

## SENATE BILL No. 55

By Committee on Financial Institutions and Insurance

1-22

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1 AN ACT concerning property and casualty insurance; prohibiting the  
2 assignment of benefits therefor; defining such assignment of benefits as  
3 an unfair method of competition and unfair or deceptive act or practice;  
4 amending K.S.A. 2024 Supp. 40-2404 and repealing the existing  
5 section.

6  
7 *Be it enacted by the Legislature of the State of Kansas:*

8 New Section 1. (a) As used in this section:

9 (1) "Assignment agreement" means any instrument by which post-  
10 loss benefits under a residential or commercial property insurance policy  
11 are assigned, transferred or acquired in any other manner, in whole or in  
12 part, to or from a person providing services, including, but not limited to,  
13 inspecting, protecting, repairing, restoring or replacing the property or  
14 mitigating against further damage to the property.

15 (2) "Person" means the same as defined in K.S.A. 40-2402, and  
16 amendments thereto.

17 (b) (1) A person shall not solicit or accept an assignment, in whole or  
18 in part, of any post-loss insurance benefit under a residential or  
19 commercial property insurance policy. An assignment agreement shall be  
20 considered against public policy and shall be null and void.

21 (2) The provisions of paragraph (1) shall not apply to:

22 (A) An assignment, transfer, pledge or conveyance granted to a  
23 federally insured financial institution, mortgagee or subsequent purchaser  
24 of the property; or

25 (B) liability coverage under a residential or commercial property  
26 insurance policy.

27 (c) Violation of subsection (b) shall be considered an unfair method  
28 of competition and unfair or deceptive act or practice.

29 Sec. 2. K.S.A. 2024 Supp. 40-2404 is hereby amended to read as  
30 follows: 40-2404. The following are hereby defined as unfair methods of  
31 competition and unfair or deceptive acts or practices in the business of  
32 insurance:

33 (1) *Misrepresentations and false advertising of insurance policies.*  
34 Making, issuing, circulating or causing to be made, issued or circulated,  
35 any estimate, illustration, circular, statement, sales presentation, omission  
36 or comparison that:

- 1 (a) Misrepresents the benefits, advantages, conditions or terms of any  
2 insurance policy;
- 3 (b) misrepresents the dividends or share of the surplus to be received  
4 on any insurance policy;
- 5 (c) makes any false or misleading statements as to the dividends or  
6 share of surplus previously paid on any insurance policy;
- 7 (d) is misleading or is a misrepresentation as to the financial  
8 condition of any person, or as to the legal reserve system upon which any  
9 life insurer operates;
- 10 (e) uses any name or title of any insurance policy or class of  
11 insurance policies misrepresenting the true nature thereof;
- 12 (f) is a misrepresentation for the purpose of inducing or tending to  
13 induce the lapse, forfeiture, exchange, conversion or surrender of any  
14 insurance policy;
- 15 (g) is a misrepresentation for the purpose of effecting a pledge or  
16 assignment of or effecting a loan against any insurance policy; or
- 17 (h) misrepresents any insurance policy as being shares of stock.
- 18 (2) *False information and advertising generally.* Making, publishing,  
19 disseminating, circulating or placing before the public, or causing, directly  
20 or indirectly, to be made, published, disseminated, circulated or placed  
21 before the public, in a newspaper, magazine or other publication, or in the  
22 form of a notice, circular, pamphlet, letter or poster, or over any radio or  
23 television station, or in any other way, an advertisement, announcement or  
24 statement containing any assertion, misrepresentation or statement with  
25 respect to the business of insurance or with respect to any person in the  
26 conduct of such person's insurance business, that is untrue, deceptive or  
27 misleading.
- 28 (3) *Defamation.* Making, publishing, disseminating or circulating,  
29 directly or indirectly, or aiding, abetting or encouraging the making,  
30 publishing, disseminating or circulating of any oral or written statement or  
31 any pamphlet, circular, article or literature that is false, or maliciously  
32 critical of or derogatory to the financial condition of any person, and that  
33 is calculated to injure such person.
- 34 (4) *Boycott, coercion and intimidation.* Entering into any agreement  
35 to commit, or by any concerted action committing, any act of boycott,  
36 coercion or intimidation resulting in or tending to result in unreasonable  
37 restraint of the business of insurance, or by any act of boycott, coercion or  
38 intimidation monopolizing or attempting to monopolize any part of the  
39 business of insurance.
- 40 (5) *False statements and entries.* (a) Knowingly filing with any  
41 supervisory or other public official, or knowingly making, publishing,  
42 disseminating, circulating or delivering to any person, or placing before  
43 the public, or knowingly causing directly or indirectly, to be made,

1 published, disseminated, circulated, delivered to any person, or placed  
2 before the public, any false material statement of fact as to the financial  
3 condition of a person.

4 (b) Knowingly making any false entry of a material fact in any book,  
5 report or statement of any person or knowingly omitting to make a true  
6 entry of any material fact pertaining to the business of such person in any  
7 book, report or statement of such person.

8 (6) *Stock operations and advisory board contracts.* Issuing or  
9 delivering or permitting agents, officers or employees to issue or deliver,  
10 agency company stock or other capital stock, or benefit certificates or  
11 shares in any common-law corporation, or securities or any special or  
12 advisory board contracts or other contracts of any kind promising returns  
13 and profits as an inducement to insurance. Nothing herein shall prohibit  
14 the acts permitted by K.S.A. 40-232, and amendments thereto.

15 (7) *Unfair discrimination.* (a) Making or permitting any unfair  
16 discrimination between individuals of the same class and equal expectation  
17 of life in the rates charged for any contract of life insurance or life annuity  
18 or in the dividends or other benefits payable thereon, or in any other of the  
19 terms and conditions of such contract.

20 (b) Making or permitting any unfair discrimination between  
21 individuals of the same class and of essentially the same hazard in the  
22 amount of premium, policy fees or rates charged for any policy or contract  
23 of accident or health insurance or in the benefits payable thereunder, or in  
24 any of the terms or conditions of such contract, or in any other manner  
25 ~~whatever.~~

26 (c) Refusing to insure, or refusing to continue to insure, or limiting  
27 the amount, extent or kind of coverage available to an individual, or  
28 charging an individual a different rate for the same coverage solely  
29 because of blindness or partial blindness. With respect to all other  
30 conditions, including the underlying cause of the blindness or partial  
31 blindness, persons who are blind or partially blind shall be subject to the  
32 same standards of sound actuarial principles or actual or reasonably  
33 anticipated experience as are sighted persons. Refusal to insure includes  
34 denial by an insurer of disability insurance coverage on the grounds that  
35 the policy defines "disability" as being presumed in the event that the  
36 insured loses such person's eyesight. However, an insurer may exclude  
37 from coverage disabilities consisting solely of blindness or partial  
38 blindness when such condition existed at the time the policy was issued.

39 (d) Refusing to insure, or refusing to continue to insure, or limiting  
40 the amount, extent or kind of coverage available for accident and health  
41 and life insurance to an applicant who is the proposed insured or charge a  
42 different rate for the same coverage or excluding or limiting coverage for  
43 losses or denying a claim incurred by an insured as a result of abuse based

1 on the fact that the applicant who is the proposed insured is, has been, or  
2 may be the subject of domestic abuse, except as provided in subsection ~~(7)~~  
3 ~~(d)(v)~~ (7)(d)(vi).

4 (i) ~~As used in this paragraph, "abuse" as used in this paragraph~~  
5 means one or more acts defined in K.S.A. 60-3102, and amendments  
6 thereto, between family members, current or former household members,  
7 or current or former intimate partners.

8 ~~(i)~~(ii) An insurer may not ask an applicant for life or accident and  
9 health insurance who is the proposed insured if the individual is, has been  
10 or may be the subject of domestic abuse or seeks, has sought or had reason  
11 to seek medical or psychological treatment or counseling specifically for  
12 abuse, protection from abuse or shelter from abuse.

13 ~~(ii)~~(iii) Nothing in this section shall be construed to prohibit a person  
14 from declining to issue an insurance policy insuring the life of an  
15 individual who is, has been or has the potential to be the subject of abuse if  
16 the perpetrator of the abuse is the applicant or would be the owner of the  
17 insurance policy.

18 ~~(iii)~~(iv) No insurer that issues a life or accident and health policy to  
19 an individual who is, has been or may be the subject of domestic abuse  
20 shall be subject to civil or criminal liability for the death or any injuries  
21 suffered by that individual as a result of domestic abuse.

22 ~~(iv)~~(v) No person shall refuse to insure, refuse to continue to insure,  
23 limit the amount, extent or kind of coverage available to an individual or  
24 charge a different rate for the same coverage solely because of physical or  
25 mental condition, except where the refusal, limitation or rate differential is  
26 based on sound actuarial principles.

27 ~~(v)~~(vi) Nothing in this section shall be construed to prohibit a person  
28 from underwriting or rating a risk on the basis of a preexisting physical or  
29 mental condition, even if such condition has been caused by abuse,  
30 provided that:

31 (A) The person routinely underwrites or rates such condition in the  
32 same manner with respect to an insured or an applicant who is not a victim  
33 of abuse;

34 (B) the fact that an individual is, has been or may be the subject of  
35 abuse may not be considered a physical or mental condition; and

36 (C) such underwriting or rating is not used to evade the intent of this  
37 section or any other provision of the Kansas insurance code.

38 ~~(vi)~~(vii) Any person who underwrites or rates a risk on the basis of  
39 preexisting physical or mental condition as set forth in subsection ~~(7)(d)(v)~~  
40 (7)(d)(vi), shall treat such underwriting or rating as an adverse  
41 underwriting decision pursuant to K.S.A. 40-2,112, and amendments  
42 thereto.

43 ~~(vii)~~(viii) The provisions of this paragraph shall apply to all policies

1 of life and accident and health insurance issued in this state after the  
2 effective date of this act and all existing contracts that are renewed on or  
3 after the effective date of this act.

4 (e) Refusing to insure, or refusing to continue to insure, or limiting  
5 the amount, extent or kind of coverage available for life insurance to an  
6 individual, or charging an individual a different rate for the same coverage,  
7 solely because of such individual's status as a living organ donor. With  
8 respect to all other conditions, persons who are living organ donors shall  
9 be subject to the same standards of sound actuarial principles or actual or  
10 reasonably anticipated experience as are persons who are not organ  
11 donors.

12 (8) *Rebates.* (a) Except as otherwise expressly provided by law,  
13 knowingly permitting, offering to make or making any contract of life  
14 insurance, life annuity or accident and health insurance, or agreement as to  
15 such contract other than as plainly expressed in the insurance contract  
16 issued thereon; paying, allowing, giving or offering to pay, allow or give,  
17 directly or indirectly, as inducement to such insurance, or annuity, any  
18 rebate of premiums payable on the contract, any special favor or advantage  
19 in the dividends or other benefits thereon, or any valuable consideration or  
20 inducement—~~whatever~~ not specified in the contract; or giving, selling,  
21 purchasing or offering to give, sell or purchase as inducement to such  
22 insurance contract or annuity or in connection therewith, any stocks, bonds  
23 or other securities of any insurance company or other corporation,  
24 association or partnership, or any dividends or profits accrued thereon, or  
25 anything of value whatsoever not specified in the contract.

26 (b) Nothing in subsection (7) or (8)(a) shall be construed as including  
27 within the definition of discrimination or rebates any of the following  
28 practices:

29 (i) In the case of any contract of life insurance or life annuity, paying  
30 bonuses to policyholders or otherwise abating their premiums in whole or  
31 in part out of surplus accumulated from nonparticipating insurance. Any  
32 such bonuses or abatement of premiums shall be fair and equitable to  
33 policyholders and for the best interests of the company and its  
34 policyholders;

35 (ii) in the case of life insurance policies issued on the industrial debit  
36 plan, making allowance to policyholders who have continuously for a  
37 specified period made premium payments directly to an office of the  
38 insurer in an amount that fairly represents the saving in collection  
39 expenses;

40 (iii) readjustment of the rate of premium for a group insurance policy  
41 based on the loss or expense experience thereunder, at the end of the first  
42 or any subsequent policy year of insurance thereunder, which may be  
43 made retroactive only for such policy year;

1 (iv) engaging in an arrangement that would not violate section 106 of  
2 the bank holding company act amendments of 1972, as interpreted by the  
3 board of governors of the federal reserve system or section 5(q) of the  
4 home owners' loan act;

5 (v) the offer or provision by insurers or producers, by or through  
6 employees, affiliates or third-party representatives, of value-added  
7 products or services at no or reduced cost when such products or services  
8 are not specified in the policy of insurance if the product or service:

9 (A) Relates to the insurance coverage; and

10 (B) is primarily designed to satisfy one or more of the following:

11 (1) Provide loss mitigation or loss control;

12 (2) reduce claim costs or claim settlement costs;

13 (3) provide education about liability risks or risk of loss to persons or  
14 property;

15 (4) monitor or assess risk, identify sources of risk or develop  
16 strategies for eliminating or reducing risk;

17 (5) enhance health;

18 (6) enhance financial wellness through items such as education or  
19 financial planning services;

20 (7) provide post-loss services;

21 (8) (a) incentivize behavioral changes to improve the health or reduce  
22 the risk of death or disability of a customer;

23 (b) as used in this section, "customer" means a policyholder, potential  
24 policyholder, certificate holder, potential certificate holder, insured,  
25 potential insured or applicant; or

26 (9) assist in the administration of the employee or retiree benefit  
27 insurance coverage.

28 (C) The cost to the insurer or producer offering the product or service  
29 to any given customer shall be reasonable in comparison to such  
30 customer's premiums or insurance coverage for the policy class.

31 (D) If the insurer or producer is providing the product or service  
32 offered, the insurer or producer shall ensure that the customer is provided  
33 with contact information, upon request, to assist the customer with  
34 questions regarding the product or service.

35 (E) The commissioner may adopt rules and regulations when  
36 implementing the permitted practices set forth in this section to ensure  
37 consumer protection. Such rules and regulations, consistent with  
38 applicable law, may address, among other issues, consumer data  
39 protections and privacy, consumer disclosure and unfair discrimination.

40 (F) The availability of the value-added product or service shall be  
41 based on documented objective criteria and offered in a manner that is not  
42 unfairly discriminatory. The documented criteria shall be maintained by  
43 the insurer or producer and produced upon request by the commissioner.

1 (G) If an insurer or producer does not have sufficient evidence but  
2 has a good-faith belief that the product or service meets the criteria in  
3 subsection (8)(b)(v)(B), the insurer or producer may provide the product or  
4 service in a manner that is not unfairly discriminatory as part of a pilot or  
5 testing program for not more than one year. An insurer or producer shall  
6 notify the commissioner of such a pilot or testing program offered to  
7 consumers in this state prior to launching and may proceed with the  
8 program unless the commissioner objects within 21 days of notice.

9 (vi) An insurer or a producer may:

10 (A) Offer or give non-cash gifts, items or services, including meals to  
11 or charitable donations on behalf of a customer, in connection with the  
12 marketing, sale, purchase or retention of contracts of insurance, as long as  
13 the cost does not exceed an amount determined to be reasonable by the  
14 commissioner per policy year per term. The offer shall be made in a  
15 manner that is not unfairly discriminatory. The customer shall not be  
16 required to purchase, continue to purchase or renew a policy in exchange  
17 for the gift, item or service.

18 (B) Conduct raffles or drawings to the extent permitted by state law,  
19 as long as there is no financial cost to entrants to participate, the drawing  
20 or raffle does not obligate participants to purchase insurance, the prizes are  
21 not valued in excess of a reasonable amount determined by the  
22 commissioner and the drawing or raffle is open to the public. The raffle or  
23 drawing shall be offered in a manner that is not unfairly discriminatory.  
24 The customer shall not be required to purchase, continue to purchase or  
25 renew a policy in exchange for the gift, item or service.

26 (c) An insurer, producer or representative of an insurer or producer  
27 shall not offer or provide insurance as an inducement to the purchase of  
28 another policy.

29 (9) *Unfair claim settlement practices.* It is an unfair claim settlement  
30 practice if any of the following or any rules and regulations pertaining  
31 thereto are either committed flagrantly and in conscious disregard of such  
32 provisions, or committed with such frequency as to indicate a general  
33 business practice:

34 (a) Misrepresenting pertinent facts or insurance policy provisions  
35 relating to coverages at issue;

36 (b) failing to acknowledge and act reasonably promptly upon  
37 communications with respect to claims arising under insurance policies;

38 (c) failing to adopt and implement reasonable standards for the  
39 prompt investigation of claims arising under insurance policies;

40 (d) refusing to pay claims without conducting a reasonable  
41 investigation based upon all available information;

42 (e) failing to affirm or deny coverage of claims within a reasonable  
43 time after proof of loss statements have been completed;

1 (f) not attempting in good faith to effectuate prompt, fair and  
2 equitable settlements of claims in which liability has become reasonably  
3 clear;

4 (g) compelling insureds to institute litigation to recover amounts due  
5 under an insurance policy by offering substantially less than the amounts  
6 ultimately recovered in actions brought by such insureds;

7 (h) attempting to settle a claim for less than the amount to which a  
8 reasonable person would have believed that such person was entitled by  
9 reference to written or printed advertising material accompanying or made  
10 part of an application;

11 (i) attempting to settle claims on the basis of an application that was  
12 altered without notice to, or knowledge or consent of the insured;

13 (j) making claims payments to insureds or beneficiaries not  
14 accompanied by a statement setting forth the coverage under which  
15 payments are being made;

16 (k) making known to insureds or claimants a policy of appealing from  
17 arbitration awards in favor of insureds or claimants for the purpose of  
18 compelling them to accept settlements or compromises less than the  
19 amount awarded in arbitration;

20 (l) delaying the investigation or payment of claims by requiring an  
21 insured, claimant or the physician of either to submit a preliminary claim  
22 report and then requiring the subsequent submission of formal proof of  
23 loss forms, both of which submissions contain substantially the same  
24 information;

25 (m) failing to promptly settle claims, where liability has become  
26 reasonably clear, under one portion of the insurance policy coverage in  
27 order to influence settlements under other portions of the insurance policy  
28 coverage; ~~or~~

29 (n) failing to promptly provide a reasonable explanation of the basis  
30 in the insurance policy in relation to the facts or applicable law for denial  
31 of a claim or for the offer of a compromise settlement; *or*

32 (o) *solicitation or acceptance of an assignment, in whole or in part,*  
33 *of any post-loss insurance benefit under a residential or commercial*  
34 *property insurance policy pursuant to section (1), and amendments*  
35 *thereto.*

36 (10) *Failure to maintain complaint handling procedures.* Failure of  
37 any person, who is an insurer on an insurance policy, to maintain a  
38 complete record of all the complaints that it has received since the date of  
39 its last examination under K.S.A. 40-222, and amendments thereto; but no  
40 such records shall be required for complaints received prior to the effective  
41 date of this act. The record shall indicate the total number of complaints,  
42 their classification by line of insurance, the nature of each complaint, the  
43 disposition of the complaints, the date each complaint was originally



1 received by the insurer and the date of final disposition of each complaint.  
2 For purposes of this subsection, "complaint" means any written  
3 communication primarily expressing a grievance related to the acts and  
4 practices set out in this section.

5 (11) *Misrepresentation in insurance applications.* Making false or  
6 fraudulent statements or representations on or relative to an application for  
7 an insurance policy, for the purpose of obtaining a fee, commission,  
8 money or other benefit from any insurer, agent, broker or individual.

9 (12) *Statutory violations.* Any violation of any of the provisions of  
10 K.S.A. 40-216, 40-276a, 40-2,155 or 40-1515, and amendments thereto.

11 (13) *Disclosure of information relating to adverse underwriting*  
12 *decisions and refund of premiums.* Failing to comply with the provisions of  
13 K.S.A. 40-2,112, and amendments thereto, within the time prescribed in  
14 such section.

15 (14) *Rebates and other inducements in title insurance.* (a) No title  
16 insurance company or title insurance agent, or any officer, employee,  
17 attorney, agent or solicitor thereof, may pay, allow or give, or offer to pay,  
18 allow or give, directly or indirectly, as an inducement to obtaining any title  
19 insurance business, any rebate, reduction or abatement of any rate or  
20 charge made incident to the issuance of such insurance, any special favor  
21 or advantage not generally available to others of the same classification, or  
22 any money, thing of value or other consideration or material inducement.  
23 The words "charge made incident to the issuance of such insurance"  
24 includes, without limitations, escrow, settlement and closing charges.

25 (b) No insured named in a title insurance policy or contract nor any  
26 other person directly or indirectly connected with the transaction involving  
27 the issuance of the policy or contract, including, but not limited to,  
28 mortgage lender, real estate broker, builder, attorney or any officer,  
29 employee, agent representative or solicitor thereof, or any other person  
30 may knowingly receive or accept, directly or indirectly, any rebate,  
31 reduction or abatement of any charge, or any special favor or advantage or  
32 any monetary consideration or inducement referred to in subsection (14)  
33 (a).

34 (c) Nothing in this section shall be construed as prohibiting:

35 (i) The payment of reasonable fees for services actually rendered to a  
36 title insurance agent in connection with a title insurance transaction;

37 (ii) the payment of an earned commission to a duly appointed title  
38 insurance agent for services actually performed in the issuance of the  
39 policy of title insurance; or

40 (iii) the payment of reasonable entertainment and advertising  
41 expenses.

42 (d) Nothing in this section prohibits the division of rates and charges  
43 between or among a title insurance company and its agent, or one or more

1 title insurance companies and one or more title insurance agents, if such  
2 division of rates and charges does not constitute an unlawful rebate under  
3 the provisions of this section and is not in payment of a forwarding fee or a  
4 finder's fee.

5 (e) As used in subsections (14)(e) through (14)(i), unless the context  
6 otherwise requires:

7 (i) "Associate" means:

8 (A) Any firm, association, organization, partnership, business trust,  
9 corporation or other legal entity organized for profit in which a producer of  
10 title business is a director, officer or partner thereof, or owner of a  
11 financial interest;

12 (B) the spouse or any relative within the second degree by blood or  
13 marriage of a producer of title business who is a natural person;

14 (C) any director, officer or employee of a producer of title business or  
15 associate;

16 (D) any legal entity that controls, is controlled by, or is under  
17 common control with a producer of title business or associate; ~~and~~ or

18 (E) any natural person or legal entity with whom a producer of title  
19 business or associate has any agreement, arrangement or understanding or  
20 pursues any course of conduct, the purpose or effect of which is to evade  
21 the provisions of this section.

22 (ii) "Financial interest" means any direct or indirect interest, legal or  
23 beneficial, where the holder thereof is or will be entitled to 1% or more of  
24 the net profits or net worth of the entity in which such interest is held.  
25 Notwithstanding the foregoing, an interest of less than 1% or any other  
26 type of interest shall constitute a "financial interest" if the primary purpose  
27 of the acquisition or retention of that interest is the financial benefit to be  
28 obtained as a consequence of that interest from the referral of title  
29 business.

30 (iii) "Person" means any natural person, partnership, association,  
31 cooperative, corporation, trust or other legal entity.

32 (iv) "Producer of title business" or "producer" means any person,  
33 including any officer, director or owner of 5% or more of the equity or  
34 capital or both of any person, engaged in this state in the trade, business,  
35 occupation or profession of:

36 (A) Buying or selling interests in real property;

37 (B) making loans secured by interests in real property; or

38 (C) acting as broker, agent, representative or attorney for a person  
39 who buys or sells any interest in real property or who lends or borrows  
40 money with such interest as security.

41 (v) "Refer" means to direct or cause to be directed or to exercise any  
42 power or influence over the direction of title insurance business, whether  
43 or not the consent or approval of any other person is sought or obtained

1 with respect to the referral.

2 (f) No title insurer or title agent may accept any order for, issue a title  
3 insurance policy to, or provide services to, an applicant if it knows or has  
4 reason to believe that the applicant was referred to it by any producer of  
5 title business or by any associate of such producer, where the producer, the  
6 associate, or both, have a financial interest in the title insurer or title agent  
7 to which business is referred unless the producer has disclosed to the  
8 buyer, seller and lender the financial interest of the producer of title  
9 business or associate referring the title insurance business.

10 (g) No title insurer or title agent may accept an order for title  
11 insurance business, issue a title insurance policy, or receive or retain any  
12 premium, or charge in connection with any transaction if: (i) The title  
13 insurer or title agent knows or has reason to believe that the transaction  
14 will constitute controlled business for that title insurer or title agent; and  
15 (ii) 70% or more of the closed title orders of that title insurer or title agent  
16 during the 12 full calendar months immediately preceding the month in  
17 which the transaction takes place is derived from controlled business. The  
18 prohibitions contained in this paragraph shall not apply to transactions  
19 involving real estate located in a county that has a population, as shown by  
20 the last preceding decennial census, of 10,000 or less.

21 (h) Within 90 days following the end of each business year, as  
22 established by the title insurer or title agent, each title insurer or title agent  
23 shall file with the department of insurance and any title insurer with which  
24 the title agent maintains an underwriting agreement, a report executed by  
25 the title insurer's or title agent's chief executive officer or designee, under  
26 penalty of perjury, stating the percent of closed title orders originating  
27 from controlled business. The failure of a title insurer or title agent to  
28 comply with the requirements of this section, at the discretion of the  
29 commissioner, shall be grounds for the suspension or revocation of a  
30 license or other disciplinary action, with the commissioner able to mitigate  
31 any such disciplinary action if the title insurer or title agent is found to be  
32 in substantial compliance with competitive behavior as defined by federal  
33 housing and urban development statement of policy 1996-2.

34 (i) (1) No title insurer or title agent may accept any title insurance  
35 order or issue a title insurance policy to any person if it knows or has  
36 reason to believe that such person was referred to it by any producer of  
37 title business or by any associate of such producer, where the producer, the  
38 associate, or both, have a financial interest in the title insurer or title agent  
39 to which business is referred unless the producer has disclosed in writing  
40 to the person so referred the fact that such producer or associate has a  
41 financial interest in the title insurer or title agent, the nature of the  
42 financial interest and a written estimate of the charge or range of charges  
43 generally made by the title insurer or agent for the title services. Such

1 disclosure shall include language stating that the consumer is not obligated  
2 to use the title insurer or agent in which the referring producer or associate  
3 has a financial interest and shall include the names and telephone numbers  
4 of not less than three other title insurers or agents that operate in the  
5 county in which the property is located. If fewer than three insurers or  
6 agents operate in that county, the disclosure shall include all title insurers  
7 or agents operating in that county. Such written disclosure shall be signed  
8 by the person so referred and must have occurred prior to any commitment  
9 having been made to such title insurer or agent.

10 (2) No producer of title business or associate of such producer shall  
11 require, directly or indirectly, as a condition to selling or furnishing any  
12 other person any loan or extension thereof, credit, sale, property, contract,  
13 lease or service, that such other person shall purchase title insurance of any  
14 kind through any title agent or title insurer if such producer has a financial  
15 interest in such title agent or title insurer.

16 (3) No title insurer or title agent may accept any title insurance order  
17 or issue a title insurance policy to any person it knows or has reason to  
18 believe that the name of the title company was pre-printed in the sales  
19 contract, prior to the buyer or seller selecting that title company.

20 (4) Nothing in this paragraph shall prohibit any producer of title  
21 business or associate of such producer from referring title business to any  
22 title insurer or title agent of such producer's or associate's choice, and, if  
23 such producer or associate of such producer has any financial interest in  
24 the title insurer, from receiving income, profits or dividends produced or  
25 realized from such financial interest, so long as:

26 (a) Such financial interest is disclosed to the purchaser of the title  
27 insurance in accordance with paragraphs (i)(1) through (i)(4);

28 (b) the payment of income, profits or dividends is not in exchange for  
29 the referral of business; and

30 (c) the receipt of income, profits or dividends constitutes only a return  
31 on the investment of the producer or associate.

32 (5) Any producer of title business or associate of such producer who  
33 violates the provisions of paragraphs (i)(2) through (i)(4), or any title  
34 insurer or title agent who accepts an order for title insurance knowing that  
35 it is in violation of paragraphs (i)(2) through (i)(4), in addition to any other  
36 action that may be taken by the commissioner of insurance, shall be  
37 subject to a fine by the commissioner in an amount equal to five times the  
38 premium for the title insurance and, if licensed pursuant to K.S.A. 58-3034  
39 et seq., and amendments thereto, shall be deemed to have committed a  
40 prohibited act pursuant to K.S.A. 58-3602, and amendments thereto, and  
41 shall be liable to the purchaser of such title insurance in an amount equal  
42 to the premium for the title insurance.

43 (6) Any title insurer or title agent that is a competitor of any title

1 insurer or title agent that, subsequent to the effective date of this act, has  
2 violated or is violating the provisions of this paragraph, shall have a cause  
3 of action against such title insurer or title agent and, upon establishing the  
4 existence of a violation of any such provision, shall be entitled, in addition  
5 to any other damages or remedies provided by law, to such equitable or  
6 injunctive relief as the court deems proper. In any such action under this  
7 subsection, the court may award to the successful party the court costs of  
8 the action together with reasonable attorney fees.

9 (7) The commissioner shall also require each title agent to provide  
10 core title services as required by the real estate settlement procedures act.

11 (j) The commissioner shall adopt any rules and regulations necessary  
12 to carry out the provisions of this act.

13 (15) *Disclosure of nonpublic personal information.* (a) No person  
14 shall disclose any nonpublic personal information contrary to the  
15 provisions of title V of the Gramm-Leach-Bliley act of 1999 (public law  
16 106-102). The commissioner may adopt rules and regulations necessary to  
17 carry out this subsection. Such rules and regulations shall be consistent  
18 with and not more restrictive than the model regulation adopted on  
19 September 26, 2000, by the national association of insurance  
20 commissioners entitled "Privacy of consumer financial and health  
21 information regulation".

22 (b) Nothing in this subsection shall be deemed or construed to  
23 authorize the promulgation or adoption of any regulation that preempts,  
24 supersedes or is inconsistent with any provision of Kansas law concerning  
25 requirements for notification of, or obtaining consent from, a parent,  
26 guardian or other legal custodian of a minor relating to any matter  
27 pertaining to the health and medical treatment for such minor.

28 Sec. 3. K.S.A. 2024 Supp. 40-2404 is hereby repealed.

29 Sec. 4. This act shall take effect and be in force from and after its  
30 publication in the statute book.