

**HOUSE BILL No. 2074**

By Committee on Insurance

1-24

1 AN ACT concerning insurance rate filings; pertaining to the disclosure of  
2 certain information; amending K.S.A. 2010 Supp. 40-955 and  
3 repealing the existing section.  
4

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

6 Section 1. K.S.A. 2010 Supp. 40-955 is hereby amended to read as  
7 follows: 40-955. (a) Every insurer shall file with the commissioner,  
8 except as to inland marine risks where general custom of the industry is  
9 not to use manual rates or rating plans, every manual of classifications,  
10 rules and rates, every rating plan, policy form and every modification of  
11 any of the foregoing which it proposes to use. Every such filing shall  
12 indicate the proposed effective date and the character and extent of the  
13 coverage contemplated and shall be accompanied by the information  
14 upon which the insurer supports the filings. A filing and any supporting  
15 information shall be open to public inspection after it is filed with the  
16 commissioner, *except that disclosure shall not be required for any*  
17 *information contained in a filing or in any supporting documentation for*  
18 *the filing when such information is either a trade secret or copyrighted.*  
19 *For the purposes of this section, the term "trade secret" shall have the*  
20 *meaning ascribed to it in K.S.A. 60-3320, and amendments thereto.* An  
21 insurer may satisfy its obligations to make such filings by authorizing the  
22 commissioner to accept on its behalf the filings made by a licensed rating  
23 organization or another insurer. Nothing contained in this act shall be  
24 construed to require any insurer to become a member or subscriber of any  
25 rating organization.

26 (b) Certificate of insurance forms must be filed with the  
27 commissioner of insurance and approved prior to use. Notwithstanding  
28 the "large risk" filing exemption in subsection (j), a certificate of  
29 insurance cannot be used to modify, alter or amend the insurance policy it  
30 describes. The certificate of insurance shall contain the following or  
31 similar language: The certificate of insurance neither affirmatively nor  
32 negatively amends, extends or alters the coverage afforded by the policies  
33 listed thereon. An industry standard setting organization may be  
34 authorized by the commissioner of insurance to file certificate of  
35 insurance forms on behalf of authorized insurers.

36 (c) Any rate filing for the basic coverage required by K.S.A. 40-

1 3401 et seq. and amendments thereto, loss costs filings for workers  
2 compensation, and rates for assigned risk plans established by article 21  
3 of chapter 40 of the Kansas Statutes Annotated or rules and regulations  
4 established by the commissioner shall require approval by the  
5 commissioner before its use by the insurer in this state. As soon as  
6 reasonably possible after such filing has been made, the commissioner  
7 shall in writing approve or disapprove the same, except that any filing  
8 shall be deemed approved unless disapproved within 30 days of receipt of  
9 the filing.

10 (d) Any other rate filing, except personal lines filings, shall become  
11 effective on filing or any prospective date selected by the insurer, subject  
12 to the commissioner disapproving the same if the rates are determined to  
13 be inadequate, excessive, unfairly discriminatory or otherwise fails to  
14 meet the requirements of this act. Personal lines rate filings shall be on  
15 file for a waiting period of 30 days before becoming effective, subject to  
16 the commissioner disapproving the same if the rates are determined to be  
17 inadequate, excessive, unfairly discriminatory or otherwise fail to meet  
18 requirements of this act. The term "personal lines" shall mean insurance  
19 for noncommercial automobile, homeowners, dwelling fire-and-renters  
20 insurance policies, as defined by the commissioner by rules and  
21 regulations. A filing complies with this act unless it is disapproved by the  
22 commissioner within the waiting period or pursuant to subsection (f).

23 (e) In reviewing any rate filing the commissioner may require the  
24 insurer or rating organization to provide, at the insurer's or rating  
25 organization's expense, all information necessary to evaluate the  
26 reasonableness of the filing, to include payment of the cost of an actuary  
27 selected by the commissioner to review any rate filing, if the department  
28 of insurance does not have a staff actuary in its employ.

29 (f) (1) (A) If a filing is not accompanied by the information required  
30 by this act, the commissioner shall promptly inform the company or  
31 organization making the filing. The filing shall be deemed to be complete  
32 when the required information is received by the commissioner or the  
33 company or organization certifies to the commissioner the information  
34 requested is not maintained by the company or organization and cannot  
35 be obtained.

36 (B) If the commissioner finds a filing does not meet the  
37 requirements of this act, the commissioner shall send to the insurer or  
38 rating organization that made the filing, written notice of disapproval of  
39 the filing, specifying in what respects the filing fails to comply and  
40 stating the filing shall not become effective.

41 (C) If at any time after a filing becomes effective, the commissioner  
42 finds a filing does not comply with this act, the commissioner shall after a  
43 hearing held on not less than 10 days' written notice to every insurer and

1 rating organization that made the filing issue an order specifying in what  
2 respects the filing failed to comply with the act, and stating when, within  
3 a reasonable period thereafter, the filing shall be no longer effective.  
4 Copies of the order shall be sent to such insurer or rating organization.  
5 The order shall not affect any contract or policy made or issued prior to  
6 the expiration of the period set forth in the order.

7 (2) (A) In the event an insurer or organization has no legally  
8 effective rate because of an order disapproving rates, the commissioner  
9 shall specify an interim rate at the time the order is issued. The interim  
10 rate may be modified by the commissioner on the commissioner's own  
11 motion or upon motion of an insurer or organization.

12 (B) The interim rate or any modification thereof shall take effect  
13 prospectively in contracts of insurance written or renewed 15 days after  
14 the commissioner's decision setting interim rates.

15 (C) When the rates are finally determined, the commissioner shall  
16 order any overcharge in the interim rates to be distributed appropriately,  
17 except refunds to policyholders the commissioner determines are de  
18 minimis may not be required.

19 (3) (A) Any person or organization aggrieved with respect to any  
20 filing that is in effect may make written application to the commissioner  
21 for a hearing thereon, except that the insurer or rating organization that  
22 made the filing may not proceed under this subsection. The application  
23 shall specify the grounds to be relied on by the applicant.

24 (B) If the commissioner finds the application is made in good faith,  
25 that the applicant would be so aggrieved if the applicant's grounds are  
26 established, and that such grounds otherwise justify holding such a  
27 hearing, the commissioner shall, within 30 days after receipt of the  
28 application, hold a hearing on not less than 10 days' written notice to the  
29 applicant and every insurer and rating organization that made such filing.

30 (C) Every rating organization receiving a notice of hearing or copy  
31 of an order under this section, shall promptly notify all its members or  
32 subscribers affected by the hearing or order. Notice to a rating  
33 organization of a hearing or order shall be deemed notice to its members  
34 or subscribers.

35 (g) No insurer shall make or issue a contract or policy except in  
36 accordance with filings which have been filed or approved for such  
37 insurer as provided in this act.

38 (1) On an application for personal motor vehicle insurance where the  
39 applicant has applied for collision or comprehensive coverage, the  
40 applicant shall be allowed to identify a lienholder listed on the certificate  
41 of title for the motor vehicle described in the application.

42 (2) On an application for property insurance on real property, the  
43 applicant shall be allowed to identify a mortgagee listed on a mortgage

1 for the real property described in the application.

2 (h) The commissioner may adopt rules and regulations to allow  
3 suspension or modification of the requirement of filing and approval of  
4 rates as to any kind of insurance, subdivision or combination thereof, or  
5 as to classes of risks, the rates for which cannot practicably be filed  
6 before they are used.

7 (i) Except for workers compensation and employer's liability line,  
8 the following categories of commercial lines risks are considered special  
9 risks which are exempt from the filing requirements in this section: (1)  
10 Risks that are written on an excess or umbrella basis; (2) commercial  
11 risks, or portions thereof, that are not rated according to manuals, rating  
12 plans, or schedules including "a" rates; (3) large risks; and (4) special  
13 risks designated by the commissioner, including but not limited to risks  
14 insured under highly protected risks rating plans, commercial aviation,  
15 credit insurance, boiler and machinery, inland marine, fidelity, surety and  
16 guarantee bond insurance risks.

17 (j) For the purposes of this subsection, "large risk" means: (1) An  
18 insured that has total insured property values of \$5,000,000 or more; (2)  
19 an insured that has total annual gross revenues of \$10,000,000 or more;  
20 or (3) an insured that has in the preceding calendar year a total paid  
21 premium of \$50,000 or more for property insurance, \$50,000 or more for  
22 general liability insurance, or \$100,000 or more for multiple lines  
23 policies.

24 (k) The exemption for any large risk contained in subsection (h)  
25 shall not apply to workers compensation and employer's liability  
26 insurance, insurance purchasing groups, and the basic coverage required  
27 by K.S.A. 40-3401 et seq., and amendments thereto.

28 (l) Underwriting files, premium, loss and expense statistics, financial  
29 and other records pertaining to special risks written by any insurer shall  
30 be maintained by the insurer and shall be subject to examination by the  
31 commissioner.

32 Sec. 2. K.S.A. 2010 Supp. 40-955 is hereby repealed.

33 Sec. 3. This act shall take effect and be in force from and after its  
34 publication in the statute book.