if any,
17 necessarily incurred in securing the attendance and testimony of witnesses
18 shall be itemized, charged against and paid by the company being
19 examined.

20 Sec. 8. K.S.A. 40-3308 is hereby amended to read as follows: 40-
21 3308. (a) Documents, materials or other information obtained by or
22 disclosed to the commissioner of insurance or any other person in the
23 course of an examination or investigation made pursuant to K.S.A. 40-
24 3307, and amendments thereto, and all information reported pursuant to
25 K.S.A. 40-3304, 40-3305 and 40-3306, and amendments thereto, shall:

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

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

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

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

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

13 (c) Neither the commissioner of insurance nor any person who
14 received documents, materials or other information while acting under the
15 authority of the commissioner of insurance or with whom such documents,
16 materials or other information are shared pursuant to this section shall be
17 permitted or required to testify in any private civil action concerning any
18 confidential documents, materials or information subject to subsection (a).

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

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

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

38 (3) may receive documents, materials or information, including
39 otherwise confidential and privileged documents, materials or information
40 from the national association of insurance commissioners, and its affiliates
41 and subsidiaries, and from regulatory and law enforcement officials of
42 other foreign or domestic jurisdictions, and shall maintain as confidential
43 or privileged any document, material or information received with notice

1 or the understanding that it is confidential or privileged under the laws of
2 the jurisdiction that is the source of the document, material or information.
3 Documents received pursuant to this section shall not be subject to
4 disclosure pursuant to the open records act, K.S.A. 45-215 et seq., and
5 amendments thereto; and

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

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

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

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

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

30 ~~(iv)(v)~~ require the ~~national association of insurance commissioners~~
31 NAIC and its affiliates and subsidiaries to consent to intervention by an
32 insurer in any judicial or administrative action in which the ~~national~~
33 ~~association of insurance commissioners~~ NAIC and its affiliates and
34 subsidiaries may be required to disclose confidential information about the
35 insurer and its affiliates *that are* shared with the ~~national association of~~
36 ~~insurance commissioners~~ NAIC and its affiliates and subsidiaries pursuant
37 ~~to this the insurance holding company act; and~~

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

42 (e) The sharing of information by the commissioner of insurance,
43 pursuant to this act, shall not constitute a delegation of regulatory authority

1 or ~~rule-making~~ *rulemaking* authority, and the commissioner of insurance is
2 solely responsible for the administration, execution and enforcement of the
3 provisions of this act.

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

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

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

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

35 (3) *If any materially false statement with respect to the group capital*
36 *calculation, resulting group capital ratio, an inappropriate comparison of*
37 *any amount to an insurer's or insurance group's group capital calculation*
38 *or resulting group capital ratio, liquidity stress test result, supporting*
39 *disclosures for the liquidity stress test or an inappropriate comparison of*
40 *any amount to an insurer's or insurance group's liquidity stress test result*
41 *or supporting disclosures is published in any written publication and the*
42 *insurer is able to demonstrate to the commissioner with substantial proof*
43 *the falsity or inappropriateness of such statement, then the insurer may*

1 *publish announcements in a written publication if the sole purpose of the*
2 *announcement is to rebut the materially false statement.*

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

5 Sec. 9. K.S.A. 40-249, 40-2c29, 40-2d01, 40-3302, 40-3305, 40-
6 3306, 40-3307 and 40-3308 and K.S.A. 2024 Supp. 40-2c01 are hereby
7 repealed.

8 Sec. 10. This act shall take effect and be in force from and after its
9 publication in the statute book.