

HOUSE BILL No. 2446

AN ACT concerning insurance; relating to motor vehicle liability insurance; increasing minimum policy limit for property damage; payment of certain insurance proceeds; cities and counties; amending K.S.A. 40-3107, 40-3901, 40-3902, 40-3903, 40-3904, 40-3905 and 40-3907 and repealing the existing sections.

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

Section 1. On January 1, 2017, K.S.A. 40-3107 is hereby amended to read as follows: 40-3107. Every policy of motor vehicle liability insurance issued *or renewed on or after January 1, 2017*, by an insurer to an owner residing in this state shall:

(a) Designate by explicit description or by appropriate reference of all vehicles with respect to which coverage is to be granted;

(b) insure the person named and any other person, as insured, using any such vehicle with the expressed or implied consent of such named insured, against loss from the liability imposed by law for damages arising out of the ownership, maintenance or use of any such vehicle within the United States of America or the Dominion of Canada, subject to the limits stated in such policy;

(c) state the name and address of the named insured, the coverage afforded by the policy, the premium charged and the policy period;

(d) contain an agreement or be endorsed that insurance is provided in accordance with the coverage required by this act;

(e) contain stated limits of liability, exclusive of interest and costs, with respect to each vehicle for which coverage is granted, not less than \$25,000 because of bodily injury to, or death of, one person in any one accident and, subject to the limit for one person, to a limit of not less than \$50,000 because of bodily injury to, or death of, two or more persons in any one accident, and to a limit of not less than ~~\$10,000~~ \$25,000 because of harm to or destruction of property of others in any one accident;

(f) include personal injury protection benefits to the named insured, relatives residing in the same household, persons operating the insured motor vehicle, passengers in such motor vehicle and other persons struck by such motor vehicle and suffering bodily injury while not an occupant of a motor vehicle, not exceeding the limits prescribed for each of such benefits, for loss sustained by any such person as a result of injury. The owner of a motorcycle, as defined by K.S.A. 8-1438, and amendments thereto or motor-driven cycle, defined by K.S.A. 8-1439, and amendments thereto, who is the named insured, shall have the right to reject in writing insurance coverage including such benefits for injury to a person which occurs while the named insured is operating or is a passenger on such motorcycle or motor-driven cycle; and unless the named insured requests such coverage in writing, such coverage need not be provided in or supplemental to a renewal policy when the named insured has rejected the coverage in connection with a policy previously issued by the same insurer. The fact that the insured has rejected such coverage shall not cause such motorcycle or motor-driven cycle to be an uninsured motor vehicle;

(g) notwithstanding any omitted or inconsistent language, any contract of insurance which an insurer represents as or which purports to be a motor vehicle liability insurance policy meeting the requirements of this act shall be construed to obligate the insurer to meet all the mandatory requirements and obligations of this act;

(h) notwithstanding any other provision contained in this section, any insurer may exclude coverage required by subsections (a), (b), (c) and (d) of this section while any insured vehicles are:

(1) Rented to others or used to carry persons for a charge, however, such exclusion shall not apply to the use of a private passenger car on a share the expense basis; *or*

(2) being repaired, serviced or used by any person employed or engaged in any way in the automobile business. This does not apply to the named insured, spouse or relative residents; or the agents, employers, employees or partners of the named insured, spouse or resident relative; and

(i) in addition to the provisions of subsection (h) and notwithstanding any other provision contained in subsections (a), (b), (c) and (d) of this section, any insurer may exclude coverage:

(1) For any damages for which the United States government might be liable for the insured's use of the vehicle;

(2) for any damages to property owned by, rented to, or in charge of

or transported by an insured, however, this exclusion shall not apply to coverage for a rented residence or rented private garage;

(3) for any obligation of an insured, or the insured's insurer under any type of workers' compensation or disability or similar law;

(4) for liability assumed by an insured under any contract or agreement;

(5) if two or more vehicle liability policies apply to the same accident, the total limits of liability under all such policies shall not exceed that of the policy with the highest limit of liability;

(6) for any damages arising from an intentional act;

(7) for any damages to any person who would be covered for such damages under a nuclear energy liability policy;

(8) for any obligation of the insured to indemnify another for damages resulting from bodily injury to the insured's employee by accident arising out of and in the course of such employee's employment;

(9) for bodily injury to any fellow employee of the insured arising out of and in the course of such employee's employment;

(10) for bodily injury or property damage resulting from the handling of property:

(A) Before it is moved from the place where it is accepted by the insured for movement into or onto the covered auto; or

(B) after it is moved from the covered auto to the place where it is finally delivered by the insured;

(11) for bodily injury or property damage resulting from the movement of property by a mechanical device, other than a hand truck, not attached to the covered auto; and

(12) for bodily injury or property damage caused by the dumping, discharge or escape of irritants, pollutants or contaminants; however, this exclusion does not apply if the discharge is sudden and accidental.

(j) Commencing with the 2026 legislative interim period, and at least every 10 years thereafter, subject to authorization by the legislative coordinating council, a legislative interim study committee shall study the issue of whether the minimum limits of liability in subsection (e) should be adjusted.

Sec. 2. K.S.A. 40-3901 is hereby amended to read as follows: 40-3901.

(a) The governing body of any city is hereby authorized to establish, by ordinance, a procedure for the payment of not to exceed 15% of the proceeds of any insurance policy based upon a covered claim payment made for damage or loss to a building or other structure, ~~caused by or arising out of any fire, explosion or windstorm~~. The ordinance shall apply only to a covered claim payment which is in excess of 75% of the face value of the policy covering a building or other insured structure.

(b) The insurer first shall pay all amounts due the holder of a first real estate mortgage against the building or other structure pursuant to the terms of the policy and endorsements thereto and then shall withhold from the covered claim payment a sum not to exceed the amount authorized pursuant to subsection (a) and shall pay such moneys to the city to deposit into an interest-bearing account, unless the city has issued a certificate pursuant to K.S.A. 40-3906, and amendments thereto.

(c) The city shall release the insured's proceeds and any interest which has accrued on such proceeds received under subsection (b) within ~~30~~ 45 days after receipt of such moneys, unless the city has instituted legal proceedings under the provisions of K.S.A. 12-1752, and amendments thereto. If the city has proceeded under the provisions of K.S.A. 12-1752, and amendments thereto, all moneys in excess of that necessary to comply with the provisions of K.S.A. 12-1750 et seq., and amendments thereto, for the removal of the building or structure, less salvage value, shall be paid to the insured.

Sec. 3. K.S.A. 40-3902 is hereby amended to read as follows: 40-3902.

The governing body of any city is hereby authorized to create, by ordinance, a lien in favor of any such city in the proceeds of any insurance policy based upon a covered claim payment made for damage or loss to a building or other structure, ~~caused by or arising out of any fire, explosion or windstorm~~. The lien arises upon any unpaid tax, special ad valorem levy, special assessment or other charge imposed upon real property by or on behalf of the city which is an encumbrance on real property, whether or not evidenced by written instrument, or such tax, levy, as-

assessment, expense or other charge that has remained undischarged for at least one year prior to the filing of a proof of loss.

Sec. 4. K.S.A. 40-3903 is hereby amended to read as follows: 40-3903.

(a) The governing body of any county is hereby authorized to establish, by resolution, a procedure for the payment of not to exceed 15% of the proceeds of any insurance policy based upon a covered claim payment made for damage or loss to a building or other structure, ~~caused by or arising out of any fire, explosion or windstorm.~~ The resolution shall not apply to cities which have adopted an ordinance under the provisions of K.S.A. 40-3901, and amendments thereto. The resolution shall apply only to a covered claim payment which is in excess of 75% of the face value of the policy covering a building or other insured structure.

(b) The insurer first shall pay all amounts due the holder of a first real estate mortgage against the building or other structure pursuant to the terms of the policy and endorsements thereto and then shall withhold from the covered claim payment of the sum not to exceed the amount authorized pursuant to subsection (a) and shall pay such moneys to the county to deposit into an interest-bearing account, unless the city has issued a certificate pursuant to K.S.A. 40-3906, and amendments thereto.

(c) The county shall release the insured's proceeds and any interest which has accrued on such proceeds received under subsection (b) within ~~30~~ 45 days after receipt of such moneys, unless the county has instituted legal proceedings, using the procedure under K.S.A. 12-1752, and amendments thereto, insofar as the same can be made applicable. If the county has instituted legal proceedings, all moneys in excess of that necessary for the removal of the building or structure, less salvage value, shall be paid to the insured.

Sec. 5. K.S.A. 40-3904 is hereby amended to read as follows: 40-3904.

The governing body of any county is hereby authorized to create, by resolution, a lien in favor of any such county in the proceeds of any insurance policy based upon a covered claim payment made for damage or loss to a building or other structure, ~~caused by or arising out of any fire, explosion or windstorms.~~ The lien arises upon any unpaid tax, special ad valorem levy, special assessment or other charge imposed upon real property by or on behalf of the county which is an encumbrance on real property, whether or not evidenced by written instrument, or such tax, levy, assessment, expense or other charge that has remained undischarged for at least one year prior to the filing of a proof of loss. This resolution shall not apply to cities which have adopted an ordinance under the provisions of K.S.A. 40-3902, and amendments thereto.

Sec. 6. K.S.A. 40-3905 is hereby amended to read as follows: 40-3905.

Every city or county which adopts an ordinance or resolution under the provisions of K.S.A. 40-3901 through 40-3904, and amendments thereto, shall notify the commissioner of insurance. At least once each quarter of each calendar year, the commissioner shall prepare and distribute a list of all cities and counties adopting an ordinance or resolution under the provisions of this act during the preceding quarter to all insurance companies which issue policies insuring buildings and other structures against ~~loss by fire, explosion or windstorms.~~ Insurance companies shall have 60 days after the commissioner notifies them of the adoption of such ordinance or resolution to establish procedures within such cities or counties to carry out the provisions of this act.

Sec. 7. K.S.A. 40-3907 is hereby amended to read as follows: 40-3907.

This act shall apply to ~~fire or explosion~~ *all covered* claims arising ~~on from~~ *from* damage to all buildings or structures.

Sec. 8. K.S.A. 40-3901, 40-3902, 40-3903, 40-3904, 40-3905 and 40-3907 are hereby repealed.

Sec. 9. On January 1, 2017, K.S.A. 40-3107 is hereby repealed.

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

I hereby certify that the above BILL originated in the HOUSE, and was adopted by that body

HOUSE adopted
Conference Committee Report _____

Speaker of the House.

Chief Clerk of the House.

Passed the SENATE
as amended _____

SENATE adopted
Conference Committee Report _____

President of the Senate.

Secretary of the Senate.

APPROVED _____

Governor.