

SENATE BILL No. 16

AN ACT concerning insurance; relating to the insurance holding company act; credit for reinsurance; exemption of certain service contracts from regulation as insurance; amending K.S.A. 2016 Supp. 40-201a and 40-221a and repealing the existing sections.

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

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

- (1) Does not have substantial insurance operations in the United States;
- (2) has substantial insurance operations in the United States, but not in this state; or
- (3) has substantial insurance operations in the United States and this state, but the commissioner has determined pursuant to the factors set forth in subsections (b) and (f) that the other regulatory official is the appropriate group-wide supervisor.

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

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

- (1) The place of domicile of the insurers within the internationally active insurance group that hold the largest share of the group's written premiums, assets or liabilities;
- (2) the place of domicile of the top-tiered insurers in the insurance holding company system of the internationally active insurance group;
- (3) the location of the executive offices or largest operational offices of the internationally active insurance group;
- (4) whether another regulatory official is acting or is seeking to act as the group-wide supervisor under a regulatory system that the commissioner determines to be:
  - (A) Substantially similar to the system of regulation provided under the laws of this state; or
  - (B) otherwise sufficient in terms of providing for group-wide supervision, enterprise risk analysis and cooperation with other regulatory officials; and
- (5) whether another regulatory official acting or seeking to act as the group-wide supervisor provides the commissioner with reasonably reciprocal recognition and cooperation.

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

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

- (1) The internationally active insurance group's insurers domiciled in

this state holding the largest share of the group's premiums, assets or liabilities; or

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

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

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

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

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

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

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

(A) Governance, risk assessment and management;

(B) capital adequacy; and

(C) material intercompany transactions;

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

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

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

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

(f) If the commissioner acknowledges that another regulatory official from a jurisdiction that is not accredited by the national association of

insurance commissioners is the group-wide supervisor, the commissioner is authorized to reasonably cooperate, through supervisory colleges or otherwise, with group-wide supervision undertaken by the group-wide supervisor, provided that:

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

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

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

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

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

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

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

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

(b) As used in this section:

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

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

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

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

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

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

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

(2) The CGAD must include a signature of the insurer or insurance group's chief executive officer or corporate secretary attesting to the best of that individual's belief and knowledge that the insurer has implemented the corporate governance practices and that a copy of the disclo-

sure has been provided to the insurer's board of directors or the appropriate committee of the insurer thereof.

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

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

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

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

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

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

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

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

(2) Neither the commissioner nor any person who received documents, materials or other CGAD-related information, through examina-

tion or otherwise, while acting under the authority of the commissioner, or with whom such documents, materials or other information are shared pursuant to this section, shall be permitted or required to testify in any private civil action concerning any confidential documents, materials or information subject to subsection (f)(1).

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

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

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

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

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

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

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

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

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

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

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

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

(C) a provision specifying that ownership of the CGAD-related in-

formation shared with the NAIC or a third-party consultant remains with the department of insurance and the NAIC or third-party consultant's use of the information is subject to the direction of the commissioner;

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

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

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

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

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

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

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

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

(b) For the purposes of this section:

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

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

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

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

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

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

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

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

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

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

Sec. 4. On and after January 1, 2018, K.S.A. 2016 Supp. 40-221a is hereby amended to read as follows: 40-221a. (a) ~~Any insurance company organized under the laws of this state may (1) with the consent of the commissioner of insurance, cede all of its risks to any other solvent insurance company authorized to transact business in this state or accept all of the risks of any other company, (2) accept all or any part of an individual risk or all or any part of a particular class of risks which it is authorized to insure, and (3) cede all or any part of an individual risk or all or any part of a particular class of risks to another solvent insurer or insurers having the power to accept such reinsurance.~~

(b) ~~Any insurance company organized under the laws of this state may take credit as an asset or as a deduction from loss and unearned premium reserves on such ceded risks to the extent reinsured by an insurer or insurers authorized to transact business in this state, but such credit on ceded risks reinsured by any insurer which is not authorized to transact business in this state may be taken in an amount not exceeding:~~

(1) ~~The amount of deposits by, and funds withheld from, the assuming insurer pursuant to express provision therefor in the reinsurance contract, as security for the payment of the obligations thereunder, if such deposits or funds are held subject to withdrawal by, and under the control of, the ceding insurer or are placed in trust for such purposes in a qualified United States financial institution, if withdrawals from such trust cannot be made without the consent of the ceding company;~~

(2) ~~the amount of a clean and irrevocable letter of credit issued by a qualified United States financial institution if such letter of credit is initially issued for a term of at least one year and by its terms is automatically renewed at each expiration date for at least an additional one-year term unless at least 30 days prior written notice of intention not to renew is given to the ceding company by the issuing qualified United States financial institution or the assuming company and provided that such letter of credit is issued under arrangements satisfactory to the commissioner of insurance as constituting security to the ceding insurer substantially equal to that of a deposit under paragraph (1) of this subsection; or~~

(3) ~~the amount of loss and unearned premium reserves on such ceded risks to an assuming insurer which maintains a trust fund in a qualified United States financial institution, as defined in (b)(3)(D), for the payment of the valid claims of its United States ceding insurers, their assigns and successors in interest. The assuming insurer shall report annually to the commissioner information substantially the same as that required to be reported on the national association of insurance commissioners annual statement form by licensed insurers to enable the commissioner to determine the sufficiency of the trust fund. In the case of a single assuming insurer, the trust shall consist of a trusteed account representing the assuming insurer’s liability attributable to business written in the United States and, in addition, the assuming insurer shall maintain a trusteed surplus of not less than \$20,000,000. In the case of a group including incorporated and individual unincorporated underwriters, the trust shall consist of a trusteed account representing the group’s liabilities attributable to business written in the United States and, in addition, the group shall maintain a trusteed surplus of which \$100,000,000 shall be held jointly for the benefit of United States ceding insurers of any member of the group, the incorporated members of the group shall not be engaged in any business other than underwriting as a member of the group and~~

shall be subject to the same level of solvency regulation and control by the group's domiciliary regulator as are the unincorporated members; and the group shall make available to the commissioner an annual certification of the solvency of each underwriter by the group's domiciliary regulator and its independent public accountants.

(A) ~~Such trust must be in a form approved by the commissioner of insurance. The trust instrument shall provide that contested claims shall be valid and enforceable upon the final order of any court of competent jurisdiction in the United States. The trust shall vest legal title to its assets in the trustees of the trust for its United States ceding insurers, their assigns and successors in interest. The trust and the assuming group or insurer shall be subject to examination as determined by the commissioner. The trust, described herein, must remain in effect for as long as the assuming group or insurer shall have outstanding obligations due under the reinsurance agreements subject to the trust.~~

(B) ~~No later than February 28 of each year the trustees of the trust shall report to the commissioner in writing setting forth the balance of the trust and listing the trust's investments at the preceding year end and shall certify the date of termination of the trust, if so planned, or certify that the trust shall not expire prior to the next following December 31.~~

(C) ~~The credit authorized under subsection (b)(3) shall not be allowed unless the assuming group or insurer agrees in the reinsurance agreements:~~

(i) ~~That in the event of the failure of the assuming group or insurer to perform its obligations under the terms of the reinsurance agreement, the assuming group or insurer, at the request of the ceding insurer, shall submit to the jurisdiction of any court of competent jurisdiction in any state of the United States, will comply with all requirements necessary to give such court jurisdiction, and will abide by the final decision of such court or of any appellate court in the event of an appeal, and~~

(ii) ~~to designate the commissioner or a designated attorney as its true and lawful attorney upon whom may be served any lawful process in any action, suit or proceeding instituted by or on behalf of the ceding company.~~

(iii) ~~This provision is not intended to conflict with or override the obligation of the parties to a reinsurance agreement to arbitrate their disputes, if such an obligation to do so is created in the agreement.~~

(D) (i) ~~For the purposes of paragraphs (1) and (3) of subsection (b), a "qualified United States financial institution" means, for purposes of those provisions of this law specifying those institutions that are eligible to act as a fiduciary of a trust, an institution that:~~

(aa) ~~Is organized, or (in the case of a U.S. branch or agency office of a foreign banking organization) licensed, under the laws of the United States or any state thereof and has been granted authority to operate with fiduciary powers; and~~

(bb) ~~is regulated, supervised and examined by federal or state authorities having regulatory authority over banks and trust companies.~~

(ii) ~~For the purposes of paragraph (2) of subsection (b), "qualified United States financial institution" means, for the purpose of those provisions of this law specifying those institutions that are eligible to issue a letter of credit, an institution that:~~

(aa) ~~Is organized or (in the case of a United States office of a foreign banking organization) licensed, under the laws of the United States or any state thereof;~~

(bb) ~~is regulated, supervised and examined by United States federal or state authorities having regulatory authority over banks and trust companies; and~~

(cc) ~~has been determined by the insurance commissioner to meet such standards of financial condition and standing as are considered necessary and appropriate to regulate the quality of financial institutions whose letters of credit will be acceptable to the commissioner.~~

~~In making determinations under this clause, the commissioner may consult with the securities valuation office of the national association of insurance commissioners.~~

(e) ~~No credit shall be allowed, as an admitted asset or deduction from liability, to any ceding insurer organized under the laws of this state for reinsurance, unless the reinsurance contract provides, in substance, that in the event of the insolvency of the ceding insurer, the reinsurance shall~~



be payable under a contract reinsured by the assuming insurer on the basis of the liability of the ceding company under the contract or contracts reinsured, as approved by the liquidation court, without diminution because of the insolvency of the ceding company. Any reinsurance agreement entered into with a domestic insurer which may be canceled on less than 90 days' notice, and which cancellation would constitute a material cancellation as defined by K.S.A. 40-2,156a, and amendments thereto, must provide in the reinsurance agreement, in substance, for a run-off of the reinsurance in force at the date of cancellation, unless the agreement is canceled for nonpayment of premium or fraud in the inducement. Reinsurance payments shall be made directly to the ceding insurer or to its domiciliary liquidator except: (1) Where the reinsurance contract or policy reinsured specifically provides another payee of such reinsurance in the event of the insolvency of the ceding insurer, or (2) where the assuming insurer, with the consent of the direct insured, has assumed such policy obligations of the ceding insurer as direct obligations of the assuming insurer to the payees under such policies and in substitution for the obligations of the ceding insurer to such payees.

(d) ~~The reinsurance agreement may provide that the domiciliary liquidator of an insolvent ceding insurer shall give written notice to the assuming insurer of the pendency of a claim against such ceding insurer on the contract reinsured within a reasonable time after such claim is filed in the liquidation proceeding. During the pendency of such claim, any assuming insurer may investigate such claim and interpose, at its own expense, in the proceeding where such claim is to be adjudicated any defenses which it deems available to the ceding insurer, or its liquidator. Such expense may be filed as a claim against the insolvent ceding insurer to the extent of a proportionate share of the benefit which may accrue to the ceding insurer solely as a result of the defense undertaken by the assuming insurer. Where two or more assuming insurers are involved in the same claim and a majority in interest elect to interpose a defense to such claim, the expense shall be apportioned in accordance with the terms of the reinsurance agreement as though such expense had been incurred by the ceding insurer. Credit for reinsurance shall be allowed a domestic ceding insurer as either an asset or a reduction from liability on account of reinsurance ceded only when the reinsurer meets the requirements of paragraphs (1), (2), (3), (4), (5) or (6). Credit shall be allowed under paragraphs (1), (2) or (3) of this subsection only as respects cessions of those kinds or classes of business that the assuming insurer is licensed or otherwise permitted to write or assume in its state of domicile or, in the case of a United States branch of an alien assuming insurer, in the state through which it is entered and licensed to transact insurance or reinsurance. Credit shall be allowed only under paragraphs (3) or (4) of this subsection if the applicable requirements of paragraph (7) have been satisfied.~~

(1) *Credit shall be allowed when the reinsurance is ceded to an assuming insurer that is licensed to transact insurance or reinsurance in this state.*

(2) *Credit shall be allowed when the reinsurance is ceded to an assuming insurer that is accredited by the commissioner as a reinsurer in this state. In order to be eligible for accreditation, an assuming insurer must:*

(A) *File with the commissioner evidence of the assuming insurer's submission to this state's jurisdiction;*

(B) *submit to this state's authority to examine the assuming insurer's books and records;*

(C) *be licensed to transact insurance or reinsurance in at least one state, or in the case of a United States branch of an alien assuming insurer, be entered through and licensed to transact insurance or reinsurance in at least one state;*

(D) *file annually with the commissioner a copy of the assuming insurer's annual statement filed with the insurance department of the assuming insurer's state of domicile and a copy of the assuming insurer's most recent audited financial statement; and*

(E) *demonstrate to the satisfaction of the commissioner that it has adequate financial capacity to meet the assuming insurer's reinsurance obligations and is otherwise qualified to assume reinsurance from domestic insurers. An assuming insurer is deemed to meet this requirement as*

of the time of the assuming insurer's application if it maintains a surplus as regards policyholders in an amount not less than \$20,000,000 and its accreditation has not been denied by the commissioner within 90 days after submission of its application.

(3) (A) Credit shall be allowed when the reinsurance is ceded to an assuming insurer that is domiciled in, or in the case of a United States branch of an alien assuming insurer is entered through, a state that employs standards regarding credit for reinsurance substantially similar to those applicable under this statute and the assuming insurer or United States branch of an alien assuming insurer:

(i) Maintains a surplus as regards policyholders in an amount not less than \$20,000,000; and

(ii) submits to the authority of this state to examine the assuming insurer's books and records.

(B) The requirement of subsection (a)(3)(A)(i) does not apply to reinsurance ceded and assumed pursuant to pooling arrangements among insurers in the same holding company system.

(4) (A) Credit shall be allowed when the reinsurance is ceded to an assuming insurer that maintains a trust fund in a qualified United States financial institution, as defined in subsection (c)(2), for the payment of the valid claims of the assuming insurer's United States ceding insurers, their assigns and successors in interest. To enable the commissioner to determine the sufficiency of the trust fund, the assuming insurer shall report annually to the commissioner information substantially the same as that required to be reported on the national association of insurance commissioners annual statement form by licensed insurers. The assuming insurer shall submit to examination of its books and records by the commissioner and bear the expense of examination;

(B) (i) credit for reinsurance shall not be granted under this subsection unless the form of the trust and any amendments to the trust have been approved by either of the following:

(a) The commissioner of the state where the trust is domiciled; or

(b) the commissioner of another state who, pursuant to the terms of the trust instrument, has accepted principal regulatory oversight of the trust.

(ii) The form of the trust and any trust amendments also shall be filed with the commissioner of every state in which the ceding insurer's beneficiaries of the trust are domiciled. The trust instrument shall provide that contested claims shall be valid and enforceable upon the final order of any court of competent jurisdiction in the United States. The trust shall vest legal title to the trust's assets in its trustees for the benefit of the assuming insurer's United States ceding insurers, their assigns and successors in interest. The trust and the assuming insurer shall be subject to examination as determined by the commissioner.

(iii) The trust shall remain in effect for as long as the assuming insurer has outstanding obligations due under the reinsurance agreements subject to the trust. No later than February 28 of each year, the trustee of the trust shall report to the commissioner in writing the balance of the trust and the listing of the trust's investments at the preceding year-end and shall certify the date of termination of the trust, if so planned, or certify that the trust will not expire prior to the following December 31.

(C) The following requirements apply to the following categories of the assuming insurer:

(i) The trust fund for a single assuming insurer shall consist of funds in trust in an amount not less than the assuming insurer's liabilities attributable to reinsurance ceded by United States ceding insurers, and, in addition, the assuming insurer shall maintain a trustee surplus of not less than \$20,000,000, except as provided in subsection (a)(4)(C)(ii).

(ii) At any time after the assuming insurer has permanently discontinued underwriting new business secured by the trust for at least three full years, the commissioner with principal regulatory oversight of the trust may authorize a reduction in the required trustee surplus, but only after a finding, based on an assessment of the risk, that the new required surplus level is adequate for the protection of United States ceding insurers, policyholders and claimants in light of reasonably foreseeable adverse loss development. The risk assessment may involve an actuarial review, including an independent analysis of reserves and cash flows, and shall consider all material risk factors, including, when applicable, the lines of

*business involved, the stability of the incurred loss estimates and the effect of the surplus requirements on the assuming insurer's liquidity or solvency. The minimum required trusteed surplus shall not be reduced to an amount less than 30% of the assuming insurer's liabilities attributable to reinsurance ceded by United States ceding insurers covered by the trust;*

*(iii) (a) in the case of a group including incorporated and individual unincorporated underwriters, all of the following requirements are met:*

*(1) For reinsurance ceded under reinsurance agreements with an inception, amendment or renewal date on or after January 1, 1993, the trust shall consist of a trusteed account in an amount not less than the respective underwriters' several liabilities attributable to business ceded by United States domiciled ceding insurers to any underwriter of the group;*

*(2) for reinsurance ceded under reinsurance agreements with an inception date on or before December 31, 1992, and not amended or renewed after that date, notwithstanding the other provisions of this act, the trust shall consist of a trusteed account in an amount not less than the respective underwriters' several insurance and reinsurance liabilities attributable to business written in the United States; and*

*(3) in addition to the trusts described in subsections (a)(4)(B)(iii)(a)(1) and (a)(4)(B)(iii)(a)(2), the group shall maintain in trust a trusteed surplus of which \$100,000,000 shall be held jointly for the benefit of the United States domiciled ceding insurers of any member of the group for all years of account.*

*(b) The incorporated members of the group shall not be engaged in any business other than underwriting as a member of the group and shall be subject to the same level of regulation and solvency control by the group's domiciliary regulator as are the unincorporated members of the group; and*

*(c) within 90 days after its financial statements are due to be filed with the group's domiciliary regulator, the group shall provide to the commissioner an annual certification by the group's domiciliary regulator of the solvency of each underwriter member, or if a certification is unavailable, financial statements prepared by independent public accountants of each underwriter member of the group.*

*(iv) In the case of a group of incorporated underwriters under common administration, the group shall meet all of the following requirements:*

*(a) Have continuously transacted an insurance business outside the United States for at least three years immediately prior to making application for accreditation;*

*(b) maintain an aggregate policyholders' surplus of at least \$10,000,000,000;*

*(c) maintain a trust fund in an amount not less than the group's several liabilities attributable to business ceded by United States domiciled ceding insurers to any member of the group pursuant to reinsurance contracts issued in the name of the group;*

*(d) in addition, maintain a joint trusteed surplus of which \$100,000,000 shall be held jointly for the benefit of United States domiciled ceding insurers of any member of the group as additional security for these liabilities; and*

*(e) within 90 days after the group's financial statements are due to be filed with the group's domiciliary regulator, make available to the commissioner an annual certification of each underwriter member's solvency by the member's domiciliary regulator and financial statements of each underwriter member of the group prepared by its independent public accountant.*

*(5) Credit shall be allowed when the reinsurance is ceded to an assuming insurer that has been certified by the commissioner as a reinsurer in this state and the reinsurer secures its obligations in accordance with the following requirements:*

*(A) In order to be eligible for certification, the assuming insurer shall meet all of the following requirements:*

*(i) Be domiciled and licensed to transact insurance or reinsurance in a qualified jurisdiction, as determined by the commissioner pursuant to subsection (a)(5)(C);*

*(ii) maintain minimum capital and surplus, or its equivalent, in an amount to be determined by the commissioner pursuant to regulation;*

(iii) maintain financial strength ratings from two or more rating agencies deemed acceptable by the commissioner pursuant to regulation;

(iv) agree to submit to the jurisdiction of this state, appoint the commissioner as the assuming insurer's agent for service of process in this state, and agree to provide security for 100% of the assuming insurer's liabilities attributable to reinsurance ceded by United States ceding insurers if the assuming insurer resists enforcement of a final United States judgment;

(v) agree to meet applicable information filing requirements as determined by the commissioner, both with respect to an initial application for certification and on an ongoing basis; and

(vi) satisfy any other requirements for certification deemed relevant by the commissioner.

(B) An association including incorporated and individual unincorporated underwriters may be a certified reinsurer. In order to be eligible for certification, in addition to satisfying the requirements of subsection (a)(5)(A) and all of the following requirements:

(i) The association shall satisfy its minimum capital and surplus requirements through the capital and surplus equivalents, net of liabilities, of the association and its members, which shall include a joint central fund that may be applied to any unsatisfied obligation of the association or any of its members, in an amount determined by the commissioner to provide adequate protection;

(ii) the incorporated members of the association shall not be engaged in any business other than underwriting as a member of the association and shall be subject to the same level of regulation and solvency control by the association's domiciliary regulator as are the unincorporated members of the association; and

(iii) within 90 days after the association's financial statements are due to be filed with the association's domiciliary regulator, the association shall provide to the commissioner an annual certification by the association's domiciliary regulator of the solvency of each underwriter member. If a certification is unavailable, financial statements prepared by independent public accountants of each underwriter member of the association shall be provided instead.

(C) The commissioner shall create and publish a list of qualified jurisdictions under which an assuming insurer licensed and domiciled in such jurisdiction is eligible to be considered for certification by the commissioner as a certified reinsurer.

(i) In order to determine whether the domiciliary jurisdiction of a non-United States assuming insurer is eligible to be recognized as a qualified jurisdiction, the commissioner shall evaluate the appropriateness and effectiveness of the reinsurance supervisory system of the jurisdiction, both initially and on an ongoing basis, and consider the rights, benefits and the extent of reciprocal recognition afforded by the non-United States jurisdiction to reinsurers licensed and domiciled in the United States. In order to be recognized as a qualified jurisdiction, a jurisdiction must agree to share information and cooperate with the commissioner with respect to all certified reinsurers domiciled within that jurisdiction. A jurisdiction shall not be recognized as a qualified jurisdiction if the commissioner has determined that the jurisdiction does not adequately and promptly enforce final United States judgments and arbitration awards. Additional factors may be considered in the discretion of the commissioner.

(ii) A list of qualified jurisdictions shall be published through the national association of insurance commissioners' process. The commissioner shall consider this list in determining qualified jurisdictions. If the commissioner recognizes a jurisdiction as qualified that does not appear on the list of qualified jurisdictions, the commissioner shall provide thoroughly documented justification in accordance with criteria to be developed under rules and regulations.

(iii) United States jurisdictions that meet the requirement for accreditation under the national association of insurance commissioners' financial standards and accreditation program shall be recognized as qualified jurisdictions.

(iv) If a certified reinsurer's domiciliary jurisdiction ceases to be a qualified jurisdiction, the commissioner has the discretion to suspend the reinsurer's certification indefinitely, in lieu of revocation.

(D) The commissioner shall assign a rating to each certified reinsurer,

*giving due consideration to the financial strength ratings that have been assigned by rating agencies deemed acceptable to the commissioner pursuant to rules and regulations. The commissioner shall publish a list of all certified reinsurers and their ratings.*

*(E) A certified reinsurer shall secure obligations assumed from United States ceding insurers under this subsection at a level consistent with the certified reinsurer's rating, as specified in rules and regulations promulgated by the commissioner.*

*(i) In order for a domestic ceding insurer to qualify for full financial statement credit for reinsurance ceded to a certified reinsurer, the certified reinsurer shall maintain security in a form acceptable to the commissioner and consistent with the provisions of subsection (b), or in a multi-beneficiary trust in accordance with subsection (a)(4), except as otherwise provided in this subsection.*

*(ii) If a certified reinsurer maintains a trust to fully secure its obligations subject to subsection (a)(4), and chooses to secure its obligations incurred as a certified reinsurer in the form of a multi-beneficiary trust, the certified reinsurer shall maintain separate trust accounts for its obligations incurred under reinsurance agreements issued or renewed as a certified reinsurer with reduced security as permitted by this subsection or comparable laws of other United States jurisdictions and for its obligations subject to subsection (a)(4). It shall be a condition to the grant of certification under subsection (a)(5) that the certified reinsurer shall have bound itself, by the language of the trust and agreement with the commissioner who has principal regulatory oversight of each such trust account, to fund, upon termination of any such trust account, any deficiency of any other such trust account out of the remaining surplus of the terminated trust account.*

*(iii) The minimum trustee surplus requirements provided in subsection (a)(4) are not applicable with respect to a multi-beneficiary trust maintained by a certified reinsurer for the purpose of securing obligations incurred under this subsection, except that such trust shall maintain a minimum trustee surplus of \$10,000,000.*

*(iv) With respect to obligations incurred by a certified reinsurer under this subsection, if the security is insufficient, the commissioner shall reduce the allowable credit by an amount proportionate to the deficiency, and the commissioner has the discretion to impose further reductions in allowable credit upon finding there is a material risk that the certified reinsurer's obligations will not be paid in full when due.*

*(v) For purposes of this subsection, a certified reinsurer whose certification has been terminated for any reason shall be treated as a certified reinsurer required to secure 100% of its obligations.*

*(a) As used in this paragraph, the term "terminated" includes revocation, suspension, voluntary surrender and inactive status.*

*(b) If the commissioner continues to assign a higher rating as permitted by other provisions of this subsection, this requirement does not apply to a certified reinsurer in inactive status or to a reinsurer whose certification has been suspended.*

*(F) If an assuming insurer applying for certification as a reinsurer in this state has been certified as a reinsurer in another jurisdiction accredited by the national association of insurance commissioners, the commissioner has the discretion to defer to that jurisdiction's certification, and has the discretion to defer to the rating assigned by that jurisdiction, and such assuming insurer shall be considered to be a certified reinsurer in this state.*

*(G) A certified reinsurer that ceases to assume new business in this state may request to maintain the reinsurer's certification in inactive status in order to continue to qualify for a reduction in amount of security required for the reinsurer's in force business. An inactive certified reinsurer shall continue to comply with all applicable requirements of this subsection, and the commissioner shall assign a rating that takes into account, if relevant, the reasons why the reinsurer is not assuming new business.*

*(6) Credit shall be allowed when the reinsurance is ceded to an assuming insurer that does not meet the requirements of subsections (a)(1) through (a)(5), but only as to the insurance of risks located in jurisdictions where the reinsurance is required by applicable law or regulation of that jurisdiction.*

(7) *If the assuming insurer is not licensed, accredited or certified to transact insurance or reinsurance in this state, the credit permitted by subsections (a)(3) and (a)(4) of this section shall not be allowed, unless the assuming insurer agrees in the reinsurance agreement to do all of the following:*

(A) (i) *In the event of the failure of the assuming insurer to perform its obligations under the terms of the reinsurance agreement, the assuming insurer, at the request of the ceding insurer, will: Submit to the jurisdiction of any court of competent jurisdiction in any state of the United States; comply with all requirements necessary to give the court jurisdiction; and abide by the final decision of the court or of any appellate court in the event of an appeal; and*

(ii) *the assuming insurer will designate the commissioner or a designated attorney as its true and lawful attorney to receive lawful process in any action, suit or proceeding instituted by or on behalf of the ceding insurer.*

(B) *This subsection is not intended to conflict with or override the obligation of the parties to a reinsurance agreement to arbitrate their disputes, if the obligation is created in the agreement.*

(8) *If the assuming insurer does not meet the requirements of subsection (a)(1), (a)(2) or (a)(3), the credit permitted by subsection (a)(4) or (a)(5) shall not be allowed unless the assuming insurer agrees in a trust agreement to the following conditions:*

(A) *Notwithstanding any other provisions in the trust instrument, if the trust fund is inadequate because the trust fund contains an amount less than the amount required by subsection (a)(4)(C), or if the grantor of the trust has been declared insolvent or has been placed into receivership, rehabilitation, liquidation or similar proceedings under the laws of the trust's state or country of domicile, the trustee shall comply with an order of the commissioner with regulatory oversight over the trust or with an order of a court of competent jurisdiction directing the trustee to transfer all of the assets of the trust fund to the commissioner with regulatory oversight over the trust.*

(B) *The assets shall be distributed and claims shall be filed with and valued by the commissioner with regulatory oversight in accordance with the laws of the state in which the trust is domiciled that are applicable to the liquidation of domestic insurance companies.*

(C) *If the commissioner with regulatory oversight over the trust determines that the assets of the trust fund or any part of the trust fund are not necessary to satisfy the claims of the United States ceding insurers of the grantor of the trust, the assets of the trust or part of those assets shall be returned by the commissioner with regulatory oversight over the trust to the trustee for distribution in accordance with the trust agreement.*

(D) *The grantor shall waive any right otherwise available to it under United States law that is inconsistent with the provisions of this subsection.*

(9) *Credit for reinsurance ceded to a certified reinsurer is limited to reinsurance contracts entered or renewed on or after the effective date of the certification of the assuming insurer by the commissioner.*

(10) *If an accredited or certified reinsurer ceases to meet the requirements of this section for accreditation or certification, the commissioner may suspend or revoke the reinsurer's accreditation or certification.*

(A) *The commissioner shall give the reinsurer notice and opportunity for a hearing prior to such suspension or revocation. The suspension or revocation shall not take effect until after the commissioner's order on hearing, unless one of the following applies:*

(i) *The reinsurer waives its right to a hearing;*

(ii) *the commissioner's order is based on regulatory action by the reinsurer's domiciliary jurisdiction or by the voluntary surrender or termination of the reinsurer's eligibility to transact insurance or reinsurance business in its domiciliary jurisdiction or in the primary certifying state of the reinsurer under subsection (a)(5)(F); or*

(iii) *the commissioner finds that an emergency requires immediate action and a court of competent jurisdiction has not stayed the commissioner's action.*

(B) *While a reinsurer's accreditation or certification is suspended, a reinsurance contract issued or renewed after the effective date of the suspension does not qualify for credit, except to the extent that the reinsurer's*

*obligations under the reinsurance contract are secured in accordance with subsection (b). If a reinsurer's accreditation or certification is revoked, credit for reinsurance shall not be granted after the effective date of the revocation, except to the extent that the reinsurer's obligations under the contract are secured in accordance with subsection (a)(5)(A) or (a)(5)(B).*

(11) (A) *A domestic ceding insurer shall take steps to manage its reinsurance recoverables proportionate to its own book of business. A domestic ceding insurer shall notify the commissioner within 30 days after reinsurance recoverables from any single assuming insurer, or group of affiliated assuming insurers, exceeds 50% of the domestic ceding insurer's last reported surplus to policyholders, or after it is determined that reinsurance recoverables from any single assuming insurer, or group of affiliated assuming insurers, is likely to exceed this limit. The notification shall demonstrate that the exposure is safely managed by the domestic ceding insurer.*

(B) *A domestic ceding insurer shall take steps to diversify its reinsurance program. A domestic ceding insurer shall notify the commissioner within 30 days after ceding to any single assuming insurer, or group of affiliated assuming insurers, more than 20% of the ceding insurer's gross written premium in the prior calendar year, or after the domestic ceding insurer has determined that the reinsurance ceded to any single assuming insurer, or group of affiliated assuming insurers, is likely to exceed this limit. The notification shall demonstrate that the exposure is safely managed by the domestic ceding insurer.*

(b) *An asset or a reduction from liability for the reinsurance ceded by a domestic insurer to an assuming insurer not meeting the requirements of subsection (a) shall be allowed in an amount not exceeding the liabilities carried by the ceding insurer. The reduction shall be in the amount of funds held by or on behalf of the ceding insurer, including funds held in trust for the ceding insurer, under a reinsurance contract with the assuming insurer as security for the payment of obligations under the contract, if the security is held in the United States subject to withdrawal solely by, and under the exclusive control of, the ceding insurer; or, in the case of a trust, held in a qualified United States financial institution, as defined in subsection (c)(2). The security may be in the form of any of the following:*

(1) *Cash;*

(2) *a security listed by the securities valuation office of the national association of insurance commissioners, including those securities deemed exempt from filing as defined by the purposes and procedures manual of the national association of insurance commissioners investment analysis office, and qualifying as admitted assets;*

(3) (A) *clean, irrevocable, unconditional letters of credit, issued or confirmed by a qualified United States financial institution, as defined in subsection (c)(1), effective no later than December 31 of the year for which the filing is being made, and in the possession of, or in trust for, the ceding insurer on or before the filing date of the ceding insurer's annual statement; or*

(B) *a letter of credit meeting applicable standards of issuer acceptability as of the date of the letter of credit's issuance, or confirmation, shall, notwithstanding the issuing or confirming, institution's subsequent failure to meet applicable standards of issuer acceptability, continue to be acceptable as security until their expiration, extension, renewal, modification or amendment, whichever first occurs; or*

(4) *any other form of security acceptable to the commissioner.*

(c) (1) *For purposes of subsection (b)(3), a "qualified United States financial institution" means an institution that meets all of the following requirements:*

(A) *Is organized or, in the case of a United States office of a foreign banking organization, licensed under the laws of the United States or any state thereof;*

(B) *is regulated, supervised and examined by United States federal or state authorities having regulatory authority over banks and trust companies; and*

(C) *has been determined by either the commissioner or the securities valuation office of the national association of insurance commissioners to meet the standards of financial condition and standing as are considered*

*necessary and appropriate to regulate the quality of financial institutions whose letters of credit will be acceptable to the commissioner.*

(2) *For purposes of those provisions of this law specifying those institutions that are eligible to act as a fiduciary of a trust, a “qualified United States financial institution” means an institution that meets all of the following requirements:*

(i) *Is organized, or in the case of a United States branch or agency office of a foreign banking organization, is licensed under the laws of the United States or any state of the United States and has been granted authority to operate with fiduciary powers; and*

(ii) *is regulated, supervised and examined by federal or state authorities having regulatory authority over banks and trust companies.*

(d) *The commissioner is hereby authorized to adopt any rules and regulations necessary to implement the provisions of this law. Such rules and regulations shall be adopted no later than January 1, 2019.*

(e) *This section shall apply to all cessions under reinsurance contracts that occur on or after January 1, 2018.*

Sec. 5. K.S.A. 2016 Supp. 40-201a is hereby repealed.

Sec. 6. On and after January 1, 2018, K.S.A. 2016 Supp. 40-221a is hereby repealed.

Sec. 7. 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 SENATE, and passed that body

\_\_\_\_\_  
SENATE adopted  
Conference Committee Report \_\_\_\_\_

\_\_\_\_\_  
*President of the Senate.*

\_\_\_\_\_  
*Secretary of the Senate.*

Passed the HOUSE  
as amended \_\_\_\_\_

HOUSE adopted  
Conference Committee Report \_\_\_\_\_

\_\_\_\_\_  
*Speaker of the House.*

\_\_\_\_\_  
*Chief Clerk of the House.*

APPROVED \_\_\_\_\_

\_\_\_\_\_  
*Governor.*