

As Amended by Senate Committee

Session of 2017

SENATE BILL No. 16

By Committee on Financial Institutions and Insurance

1-12

1 AN ACT concerning insurance; relating to insurers; ~~pertaining to~~
2 ~~enterprise risk reports~~; internationally active insurance groups;
3 corporate governance; ~~amending K.S.A. 2016 Supp. 40-3305 and~~
4 ~~repealing the existing section.~~

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

7 ~~New~~ Section 1. (a) The commissioner is authorized to act as the
8 group-wide supervisor for any internationally active insurance group in
9 accordance with the provisions of this section. However, the commissioner
10 may acknowledge another regulatory official as the group-wide supervisor
11 where the internationally active insurance group:

12 (1) Does not have substantial insurance operations in the United
13 States;

14 (2) has substantial insurance operations in the United States, but not
15 in this state; or

16 (3) has substantial insurance operations in the United States and this
17 state, but the commissioner has determined pursuant to the factors set forth
18 in subsections (b) and (f) that the other regulatory official is the
19 appropriate group-wide supervisor.

20 An insurance holding company system that does not otherwise qualify
21 as an internationally active insurance group may request that the
22 commissioner make a determination or acknowledgment as to a group-
23 wide supervisor pursuant to this section.

24 (b) In cooperation with other state, federal and international
25 regulatory agencies, the commissioner shall identify a single group-wide
26 supervisor for an internationally active insurance group. The commissioner
27 may determine that the commissioner is the appropriate group-wide
28 supervisor for an internationally active insurance group that conducts
29 substantial insurance operations concentrated in this state. However, the
30 commissioner may acknowledge that a regulatory official from another
31 jurisdiction is the appropriate group-wide supervisor for the internationally
32 active insurance group. The commissioner shall consider the following
33 factors when making a determination or acknowledgment under this
34 subsection:

35 (1) The place of domicile of the insurers within the internationally
36 active insurance group that hold the largest share of the group's written

1 premiums, assets or liabilities;

2 (2) the place of domicile of the top-tiered insurers in the insurance
3 holding company system of the internationally active insurance group;

4 (3) the location of the executive offices or largest operational offices
5 of the internationally active insurance group;

6 (4) whether another regulatory official is acting or is seeking to act as
7 the group-wide supervisor under a regulatory system that the
8 commissioner determines to be:

9 (A) Substantially similar to the system of regulation provided under
10 the laws of this state; or

11 (B) otherwise sufficient in terms of providing for group-wide
12 supervision, enterprise risk analysis and cooperation with other regulatory
13 officials; and

14 (5) whether another regulatory official acting or seeking to act as the
15 group-wide supervisor provides the commissioner with reasonably
16 reciprocal recognition and cooperation.

17 A commissioner identified under this section as the group-wide
18 supervisor may determine that it is appropriate to acknowledge another
19 supervisor to serve as the group-wide supervisor. The acknowledgment of
20 the group-wide supervisor shall be made after consideration of the factors
21 listed in subsections (b)(1) through (b)(5), and shall be made in
22 cooperation with and subject to the acknowledgment of other regulatory
23 officials involved with the supervision of members of the internationally
24 active insurance group, and in consultation with the internationally active
25 insurance group.

26 (c) Notwithstanding any other provision of law, when another
27 regulatory official is acting as the group-wide supervisor of an
28 internationally active insurance group, the commissioner shall
29 acknowledge that regulatory official as the group-wide supervisor.
30 However, pursuant to subsection (b), the commissioner shall make a
31 determination or acknowledgment as to the appropriate group-wide
32 supervisor for an internationally active insurance group, if it makes a
33 material change in such internationally active insurance group that results
34 in:

35 (1) The internationally active insurance group's insurers domiciled in
36 this state holding the largest share of the group's premiums, assets or
37 liabilities; or

38 (2) this state being the place of domicile of the top-tiered insurers in
39 the insurance holding company system of the internationally active
40 insurance group.

41 (d) Pursuant to K.S.A. 40-3307, and amendments thereto, the
42 commissioner is authorized to collect from any insurer registered pursuant
43 to K.S.A. 40-3305, and amendments thereto, all information necessary to

1 determine whether the commissioner may act as the group-wide supervisor
2 of an internationally active insurance group or if the commissioner may
3 acknowledge another regulatory official to act as the group-wide
4 supervisor. Prior to issuing a determination that an internationally active
5 insurance group is subject to group-wide supervision by the commissioner,
6 the commissioner shall notify the insurer registered pursuant to K.S.A. 40-
7 3305, and amendments thereto, and the ultimate controlling person within
8 the internationally active insurance group. The internationally active
9 insurance group shall have not less than 30 days to provide the
10 commissioner with additional information pertinent to the pending
11 determination. The commissioner shall publish on its Kansas insurance
12 department website the identities of internationally active insurance groups
13 that the commissioner has determined are subject to group-wide
14 supervision by the commissioner.

15 (e) If the commissioner is the group-wide supervisor for an
16 internationally active insurance group, the commissioner is authorized to
17 engage in any of the following group-wide supervision activities:

18 (1) Assessing the enterprise risks within the internationally active
19 insurance group to ensure that:

20 (A) The material financial condition and liquidity risks to the
21 members of the internationally active insurance group that are engaged in
22 the business of insurance are identified by management; and

23 (B) reasonable and effective mitigation measures are in place;

24 (2) requesting, from any member of an internationally active
25 insurance group, subject to the commissioner's supervision, information
26 necessary and appropriate to assess enterprise risk, including, but not
27 limited to, information about the members of the internationally active
28 insurance group regarding:

29 (A) Governance, risk assessment and management;

30 (B) capital adequacy; and

31 (C) material intercompany transactions;

32 (3) coordinating and, through the authority of the regulatory officials
33 of the jurisdictions where members of the internationally active insurance
34 group are domiciled, compelling development and implementation of
35 reasonable measures designed to ensure that the internationally active
36 insurance group is able to timely recognize and mitigate enterprise risks to
37 members of such internationally active insurance group that are engaged in
38 the business of insurance;

39 (4) communicating with other state, federal and international
40 regulatory agencies for members within the internationally active
41 insurance group and sharing relevant information subject to the
42 confidentiality provisions of K.S.A. 40-3308, and amendments thereto,
43 through supervisory colleges as set forth in K.S.A. 40-3316, and

1 amendments thereto, or otherwise;

2 (5) entering into agreements with or obtaining documentation from
3 any insurer registered under subsection (e)(3), any member of the
4 internationally active insurance group, and any other state, federal and
5 international regulatory agencies for members of the internationally active
6 insurance group, providing the basis for or otherwise clarifying the
7 commissioner's role as group-wide supervisor, including provisions for
8 resolving disputes with other regulatory officials. Such agreements or
9 documentation shall not serve as evidence in any proceeding that any
10 insurer or person within an insurance holding company system not
11 domiciled or incorporated in this state is doing business in this state or is
12 otherwise subject to jurisdiction in this state; and

13 (6) participating in other group-wide supervision activities, consistent
14 with the authorities granted and purposes enumerated above, as considered
15 necessary by the commissioner.

16 (f) If the commissioner acknowledges that another regulatory official
17 from a jurisdiction that is not accredited by the national association of
18 insurance commissioners is the group-wide supervisor, the commissioner
19 is authorized to reasonably cooperate, through supervisory colleges or
20 otherwise, with group-wide supervision undertaken by the group-wide
21 supervisor, provided that:

22 (1) The commissioner's cooperation is in compliance with the laws of
23 this state; and

24 (2) the regulatory official acknowledged as the group-wide supervisor
25 also recognizes and cooperates with the commissioner's activities as a
26 group-wide supervisor for other internationally active insurance groups
27 where applicable. Where such recognition and cooperation is not
28 reasonably reciprocal, the commissioner is authorized to refuse recognition
29 and cooperation.

30 (g) The commissioner is authorized to enter into agreements with, or
31 obtain documentation from, any insurer registered under K.S.A. 40-3305,
32 and amendments thereto, any affiliate of the insurer, and other state,
33 federal and international regulatory agencies for members of the
34 internationally active insurance group that provide the basis for or
35 otherwise clarify a regulatory official's role as group-wide supervisor.

36 (h) The commissioner may promulgate such rules and regulations as
37 are necessary for the administration of this section. Such rules and
38 regulations shall be adopted no later than July 1, 2018.

39 (i) A registered insurer subject to this section shall be liable for and
40 shall pay the reasonable expenses of the commissioner's participation in
41 the administration of this section, including the engagement of attorneys,
42 actuaries and any other professionals and all reasonable travel expenses.

43 ~~New~~—Sec. 2. (a) (1) Nothing in this section shall be construed to

1 prescribe or impose corporate governance standards and internal
2 procedures beyond those required by state corporate law. However,
3 nothing in this section shall be construed to limit the commissioner's
4 authority, or the rights and obligations of third parties under K.S.A. 40-
5 222, and amendments thereto.

6 (2) The requirements of this section shall apply to all insurers
7 domiciled in this state.

8 (b) As used in this section:

9 (1) "Commissioner" means the commissioner of insurance of the state
10 of Kansas.

11 (2) "Corporate governance annual disclosure" or "CGAD" means a
12 confidential report filed by the insurer or insurance group made in
13 accordance with the requirements of this section.

14 (3) "Insurance group" means those insurers and affiliates included
15 within an insurance holding company system as defined in K.S.A. 40-
16 3302, and amendments thereto.

17 (4) "Insurer" shall have the same meaning as set forth in K.S.A. 40-
18 3302, and amendments thereto, except that it shall not include agencies,
19 authorities or instrumentalities of the United States, its possessions and
20 territories, the Commonwealth of Puerto Rico, the District of Columbia or
21 a state or political subdivision of a state.

22 (5) "NAIC" means the national association of insurance
23 commissioners.

24 (6) "ORSA summary report" means the report filed in accordance
25 with risk management and own risk and solvency assessment act.

26 (c) (1) An insurer or the insurance group of which the insurer is a
27 member shall, no later than June 1 of each calendar year, submit to the
28 commissioner a CGAD that contains the information described in
29 subsection (e). Notwithstanding any request from the commissioner made
30 pursuant to subsection (c)(3), if an insurer is a member of an insurance
31 group, the insurer shall submit the report required by this section to the
32 commissioner of the lead state for the insurance group, in accordance with
33 the laws of the lead state, as determined by the procedures outlined in the
34 most recent financial analysis handbook adopted by the national
35 association of insurance commissioners.

36 (2) The CGAD must include a signature of the insurer or insurance
37 group's chief executive officer or corporate secretary attesting to the best
38 of that individual's belief and knowledge that the insurer has implemented
39 the corporate governance practices and that a copy of the disclosure has
40 been provided to the insurer's board of directors or the appropriate
41 committee of the insurer thereof.

42 (3) An insurer not required to submit a CGAD under this section shall
43 do so upon the commissioner's request.

1 (4) For purposes of completing the CGAD, the insurer or insurance
2 group may provide information regarding corporate governance at the
3 ultimate controlling parent level, an intermediate holding company level or
4 the individual legal entity level or both, depending upon how the insurer or
5 insurance group has structured its system of corporate governance. The
6 insurer or insurance group is encouraged to make the CGAD disclosures at
7 the level at which the insurer's or insurance group's risk appetite is
8 determined, or at which the earnings, capital, liquidity, operations and
9 reputation of the insurer are overseen collectively and at which the
10 supervision of those factors are coordinated and exercised, or the level at
11 which legal liability for failure of general corporate governance duties
12 would be placed. If the insurer or insurance group determines the level of
13 reporting based on these criteria, it shall indicate which of the three criteria
14 was used to determine the level of reporting and explain any subsequent
15 changes in level of reporting.

16 (5) The review of the CGAD and any additional requests for
17 information shall be made through the lead state as determined by the
18 procedures within the most recent financial analysis handbook referenced
19 in subsection (c)(1).

20 (6) Insurers providing information substantially similar to the
21 information required by this section in other documents provided to the
22 commissioner, including proxy statements filed in conjunction with other
23 state or federal filings or other requirements provided to the commissioner,
24 shall not be required to duplicate that information in the CGAD, but shall
25 only be required to cross reference the document in which the information
26 is included.

27 (d) The commissioner is hereby authorized to adopt any rules and
28 regulations as are necessary to carry out the provisions of this section.
29 Such rules and regulations shall be adopted no later than January 1, 2019.

30 (e) (1) The insurer or insurance group shall have discretion over the
31 responses to the CGAD inquiries, provided the CGAD shall contain the
32 material information necessary to permit the commissioner to gain an
33 understanding of the insurer's or group's corporate governance structure,
34 policies and practices. The commissioner may request additional
35 information deemed material and necessary to provide the commissioner
36 with a clear understanding of the corporate governance policies, the
37 reporting or information system or controls implementing those policies.

38 (2) The CGAD shall be prepared consistent with all department of
39 insurance rules and regulations and documentation. Documentation
40 supporting information shall be maintained and made available upon the
41 commissioner's request.

42 (f) (1) Documents, materials or other information, including the
43 CGAD, in the possession or control of the department of insurance that are

1 obtained, created by or disclosed to the commissioner or any other person
2 under this section, are recognized by this state as being proprietary and
3 containing trade secrets. All such documents, materials or other
4 information shall be confidential by law and privileged, and shall not be
5 subject to the open records act, K.S.A. 45-215 et seq., and amendments
6 thereto, shall not be subject to subpoena and shall not be subject to
7 discovery or admissible in evidence in any private civil action. However,
8 the commissioner is authorized to use the documents, materials or other
9 information in the furtherance of any regulatory or legal action brought as
10 part of the commissioner's official duties. The commissioner shall not
11 otherwise make the documents, materials or other information public
12 without the prior written consent of the insurer. Nothing in this section
13 shall be construed to require the written consent of the insurer before the
14 commissioner may share or receive confidential documents, materials or
15 other CGAD-related information pursuant to subsection (f)(3) to assist in
16 the performance of the commissioner's regular duties. The provisions of
17 this subsection shall expire on July 1, 2022, unless the legislature reviews
18 and reenacts this provision pursuant to K.S.A 45-229, and amendments
19 thereto, prior to July 1, 2022.

20 (2) Neither the commissioner nor any person who received
21 documents, materials or other CGAD-related information, through
22 examination or otherwise, while acting under the authority of the
23 commissioner, or with whom such documents, materials or other
24 information are shared pursuant to this section, shall be permitted or
25 required to testify in any private civil action concerning any confidential
26 documents, materials or information subject to subsection (f)(1).

27 (3) In order to assist in the performance of the commissioner's
28 regulatory duties, the commissioner:

29 (A) May, upon request, share documents, materials or other CGAD-
30 related information, including the confidential and privileged documents,
31 materials or information subject to subsection (c)(1), including proprietary
32 and trade secret documents and materials with other state, federal and
33 international financial regulatory agencies, including members of any
34 supervisory college as defined in K.S.A. 40-3308, and amendments
35 thereto, with the NAIC and with third-party consultants pursuant to
36 subsection (g), provided that the recipient agrees in writing to maintain the
37 confidentiality and privileged status of the CGAD-related documents,
38 material or other information and has verified in writing the legal authority
39 to maintain confidentiality; and

40 (B) may receive documents, materials or other CGAD-related
41 information, including otherwise confidential and privileged documents,
42 materials or information, including proprietary and trade secret
43 information or documents, from regulatory officials of other state, federal

1 and international financial regulatory agencies, including members of any
2 supervisory college as defined in the insurance holding company act and
3 from the NAIC, and shall maintain as confidential or privileged any
4 documents, materials or information received with notice or the
5 understanding that it is confidential or privileged under the laws of the
6 jurisdiction that is the source of the document, material or information.

7 (4) The sharing of information and documents by the commissioner
8 pursuant to this section shall not constitute a delegation of regulatory
9 authority or rulemaking, and the commissioner is solely responsible for the
10 administration, execution and enforcement of the provisions of this
11 section.

12 (5) No waiver of any applicable privilege or claim of confidentiality
13 in the documents, proprietary and trade secret materials or other CGAD-
14 related information shall occur as a result of disclosure of such CGAD-
15 related information or documents to the commissioner under this section
16 or as a result of sharing as authorized in this section.

17 (g) (1) The commissioner may retain, at the insurer's expense, third-
18 party consultants, including attorneys, actuaries, accountants and other
19 experts not otherwise a part of the commissioner's staff as may be
20 reasonably necessary to assist the commissioner in reviewing the CGAD
21 and related information or the insurer's compliance with this section.

22 (2) Any person retained under subsection (g)(1) shall be under the
23 direction and control of the commissioner and shall act in a purely
24 advisory capacity.

25 (3) The NAIC and third-party consultants shall be subject to the same
26 confidentiality standards and requirements as the commissioner.

27 (4) As part of the retention process, a third-party consultant shall
28 verify to the commissioner, with notice to the insurer, that it is free from a
29 conflict of interest and that it has internal procedures in place to monitor
30 compliance with a conflict and to comply with the confidentiality
31 standards and requirements of this section.

32 (5) A written agreement with NAIC consultants or third-party
33 consultants, or a combination of the same, governing sharing and use of
34 information provided pursuant to this section shall contain the following
35 provisions and expressly require the written consent of the insurer prior to
36 making the information public as provided under this section:

37 (A) Specific procedures and protocols for maintaining the
38 confidentiality and security of CGAD-related information shared with the
39 NAIC or a third-party consultant pursuant to this section;

40 (B) procedures and protocols for sharing by the NAIC only with other
41 state regulators from states in which the insurance group has domiciled
42 insurers. The agreement shall provide that the recipient agrees in writing to
43 maintain the confidentiality and privileged status of the CGAD-related

1 documents, materials or other information and has verified in writing the
2 legal authority to maintain confidentiality;

3 (C) a provision specifying that ownership of the CGAD-related
4 information shared with the NAIC or a third-party consultant remains with
5 the department of insurance and the NAIC or third-party consultant's use
6 of the information is subject to the direction of the commissioner;

7 (D) a provision that prohibits the NAIC or a third-party consultant
8 from storing the information shared pursuant to this act in a permanent
9 database after the underlying analysis is completed;

10 (E) a provision requiring the NAIC or third-party consultant to
11 provide prompt notice to the commissioner and to the insurer or insurance
12 group regarding any subpoena, request for disclosure or request for
13 production of the insurer's CGAD-related information; and

14 (F) a requirement that the NAIC or a third-party consultant consent to
15 intervention by an insurer in any judicial or administrative action in which
16 the NAIC or a third-party consultant may be required to disclose
17 confidential information about the insurer shared with the NAIC or a third-
18 party consultant pursuant to this section.

19 (h) Any insurer failing, without just cause, to timely file the CGAD
20 as required in this section may be required, after notice and hearing, to pay
21 a penalty for each day's delay, to be recovered by the commissioner, in
22 accordance with any rules and regulations adopted by the commissioner.
23 The commissioner shall remit all moneys received to the state treasurer in
24 accordance with the provisions of K.S.A. 75-4215, and amendments
25 thereto. Upon receipt of each such remittance, the state treasurer shall
26 deposit the entire amount in the state treasury to the credit of the fees and
27 penalties fund.

28 (i) If any provision of this section other than subsection (f), or the
29 application thereof to any person or circumstance, is held invalid, such
30 determination shall not affect the provisions or applications of this section,
31 which can be given effect without the invalid provision or application, and
32 to that end the provisions of this section, with the exception of subsection
33 (f), are severable.

34 (j) The first filing of the CGAD shall be in 2018.

35 (k) The provisions of this section shall be effective on and after
36 January 1, 2018.

37 ~~Sec. 3.—K.S.A. 2016 Supp. 40-3305 is hereby amended to read as~~
38 ~~follows: 40-3305. (a) Every insurer which is authorized to do business in~~
39 ~~this state and which is a member of an insurance holding company system~~
40 ~~shall register with the commissioner of insurance, except a foreign insurer~~
41 ~~subject to registration requirements and standards adopted by statute or~~
42 ~~regulation in the jurisdiction of its domicile which are substantially similar~~
43 ~~to those contained in this section. Any insurer which is subject to~~

1 registration under this section shall register within 15 days after it becomes
2 subject to registration, and annually thereafter by May 1 of each year
3 unless the commissioner of insurance for good cause shown extends the
4 time for registration, and then within such extended time. The
5 commissioner of insurance may require any authorized insurer which is a
6 member of an insurance holding company system and which is not subject
7 to registration under this section to furnish a copy of the registration
8 statement, the summary specified in subsection (c) or other information
9 filed by such insurance company with the insurance regulatory authority of
10 domiciliary jurisdiction.

11 (b) Pursuant to subsection (a), every insurer subject to registration
12 shall file a registration statement on a form provided by the commissioner
13 of insurance, which shall contain current information about:

14 (1) The capital structure, general financial condition, ownership and
15 management of the insurer and any person controlling the insurer;

16 (2) the identity and relationship of every member of the insurance
17 holding company system;

18 (3) the following agreements in force and transactions currently
19 outstanding or which occurred during the last calendar year between such
20 insurer and its affiliates:

21 (A) Loans, other investments, or purchases, sales or exchanges of
22 securities of the affiliates by the insurer or of the insurer by its affiliates;

23 (B) purchases, sales, or exchanges of assets;

24 (C) transactions not in the ordinary course of business;

25 (D) guarantees or undertakings for the benefit of an affiliate which
26 result in an actual contingent exposure of the insurer's assets to liability,
27 other than insurance contracts entered into in the ordinary course of the
28 insurer's business;

29 (E) all management agreements, service contracts and cost sharing
30 arrangements;

31 (F) reinsurance agreements;

32 (G) dividends and other distributions to shareholders; and

33 (H) consolidated tax allocation agreements;

34 (4) other matters concerning transactions between registered insurers
35 and any affiliates as may be included from time to time in any registration
36 forms adopted or approved by the commissioner of insurance;

37 (5) any pledge of the insurer's stock, including stock of any
38 subsidiary or controlling affiliate, for a loan made to any member of the
39 insurance holding company system;

40 (6) if requested by the commissioner of insurance, the insurer shall
41 include financial statements of or within an insurance holding company
42 system, including all affiliates. Financial statements may include, but are
43 not limited to, annual audited financial statements filed with the U.S.

1 securities and exchange commission (SEC) pursuant to the securities act of
2 1933, as amended, or the securities exchange act of 1934, as amended. An
3 insurer required to file financial statements pursuant to this paragraph may
4 satisfy the request by providing the commissioner of insurance with the
5 most recently filed parent corporation financial statements that have been
6 filed with the SEC;

7 (7) ~~statements that the insurer's board of directors and principal~~
8 ~~officers oversee corporate governance and internal controls and that the~~
9 ~~insurer's principal officers have approved, implemented and continue to~~
10 ~~maintain and monitor corporate governance and internal control~~
11 ~~procedures; and~~

12 (8) ~~any other information required by the commissioner of insurance~~
13 ~~by rules and regulations.~~

14 (e) ~~All registration statements shall be accompanied by a summary~~
15 ~~outlining all items in the current registration statement representing~~
16 ~~changes from the prior registration statement.~~

17 (d) ~~No information need be disclosed on the registration statement~~
18 ~~filed pursuant to subsection (b) if such information is not material for the~~
19 ~~purpose of this section. Unless the commissioner of insurance by rules and~~
20 ~~regulations or order provides otherwise, sales, purchases, exchanges, loans~~
21 ~~or extensions of credit, investments or guarantees, involving .5% 0.5% or~~
22 ~~less of an insurer's admitted assets as of the December 31 immediately~~
23 ~~preceding shall be deemed immaterial for purposes of this section.~~

24 (e) ~~Each registered insurer shall keep current the information required~~
25 ~~to be disclosed in such insurer's registration statement by reporting all~~
26 ~~material changes or additions on amendment forms provided by the~~
27 ~~commissioner of insurance within 15 days after the end of the month in~~
28 ~~which it learns of each such change or addition, except each registered~~
29 ~~insurer shall report all dividends and other distributions to shareholders~~
30 ~~within five business days following its declaration. Any such dividend or~~
31 ~~distribution shall not be paid for at least 10 business days from the~~
32 ~~commissioner's receipt of the notice of its declaration.~~

33 (f) ~~Any person within an insurance holding company system subject~~
34 ~~to registration shall provide complete and accurate information to an~~
35 ~~insurer, where such information is reasonably necessary to enable the~~
36 ~~insurer to comply with the provisions of this act.~~

37 (g) ~~The commissioner of insurance shall terminate the registration of~~
38 ~~any insurer which demonstrates that such insurer no longer is a member of~~
39 ~~an insurance holding company system.~~

40 (h) ~~The commissioner of insurance may require or allow two or more~~
41 ~~affiliated insurers subject to registration hereunder to file a consolidated~~
42 ~~registration statement.~~

43 (i) ~~The commissioner of insurance may allow an insurer which is~~

1 authorized to do business in this state and which is part of an insurance
2 holding company system to register on behalf of any affiliated insurer
3 which is required to register under subsection (a) and to file all
4 information and material required to be filed under this section.

5 (j) ~~The provisions of this section shall not apply to any information or~~
6 ~~transaction if and to the extent the commissioner of insurance by rule and~~
7 ~~regulation or order shall exempt the same from the provisions of this~~
8 ~~section.~~

9 (k) ~~Any person may file with the commissioner of insurance a~~
10 ~~disclaimer of affiliation with any authorized insurer or such a disclaimer~~
11 ~~may be filed by such insurer or any member of an insurance holding~~
12 ~~company system. The disclaimer shall fully disclose all material~~
13 ~~relationships and bases for affiliation between such person and such~~
14 ~~insurer as well as the basis for disclaiming such affiliation. After a~~
15 ~~disclaimer has been filed, the insurer shall be relieved of any duty to~~
16 ~~register or report under this section which may arise out of the insurer's~~
17 ~~relationship with such person unless and until the commissioner of~~
18 ~~insurance disallows such a disclaimer. The commissioner of insurance~~
19 ~~shall disallow such a disclaimer only after furnishing all parties in interest~~
20 ~~with notice and opportunity to be heard in accordance with the provisions~~
21 ~~of the Kansas administrative procedure act.~~

22 (l) (1) ~~Except as provided in paragraph (2), The ultimate controlling~~
23 ~~person of every insurer subject to registration also shall file an annual~~
24 ~~enterprise risk report. The report, to the best of the ultimate controlling~~
25 ~~person's knowledge and belief, shall identify the material risks within the~~
26 ~~insurance holding company system that could pose enterprise risk to the~~
27 ~~insurer. The report shall be filed with the lead state commissioner of~~
28 ~~insurance of the insurance holding company system as determined by the~~
29 ~~procedures within the financial analysis handbook adopted by the national~~
30 ~~association of insurance commissioners. The first enterprise risk report~~
31 ~~shall be filed no later than May 1, 2015, and annually thereafter by May 1~~
32 ~~of each year unless the commissioner of insurance extends the time for~~
33 ~~filing for good cause shown.~~

34 (2) ~~The ultimate controlling person of an insurer with total direct and~~
35 ~~assumed annual premiums of less than \$300 million is not required to~~
36 ~~submit an enterprise risk report.~~

37 (m) ~~The failure of an insurer or an ultimate controlling person of the~~
38 ~~insurer to file a registration statement, any summary of the registration~~
39 ~~statement or enterprise risk filing within the specified time for filing shall~~
40 ~~be a violation by the insurer or by the ultimate controlling person of the~~
41 ~~insurer, as applicable.~~

42 Sec. 4. ~~K.S.A. 2016 Supp. 40-3305 is hereby repealed.~~

43 Sec. 5. 3. This act shall take effect and be in force from and after its

- 1 publication in the statute book.