

**{As Amended by House Committee of the Whole}**

---

---

**As Amended by House Committee**

---

---

***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~~; **exemption from regulation as**  
5 **insurance, service contracts; amending K.S.A. 2016 Supp. 40-201a**  
6 **and repealing the existing section**.  
7

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

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

14 (1) Does not have substantial insurance operations in the United  
15 States;

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

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

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

26 (b) In cooperation with other state, federal and international  
27 regulatory agencies, the commissioner shall identify a single group-wide  
28 supervisor for an internationally active insurance group. The commissioner  
29 may determine that the commissioner is the appropriate group-wide  
30 supervisor for an internationally active insurance group that conducts  
31 substantial insurance operations concentrated in this state. However, the  
32 commissioner may acknowledge that a regulatory official from another

1 jurisdiction is the appropriate group-wide supervisor for the internationally  
2 active insurance group. The commissioner shall consider the following  
3 factors when making a determination or acknowledgment under this  
4 subsection:

5 (1) The place of domicile of the insurers within the internationally  
6 active insurance group that hold the largest share of the group's written  
7 premiums, assets or liabilities;

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

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

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

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

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

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

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

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

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

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

4 (d) Pursuant to K.S.A. 40-3307, and amendments thereto, the  
5 commissioner is authorized to collect from any insurer registered pursuant  
6 to K.S.A. 40-3305, and amendments thereto, all information necessary to  
7 determine whether the commissioner may act as the group-wide supervisor  
8 of an internationally active insurance group or if the commissioner may  
9 acknowledge another regulatory official to act as the group-wide  
10 supervisor. Prior to issuing a determination that an internationally active  
11 insurance group is subject to group-wide supervision by the commissioner,  
12 the commissioner shall notify the insurer registered pursuant to K.S.A. 40-  
13 3305, and amendments thereto, and the ultimate controlling person within  
14 the internationally active insurance group. The internationally active  
15 insurance group shall have not less than 30 days to provide the  
16 commissioner with additional information pertinent to the pending  
17 determination. The commissioner shall publish on its Kansas insurance  
18 department website the identities of internationally active insurance groups  
19 that the commissioner has determined are subject to group-wide  
20 supervision by the commissioner.

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

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

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

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

30 (2) requesting, from any member of an internationally active  
31 insurance group, subject to the commissioner's supervision, information  
32 necessary and appropriate to assess enterprise risk, including, but not  
33 limited to, information about the members of the internationally active  
34 insurance group regarding:

35 (A) Governance, risk assessment and management;

36 (B) capital adequacy; and

37 (C) material intercompany transactions;

38 (3) coordinating and, through the authority of the regulatory officials  
39 of the jurisdictions where members of the internationally active insurance  
40 group are domiciled, compelling development and implementation of  
41 reasonable measures designed to ensure that the internationally active  
42 insurance group is able to timely recognize and mitigate enterprise risks to  
43 members of such internationally active insurance group that are engaged in

1 the business of insurance;

2 (4) communicating with other state, federal and international  
3 regulatory agencies for members within the internationally active  
4 insurance group and sharing relevant information subject to the  
5 confidentiality provisions of K.S.A. 40-3308, and amendments thereto,  
6 through supervisory colleges as set forth in K.S.A. 40-3316, and  
7 amendments thereto, or otherwise;

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

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

22 (f) If the commissioner acknowledges that another regulatory official  
23 from a jurisdiction that is not accredited by the national association of  
24 insurance commissioners is the group-wide supervisor, the commissioner  
25 is authorized to reasonably cooperate, through supervisory colleges or  
26 otherwise, with group-wide supervision undertaken by the group-wide  
27 supervisor, provided that:

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

30 (2) the regulatory official acknowledged as the group-wide supervisor  
31 also recognizes and cooperates with the commissioner's activities as a  
32 group-wide supervisor for other internationally active insurance groups  
33 where applicable. Where such recognition and cooperation is not  
34 reasonably reciprocal, the commissioner is authorized to refuse recognition  
35 and cooperation.

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

42 (h) The commissioner may promulgate such rules and regulations as  
43 are necessary for the administration of this section. Such rules and

1 regulations shall be adopted no later than July 1, 2018.

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

6 **(j) This section shall be a part of and supplemental to the**  
7 **insurance holding company act.**

8 ~~New~~ {New} Sec. 2. (a) (1) Nothing in this section shall be construed  
9 to prescribe or impose corporate governance standards and internal  
10 procedures beyond those required by state corporate law. However,  
11 nothing in this section shall be construed to limit the commissioner's  
12 authority, or the rights and obligations of third parties under K.S.A. 40-  
13 222, and amendments thereto.

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

16 (b) As used in this section:

17 (1) "Commissioner" means the commissioner of insurance of the state  
18 of Kansas.

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

22 (3) "Insurance group" means those insurers and affiliates included  
23 within an insurance holding company system as defined in K.S.A. 40-  
24 3302, and amendments thereto.

25 (4) "Insurer" shall have the same meaning as set forth in K.S.A. 40-  
26 3302, and amendments thereto, except that it shall not include agencies,  
27 authorities or instrumentalities of the United States, its possessions and  
28 territories, the Commonwealth of Puerto Rico, the District of Columbia or  
29 a state or political subdivision of a state.

30 (5) "NAIC" means the national association of insurance  
31 commissioners.

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

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

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

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

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

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

28       (6) Insurers providing information substantially similar to the  
29 information required by this section in other documents provided to the  
30 commissioner, including proxy statements filed in conjunction with other  
31 state or federal filings or other requirements provided to the commissioner,  
32 shall not be required to duplicate that information in the CGAD, but shall  
33 only be required to cross reference the document in which the information  
34 is included.

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

38       (e) (1) The insurer or insurance group shall have discretion over the  
39 responses to the CGAD inquiries, provided the CGAD shall contain the  
40 material information necessary to permit the commissioner to gain an  
41 understanding of the insurer's or group's corporate governance structure,  
42 policies and practices. The commissioner may request additional  
43 information deemed material and necessary to provide the commissioner

1 with a clear understanding of the corporate governance policies, the  
2 reporting or information system or controls implementing those policies.

3 (2) The CGAD shall be prepared consistent with all department of  
4 insurance rules and regulations and documentation. Documentation  
5 supporting information shall be maintained and made available upon the  
6 commissioner's request.

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

28 (2) Neither the commissioner nor any person who received  
29 documents, materials or other CGAD-related information, through  
30 examination or otherwise, while acting under the authority of the  
31 commissioner, or with whom such documents, materials or other  
32 information are shared pursuant to this section, shall be permitted or  
33 required to testify in any private civil action concerning any confidential  
34 documents, materials or information subject to subsection (f)(1).

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

37 (A) May, upon request, share documents, materials or other CGAD-  
38 related information, including the confidential and privileged documents,  
39 materials or information subject to subsection (c)(1), including proprietary  
40 and trade secret documents and materials with other state, federal and  
41 international financial regulatory agencies, including members of any  
42 supervisory college as defined in K.S.A. 40-3308, and amendments  
43 thereto, with the NAIC and with third-party consultants pursuant to

1 subsection (g), provided that the recipient agrees in writing to maintain the  
2 confidentiality and privileged status of the CGAD-related documents,  
3 material or other information and has verified in writing the legal authority  
4 to maintain confidentiality; and

5 (B) may receive documents, materials or other CGAD-related  
6 information, including otherwise confidential and privileged documents,  
7 materials or information, including proprietary and trade secret  
8 information or documents, from regulatory officials of other state, federal  
9 and international financial regulatory agencies, including members of any  
10 supervisory college as defined in the insurance holding company act and  
11 from the NAIC, and shall maintain as confidential or privileged any  
12 documents, materials or information received with notice or the  
13 understanding that it is confidential or privileged under the laws of the  
14 jurisdiction that is the source of the document, material or information.

15 (4) The sharing of information and documents by the commissioner  
16 pursuant to this section shall not constitute a delegation of regulatory  
17 authority or rulemaking, and the commissioner is solely responsible for the  
18 administration, execution and enforcement of the provisions of this  
19 section.

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

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

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

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

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

40 (5) A written agreement with NAIC consultants or third-party  
41 consultants, or a combination of the same, governing sharing and use of  
42 information provided pursuant to this section shall contain the following  
43 provisions and expressly require the written consent of the insurer prior to



1 making the information public as provided under this section:

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

5 (B) procedures and protocols for sharing by the NAIC only with other  
6 state regulators from states in which the insurance group has domiciled  
7 insurers. The agreement shall provide that the recipient agrees in writing to  
8 maintain the confidentiality and privileged status of the CGAD-related  
9 documents, materials or other information and has verified in writing the  
10 legal authority to maintain confidentiality;

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

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

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

22 (F) a requirement that the NAIC or a third-party consultant consent to  
23 intervention by an insurer in any judicial or administrative action in which  
24 the NAIC or a third-party consultant may be required to disclose  
25 confidential information about the insurer shared with the NAIC or a third-  
26 party consultant pursuant to this section.

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

36 (i) If any provision of this section other than subsection (f), or the  
37 application thereof to any person or circumstance, is held invalid, such  
38 determination shall not affect the provisions or applications of this section,  
39 which can be given effect without the invalid provision or application, and  
40 to that end the provisions of this section, with the exception of subsection  
41 (f), are severable.

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

43 (k) The provisions of this section shall be effective on and after

1 January 1, 2018.

2 ~~Sec. 3.—K.S.A. 2016 Supp. 40-3305 is hereby amended to read as~~  
3 ~~follows: 40-3305. (a) Every insurer which is authorized to do business in~~  
4 ~~this state and which is a member of an insurance holding company system~~  
5 ~~shall register with the commissioner of insurance, except a foreign insurer~~  
6 ~~subject to registration requirements and standards adopted by statute or~~  
7 ~~regulation in the jurisdiction of its domicile which are substantially similar~~  
8 ~~to those contained in this section. Any insurer which is subject to~~  
9 ~~registration under this section shall register within 15 days after it becomes~~  
10 ~~subject to registration, and annually thereafter by May 1 of each year~~  
11 ~~unless the commissioner of insurance for good cause shown extends the~~  
12 ~~time for registration, and then within such extended time. The~~  
13 ~~commissioner of insurance may require any authorized insurer which is a~~  
14 ~~member of an insurance holding company system and which is not subject~~  
15 ~~to registration under this section to furnish a copy of the registration~~  
16 ~~statement, the summary specified in subsection (c) or other information~~  
17 ~~filed by such insurance company with the insurance regulatory authority of~~  
18 ~~domiciliary jurisdiction.~~

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

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

24 ~~(2) the identity and relationship of every member of the insurance~~  
25 ~~holding company system;~~

26 ~~(3) the following agreements in force and transactions currently~~  
27 ~~outstanding or which occurred during the last calendar year between such~~  
28 ~~insurer and its affiliates:~~

29 ~~(A) Loans, other investments, or purchases, sales or exchanges of~~  
30 ~~securities of the affiliates by the insurer or of the insurer by its affiliates;~~

31 ~~(B) purchases, sales, or exchanges of assets;~~

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

33 ~~(D) guarantees or undertakings for the benefit of an affiliate which~~  
34 ~~result in an actual contingent exposure of the insurer's assets to liability,~~  
35 ~~other than insurance contracts entered into in the ordinary course of the~~  
36 ~~insurer's business;~~

37 ~~(E) all management agreements, service contracts and cost sharing~~  
38 ~~arrangements;~~

39 ~~(F) reinsurance agreements;~~

40 ~~(G) dividends and other distributions to shareholders; and~~

41 ~~(H) consolidated tax allocation agreements;~~

42 ~~(4) other matters concerning transactions between registered insurers~~  
43 ~~and any affiliates as may be included from time to time in any registration~~

1 forms adopted or approved by the commissioner of insurance;

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

5 ~~(6) if requested by the commissioner of insurance, the insurer shall~~  
6 ~~include financial statements of or within an insurance holding company~~  
7 ~~system, including all affiliates. Financial statements may include, but are~~  
8 ~~not limited to, annual audited financial statements filed with the U.S.~~  
9 ~~securities and exchange commission (SEC) pursuant to the securities act of~~  
10 ~~1933, as amended, or the securities exchange act of 1934, as amended. An~~  
11 ~~insurer required to file financial statements pursuant to this paragraph may~~  
12 ~~satisfy the request by providing the commissioner of insurance with the~~  
13 ~~most recently filed parent corporation financial statements that have been~~  
14 ~~filed with the SEC;~~

15 ~~(7) statements that the insurer's board of directors and principal~~  
16 ~~officers oversee corporate governance and internal controls and that the~~  
17 ~~insurer's principal officers have approved, implemented and continue to~~  
18 ~~maintain and monitor corporate governance and internal control~~  
19 ~~procedures; and~~

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

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

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

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

41 ~~(f) Any person within an insurance holding company system subject~~  
42 ~~to registration shall provide complete and accurate information to an~~  
43 ~~insurer, where such information is reasonably necessary to enable the~~

1 insurer to comply with the provisions of this act.

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

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

8 (i) ~~The commissioner of insurance may allow an insurer which is~~  
9 ~~authorized to do business in this state and which is part of an insurance~~  
10 ~~holding company system to register on behalf of any affiliated insurer~~  
11 ~~which is required to register under subsection (a) and to file all~~  
12 ~~information and material required to be filed under this section.~~

13 (j) ~~The provisions of this section shall not apply to any information or~~  
14 ~~transaction if and to the extent the commissioner of insurance by rule and~~  
15 ~~regulation or order shall exempt the same from the provisions of this~~  
16 ~~section.~~

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

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

42 (2) ~~The ultimate controlling person of an insurer with total direct and~~  
43 ~~assumed annual premiums of less than \$300 million is not required to~~

1 submit an enterprise risk report.

2 ~~(m) The failure of an insurer or an ultimate controlling person of the~~  
3 ~~insurer to file a registration statement, any summary of the registration~~  
4 ~~statement or enterprise risk filing within the specified time for filing shall~~  
5 ~~be a violation by the insurer or by the ultimate controlling person of the~~  
6 ~~insurer, as applicable.~~

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

8 **{Sec. 3. K.S.A. 2016 Supp. 40-201a is hereby amended to read as**  
9 **follows: 40-201a. (a) The marketing, sale, offering for sale, issuance,**  
10 **making, proposing to make and administration of a service contract**  
11 **shall not be construed to be the business of insurance and shall be**  
12 **exempt from regulation as insurance pursuant to chapter 40 of the**  
13 **Kansas Statutes Annotated, and amendments thereto.**

14 **(b) For the purposes of this section;:**

15 **(1) "Service contract" means a contract or agreement for a**  
16 **separate or additional consideration, for any specified duration, to**  
17 **service, repair, replace or maintain all or any part of any structural**  
18 **component, appliance or utility system of any residential property,**  
19 **consumer good or other property; or to indemnify for service, repair,**  
20 **replacement or maintenance for consumer good or other property, due**  
21 **to a defect in materials, workmanship, normal wear and tear; or as a**  
22 **result of power surges or as a result of accidental damage from the**  
23 **handling of any consumer good or other property, with or without**  
24 **additional provision for indemnity payments, when service repair or**  
25 **replacement is not reasonably, commercially or economically feasible.**  
26 **A service contract may also include additional provisions for**  
27 **incidental payment of indemnity under limited circumstances,**  
28 **including, but not limited to, towing, rental and emergency road**  
29 **service.**

30 **(2) "Service contract" also includes any nonconsumer**  
31 **commercial service contract.**

32 **(3) "Service contract" does not include an automobile club**  
33 **service as defined in K.S.A. 40-2507, and amendments thereto.**

34 *(4) "Service contract" includes, but is not limited to, a contract that*  
35 *offers any one or more of the following services:*

36 *(A) The repair or replacement of tires or wheels on a motor vehicle*  
37 *damaged as a result of coming into contact with road hazards;*

38 *(B) the removal of dents, dings or creases on a motor vehicle that can*  
39 *be repaired using the process of painless dent removal without affecting*  
40 *the existing paint finish and without replacing vehicle body panels,*  
41 *sanding, bonding or painting; and*

42 *(C) the replacement of a motor vehicle key or key-fob in the event*  
43 *that the key or key-fob becomes inoperable or is lost or stolen.*

1       (5) *"Road hazard" means a hazard that is encountered while driving*  
2 *a motor vehicle, including, but not be limited to, potholes, rocks, wood*  
3 *debris, metal parts, glass, plastic, curbs or composite scraps.*

4       **(c) (1) No service contract~~which~~ that is exempt from regulation as**  
5 **insurance pursuant to chapter 40 of the Kansas Statutes Annotated,**  
6 **and amendments thereto, pursuant to this section shall contain any**  
7 **provision for consequential damages unless such consequential**  
8 **damages are caused by the failure of service, repair, replacement or**  
9 **maintenance rendered under the service contract.**

10       **(2) No service contract~~which~~ that is exempt from regulation as**  
11 **insurance pursuant to chapter 40 of the Kansas Statutes Annotated,**  
12 **and amendments thereto, pursuant to this section shall contain any**  
13 **provision, except as exempt by this section,~~which~~ that would**  
14 **otherwise be covered by a contract of property or liability insurance**  
15 **issued in this state.**

16       **Sec. 4. K.S.A. 2016 Supp. 40-201a is hereby repealed.}**

17       Sec. ~~5-3~~ {5.} This act shall take effect and be in force from and after  
18 its publication in the statute book.