

SENATE BILL No. 267

By Committee on Financial Institutions and Insurance

1-16

1 AN ACT concerning insurance; relating to security deposits, acceptable
2 assets for deposit; forms, handwritten signatures required; amending
3 K.S.A. 2013 Supp. 40-229a and repealing the existing section.

4
5 *Be it enacted by the Legislature of the State of Kansas:*

6 Section 1. K.S.A. 2013 Supp. 40-229a is hereby amended to read as
7 follows: 40-229a. (a) (1) (A) All cash, securities, ~~real estate deeds,~~
8 ~~mortgages~~ or other assets, *excluding real estate and mortgages*, deposited
9 with the commissioner of insurance pursuant to the provisions of the
10 insurance code of the state of Kansas shall be deposited with any Kansas
11 financial institution acceptable to the commissioner through which a
12 custodial or controlled account, a joint custody receipt arrangement or any
13 combination of these or other measures that are acceptable to the
14 commissioner is used.

15 (B) All such deposits shall be held by such financial institution on
16 behalf of the commissioner in trust for the use and benefit of such
17 company and such company's policyholders and creditors. Such assets
18 shall be released from such deposits only upon written approval of the
19 commissioner.

20 (C) All income from deposits belong to the depositing organization
21 and shall be paid to it as it becomes available. The commissioner, upon
22 written approval, may direct the financial institution to permit exchange of
23 securities or assets upon deposit of specified substituted securities or
24 assets.

25 (D) *An authorized signature form must be submitted to the*
26 *commissioner of insurance prior to acceptance of any deposit. Each*
27 *signature on the authorized signature form must be the original*
28 *handwritten name of each signee. No copies, facsimiles, electronic or*
29 *digital signatures will be recognized on this form.*

30 ~~(D)~~ (E) All forms for deposit, withdrawal or exchange shall be
31 prescribed, prepared and furnished by the commissioner and no facsimile
32 signatures shall be used or recognized.

33 ~~(E)~~ (F) The commissioner or assistant commissioner of insurance or
34 insurance department employee authorized by the commissioner may at
35 any time inspect the securities on deposit in any such financial institution.

36 ~~(F)~~ (G) Nothing in this act shall be construed to hold the state of

1 Kansas, the commissioner, assistant commissioner or authorized employee
2 liable either personally or officially for any default of such financial
3 institution.

4 ~~(2) Real estate shall be deposited with the commissioner by the~~
5 ~~depositing organization executing a deed or assignment conveying title~~
6 ~~thereto to the commissioner, in trust for the use and benefit of such~~
7 ~~company. Such deeds or assignment shall be recorded in the office of the~~
8 ~~register of deeds of the county in which such real estate is situated. When~~
9 ~~the depositing organization is authorized to withdraw real estate from~~
10 ~~deposit, the commissioner shall execute deeds to such organization or such~~
11 ~~other persons, companies or corporations as directed by such organization.~~
12 ~~The costs of registering such deeds shall be paid by the depositing~~
13 ~~organization.~~

14 ~~(3) All deposits made with the commissioner shall be audited by the~~
15 ~~commissioner and the state treasurer not less frequently than once each~~
16 ~~three years. The commissioner may accept an audit performed by another~~
17 ~~governmental agency acceptable to the commissioner, in lieu of this audit~~
18 ~~requirement.~~

19 (b) ~~Assets, except real estate assets,~~ deposited pursuant to this section
20 shall be held by the custodian on behalf of the commissioner as in trust for
21 the use and benefit of the depositing organization. Such assets shall remain
22 the specific property of the organization and shall not be subject to the
23 claim of any third party against the custodian.

24 (c) The custodian is authorized to redeposit such assets with a
25 clearing corporation as defined in K.S.A. 84-8-102, and amendments
26 thereto, if such clearing corporation is domiciled in the United States. The
27 custodian is authorized to hold such assets through the federal reserve
28 bank book-entry system.

29 (d) The commissioner shall adopt rules and regulations to establish
30 requirements relating to deposits under this section appropriate to assure
31 the security and safety of such deposits, including but not limited to the
32 following:

- 33 (1) Capital and surplus of the custodian;
- 34 (2) title in which deposited assets are held;
- 35 (3) records to be kept by the custodian and the commissioner's access
36 thereto;
- 37 (4) periodic reports by the custodian to the commissioner;
- 38 (5) responsibility of the custodian to indemnify the depositor for loss
39 of deposited assets;
- 40 (6) withdrawal or exchange of deposited assets; and
- 41 (7) authority of the commissioner to terminate the deposit if the
42 condition of the custodian should threaten the security of the deposited
43 assets.

1 (e) As used in this section:

2 (1) "Commissioner" means the commissioner of insurance; and

3 (2) "financial institution" means a federal home loan bank, a savings
4 and loan association and savings bank organized under the laws of the
5 United States or another state, a national bank, state bank or trust
6 company, which have main or branch offices in this state, shall at all times
7 during which such federal home loan bank, savings and loan association,
8 savings bank, national bank, state bank or trust company acts as a
9 custodian be:

10 (A) No less than adequately capitalized as determined by the
11 standards adopted by the regulator charged with establishing standards for,
12 and assessing, the institution's solvency;

13 (B) regulated by either state or federal banking laws, the federal home
14 loan bank act, as amended or is a member of the federal reserve system;
15 and

16 (C) legally qualified to accept custody of securities.

17 (3) "Main office" and "branch" shall have the meanings ascribed to
18 such terms in K.S.A. 9-1408, and amendments thereto.

19 Sec. 2. K.S.A. 2013 Supp. 40-229a is hereby repealed.

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

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