

SENATE BILL NO. 16

By Committee on Judiciary

1-13

SB16-Balloon-Knox
Prepared by: Jason Thompson,
Office of Revisor of Statutes
January 26, 2015

AN ACT concerning insurance; relating to attorney fees in certain actions;
amending K.S.A. 40-908 and repealing the existing section;

40-256

; also repealing K.S.A. 40-908

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

Section 1. ~~K.S.A. 40-908 is hereby amended to read as follows: 40-908. That in all actions now pending, or hereafter commenced in which judgment is rendered against any insurance company on any policy given to insure any property in the state against loss by first-party policy claim for damage to real property or contents of real property caused by loss from fire, tornado, lightning or hail, the court in rendering such judgment shall allow the plaintiff a reasonable sum as an attorney's fee attorney fees for services in such action, including proceeding upon appeal to be recovered and collected as a part of the costs. Provided, however, except that when a tender is made by such insurance company before the commencement of the action in which judgment is rendered and the amount recovered is not in excess of such tender, no such costs shall be allowed.~~

40-256 and

are

Sec. 2. K.S.A. 40-908 is hereby repealed.
Sec. 3. This act shall take effect and be in force from and after its publication in the statute book.

Strike K.S.A. 40-908 from the bill, repeal it instead.
Insert amendment to K.S.A. 40-256 (attached)

SB16-Balloon-Knox-Attachment

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40-256. Attorney fees in actions on insurance policies; exception. ~~[That]~~ In all actions hereafter commenced, in which judgment is rendered against any insurance company as defined in K.S.A. 40-201, ~~and amendments thereto,~~ and including in addition thereto any fraternal benefit society and any reciprocal or interinsurance exchange on any policy or certificate of any type or kind of insurance, ~~[if it appear from the evidence that such company, society or exchange has refused without just cause or excuse to pay the full amount of such loss,]~~ the court in rendering such judgment shall allow the plaintiff a reasonable sum as ~~[an attorney's fee]~~ attorney fees for services in such action, including proceeding upon appeal, to be recovered and collected as a part of the cost~~s~~~~;~~ ~~provided, however,~~ except that when a tender is made by such insurance company, society or exchange before the commencement of the action in which judgment is rendered and the amount recovered is not in excess of such tender no such costs shall be allowed.

History: L., 1931, ch. 212, § 1; L., 1957, ch. 276, § 1; L., 1967, ch. 257, § 1; L., 1972, ch. 175, § 1; July 1.