

HOUSE BILL No. 2043

By Committee on Insurance

1-12

1 AN ACT concerning insurance; relating to financial examination;
2 requirements; amending K.S.A. 40-2912 and K.S.A. 2016 Supp. 12-
3 2620 and 44-584 and repealing the existing sections.

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

6 Section 1. K.S.A. 2016 Supp. 12-2620 is hereby amended to read as
7 follows: 12-2620. (a) All certificates granted hereunder shall be perpetual
8 unless sooner suspended or revoked by the commissioner or the attorney
9 general.

10 (b) Whenever the commissioner shall deem it necessary the
11 commissioner may make, or direct to be made, an examination of the
12 affairs and the financial condition of any pool, ~~except that once every five~~
13 ~~years the commissioner shall conduct an examination of the affairs and the~~
14 ~~financial condition of each pool.~~ Each pool shall submit a certified
15 independent audited financial statement no later than 150 days after the
16 end of the fiscal year. The financial statement shall include outstanding
17 reserves for claims and for claims incurred but not reported. Each pool
18 shall file reports as to income, expenses and loss data at such times and in
19 such manner as the commissioner shall require. Any pool which does not
20 use rates developed by an approved rating organization shall file with the
21 commissioner an actuarial certification that such rates are actuarially
22 sound. Whenever it appears to the commissioner from such examination or
23 other satisfactory evidence that the ability to pay current and future claims
24 of any such pool is impaired, or that it is doing business in violation of any
25 of the laws of this state, or that its affairs are in an unsound condition so as
26 to endanger its ability to pay or cause to be paid claims in the amount,
27 manner and time due, the commissioner shall, before filing such report or
28 making the same public, grant such pool upon reasonable notice a hearing,
29 and, if on such hearing the report be confirmed, the commissioner may
30 require any of the actions allowed under K.S.A. 40-222b, and amendments
31 thereto, or suspend the certificate of authority for such pool until its ability
32 to pay current and future claims shall have been fully restored and the laws
33 of the state fully complied with. The commissioner may, if there is an
34 unreasonable delay in restoring the ability to pay claims of such pool and
35 in complying with the law or if rehabilitation or corrective action taken
36 under K.S.A. 40-222b, and amendments thereto, is unsuccessful, revoke

1 the certificate of authority of such pool to do business in this state. Upon
2 revoking any such certificate the commissioner shall communicate the fact
3 to the attorney general, whose duty it shall be to commence and prosecute
4 an action in the proper court to dissolve such pool or to enjoin the same
5 from doing or transacting business in this state. The commissioner of
6 insurance may call a hearing under K.S.A. 40-222b, and amendments
7 thereto, and the provisions thereof shall apply to group-funded pools.

8 (c) On an annual basis, or within 30 days of any change thereto, each
9 pool shall supply to the commissioner the name and qualifications of the
10 designated administrator of the pools and the terms of the specific and
11 aggregate excess insurance contracts of the pool.

12 Sec. 2. K.S.A. 40-2912 is hereby amended to read as follows: 40-
13 2912. The association shall be ~~deemed a company or insurer within the~~
14 ~~scope of K.S.A. 40-222 and 40-223 relating to examinations~~ *subject to*
15 *examination and regulation by the commissioner.* The board of directors
16 shall submit, not later than March 30 of each year, a financial report for the
17 preceding calendar year in a form approved by the commissioner.

18 Sec. 3. K.S.A. 2016 Supp. 44-584 is hereby amended to read as
19 follows: 44-584. (a) The application for a new certificate shall be signed
20 by the trustees of the trust fund created by the pool. Any application for a
21 renewal of an existing certificate shall meet at least the standards
22 established in ~~subsections (a)(6) through (a)(14) of K.S.A. 44-582(a)(6)~~
23 *through (a)(14)*, and amendments thereto. After evaluating the application
24 the commissioner shall notify the applicant that the plan submitted is
25 approved or conversely, if the plan submitted is inadequate, the
26 commissioner shall then fully explain to the applicant what additional
27 requirements must be met. If the application is denied, the applicant shall
28 have 15 days to make an application for hearing by the commissioner after
29 service of the denial notice. The hearing shall be conducted in accordance
30 with the provisions of the Kansas administrative procedure act.

31 (b) An approved certificate of authority shall remain in full force and
32 effect until such certificate is suspended or revoked by the commissioner.
33 An existing pool operating under an approved certificate of authority must
34 file with the commissioner, within 120 days following the close of the
35 pool's fiscal year, a current financial statement on a form approved by the
36 commissioner showing the financial ability of the pool to meet its
37 obligations under the worker compensation act and confirmation of
38 specific and aggregate excess insurance as required by law for the pool. If
39 an existing pool's certificate of authority is suspended or revoked, such
40 pool shall have the same rights to a hearing by the commissioner as for
41 applicants for new certificates of authority as set forth in subsection (a)
42 ~~above.~~

43 (c) Whenever the commissioner shall deem it necessary the

1 commissioner may make, or direct to be made, an examination of the
2 affairs and financial condition of any pool ~~in accordance with K.S.A. 40-~~
3 ~~222 and 40-223, and amendments thereto, except that once every five~~
4 ~~years the commissioner shall conduct an examination of the affairs and~~
5 ~~financial condition of each pool.~~ Each pool shall submit a certified
6 independent audited financial statement no later than 150 days after the
7 end of the pool's fiscal year. The financial statement shall include
8 outstanding reserves for claims and for claims incurred but not reported.
9 Each pool shall file payroll records, accident experience and compensation
10 reports and such other reports and statements at such times and in such
11 manner as the commissioner shall require. Whenever it appears to the
12 commissioner from such examination or other satisfactory evidence that
13 the solvency of any such pool is impaired, or that it is doing business in
14 violation of any of the laws of this state, or that its affairs are in an
15 unsound condition so as to endanger its ability to pay or cause to be paid
16 the compensation in the amount, manner and time due as provided for in
17 the Kansas workers compensation act, the commissioner shall, before
18 filing such report or making the same public, grant such pool upon
19 reasonable notice a hearing in accordance with the provisions of the
20 Kansas administrative procedure act, and, if on such hearing the report be
21 confirmed, the commissioner shall suspend the certificate of authority for
22 such pool until its solvency shall have been fully restored and the laws of
23 the state fully complied with. The commissioner may, if there is an
24 unreasonable delay in restoring the solvency of such pool and in
25 complying with the law, revoke the certificate of authority of such pool to
26 do business in this state. Upon revoking any such certificate the
27 commissioner shall communicate the fact to the attorney general, whose
28 duty it shall be to commence and prosecute an action in the proper court to
29 dissolve such pool or to enjoin the same from doing or transacting
30 business in this state. The commissioner of insurance may call a hearing
31 under K.S.A. 40-222b, and amendments thereto, and the provisions shall
32 apply to group workers compensation pools.

33 Sec. 4. K.S.A. 40-2912 and K.S.A. 2016 Supp. 12-2620 and 44-584
34 are hereby repealed.

35 Sec. 5. This act shall take effect and be in force from and after its
36 publication in the ~~statute book~~ *Kansas register*.