

HOUSE BILL No. 2537

By Committee on Insurance

1-30

1 AN ACT concerning insurance; relating to disclosure statements contained
2 in policy documents and explanatory materials printed in any language
3 other than English; *relating to the confidentiality of certain*
4 *documents; relating to the continuation of health insurance for*
5 *certain emergency personnel; {relating to the continuation of health*
6 *insurance for spouse and children of employees of the department of*
7 *corrections;} amending K.S.A. 2013 Supp. 40-216 ~~and~~ 40-222 ~~{and~~
8 ~~40-2140}~~ and repealing the existing ~~section~~ sections.
9*

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

11 Section 1. K.S.A. 2013 Supp. 40-216 is hereby amended to read as
12 follows: 40-216. (a) (1) No insurance company shall hereafter transact
13 business in this state until certified copies of its charter and amendments
14 thereto shall have been filed with and approved by the commissioner of
15 insurance. A copy of the bylaws and amendments thereto of insurance
16 companies organized under the laws of this state shall also be filed with
17 and approved by the commissioner of insurance. The commissioner may
18 also require the filing of such other documents and papers as are necessary
19 to determine compliance with the laws of this state.

20 (2) (A) Except as provided in subparagraph (B), each contract of
21 insurance or indemnity issued or delivered in this state shall be effective
22 on filing, or any subsequent date selected by the insurer, unless the
23 commissioner disapproves such contract of insurance or indemnity within
24 30 days after filing because the contract of insurance or indemnity does
25 not comply with Kansas law.

26 (B) The following contracts of insurance or indemnity shall not be
27 subject to the provisions of subsection (A):

28 (i) Contracts pertaining to large risks as defined in subsection (i) of
29 K.S.A. 40-955, and amendments thereto, which are exempt from the filing
30 requirements of this section;

31 (ii) personal lines contracts filed in accordance with paragraph (3) of
32 this section;

33 (iii) any form filing for the basic coverage required by K.S.A. 40-
34 3401 et seq., and amendments thereto; and

1 (iv) form filing for workers compensation.

2 No form filing listed in clauses (iii) and (iv) of this subparagraph shall
3 be used in this state by any insurer until such form filing has been
4 approved by the commissioner.

5 (3) Each personal lines contract of insurance or indemnity issued or
6 delivered in this state shall be on file for a period of 30 days before
7 becoming effective unless the commissioner disapproves such personal
8 lines contract of insurance or indemnity within 30 days after filing because
9 the contract of insurance or indemnity does not comply with Kansas law.
10 For the purposes of this paragraph, the term "personal lines" shall mean
11 insurance for noncommercial automobile, homeowners, dwelling, fire and
12 renters insurance policies as defined by the commissioner by rules and
13 regulations.

14 (4) Under such rules and regulations as the commissioner of
15 insurance shall adopt, the commissioner may, by written order, suspend or
16 modify the requirement of filing forms of contracts of insurance or
17 indemnity, which cannot practicably be filed before they are used. Such
18 orders, rules and regulations shall be made known to insurers and rating
19 organizations affected thereby. The commissioner may make an
20 examination to ascertain whether any forms affected by such order meet
21 the standards of this code.

22 (5) The failure of any insurance company to comply with this section
23 shall not constitute a defense to any action brought on its contracts. An
24 insurer may satisfy its obligation to file its contracts of insurance or
25 indemnity either individually or by authorizing the commissioner to accept
26 on its behalf the filings made by a licensed rating organization or another
27 insurer.

28 (b) The commissioner of insurance shall allow any insurance
29 company authorized to transact business in this state to deliver to any
30 person in this state any contract of insurance or indemnity, including any
31 explanatory materials, written in any language other than the English
32 language under the following conditions:

33 (1) The insured or applicant for insurance who is given a copy of the
34 same contract of insurance or indemnity or explanatory materials written
35 in the English language;

36 (2) the English language version of the contract for insurance or
37 indemnity or explanatory materials delivered shall be the controlling
38 version; and

39 (3) any contract of insurance or indemnity or explanatory materials
40 written in any language other than English shall contain a disclosure
41 statement ~~in 10 point boldface type~~, printed in both the English language
42 and the other language used, stating the English version of the contract of
43 insurance or indemnity is the official or controlling version and that the

1 version is written in any language other than English is furnished for
2 informational purposes only.

3 (c) All contracts of insurance or indemnity that are required to be
4 filed with the commissioner of insurance shall be accompanied by any
5 version of such contract of insurance or indemnity written in any language
6 other than the English language.

7 (d) Any insurance company or insurer, including any agent or
8 employee thereof, who knowingly misrepresents the content of a contract
9 of insurance or indemnity or explanatory materials written in a language
10 other than the English language shall be deemed to have violated the
11 unfair trade practice law.

12 (e) For the purposes of this section, the term "contract of insurance or
13 indemnity" shall include any rider, endorsement or application pertaining
14 to such contract of insurance or indemnity.

15 (f) (1) If at any time after a filing becomes effective, the
16 commissioner finds that such filing does not comply with this act, after the
17 commissioner shall send written notice to every insurer and rating
18 organization making such filing that a hearing concerning such filing will
19 be held in not less than 10 days.

20 (2) After the hearing, the commissioner shall issue an order stating:

21 (A) The reasons why such filing failed to comply with the act; and

22 (B) the date, within a reasonable time after the date the order is
23 issued, upon which such filing shall no longer be effective.

24 (3) A copy of the commissioner's order shall be sent to every insurer
25 and rating organization that made such filing.

26 (4) No order issued pursuant to this subsection shall affect any
27 contract or policy made or issued under such filing prior to the date
28 specified upon which such filing shall no longer be effective.

29 ***Sec. 2. K.S.A. 2013 Supp. 40-222 is hereby amended to read as***
30 ***follows: 40-222. (a) Whenever the commissioner of insurance deems it***
31 ***necessary but at least once every five years, the commissioner may make,***
32 ***or direct to be made, a financial examination of any insurance company***
33 ***in the process of organization, or applying for admission or doing***
34 ***business in this state. In addition, at the commissioner's discretion the***
35 ***commissioner may make, or direct to be made, a market regulation***
36 ***examination of any insurance company doing business in this state.***

37 ***(b) In scheduling and determining the nature, scope and frequency***
38 ***of examinations of financial condition, the commissioner shall consider***
39 ***such matters as the results of financial statement analyses and ratios,***
40 ***changes in management or ownership, actuarial opinions, reports of***
41 ***independent certified public accountants and other criteria as set forth***
42 ***in the examiner's handbook adopted by the national association of***
43 ***insurance commissioners and in effect when the commissioner exercises***

1 *discretion under this subsection.*

2 *(c) For the purpose of such examination, the commissioner of*
3 *insurance or the persons appointed by the commissioner, for the purpose*
4 *of making such examination shall have free access to the books and*
5 *papers of any such company that relate to its business and to the books*
6 *and papers kept by any of its agents and may examine under oath, which*
7 *the commissioner or the persons appointed by the commissioner are*
8 *empowered to administer, the directors, officers, agents or employees of*
9 *any such company in relation to its affairs, transactions and condition.*

10 *(d) The commissioner may also examine or investigate any person,*
11 *or the business of any person, in so far as such examination or*
12 *investigation is, in the sole discretion of the commissioner, necessary or*
13 *material to the examination of the company, but such examination or*
14 *investigation shall not infringe upon or extend to any communications*
15 *or information accorded privileged or confidential status under any*
16 *other laws of this state.*

17 *(e) In lieu of examining the financial condition of a foreign or*
18 *alien insurance company, the commissioner of insurance may accept the*
19 *report of the examination made by or upon the authority of the*
20 *company's state of domicile or port-of-entry state until January 1, 1994.*
21 *Thereafter, such reports as they relate to financial condition may only be*
22 *accepted if:*

23 *(1) The insurance department conducting the examination was at*
24 *the time of the examination accredited under the national association of*
25 *insurance commissioners' financial regulation standards and*
26 *accreditation program; or*

27 *(2) the examination is performed under the supervision of an*
28 *accredited insurance department, or with the participation of one or*
29 *more examiners who are employed by such an accredited insurance*
30 *department and who after a review of the examination work papers and*
31 *report state under oath that the examination was performed in a manner*
32 *consistent with the standards and procedures required by their*
33 *insurance department.*

34 *(f) Upon determining that an examination should be conducted, the*
35 *commissioner or the commissioner's designee shall appoint one or more*
36 *examiners to perform the examination and instruct them as to the scope*
37 *of the examination. In conducting an examination of financial*
38 *condition, the examiner shall observe those guidelines and procedures*
39 *set forth in the examiners' handbook adopted by the national association*
40 *of insurance commissioners. The commissioner may also employ such*
41 *other guidelines or procedures as the commissioner may deem*
42 *appropriate.*

43 *(g) The refusal of any company, by its officers, directors, employees*

1 *or agents, to submit to examination or to comply with any reasonable*
2 *written request of the examiners shall be grounds for suspension or*
3 *refusal of, or nonrenewal of any license or authority held by the*
4 *company to engage in an insurance or other business subject to the*
5 *commissioner's jurisdiction. Any such proceedings for suspension,*
6 *revocation or refusal of any license or authority shall be conducted in*
7 *accordance with the provisions of the Kansas administrative procedure*
8 *act.*

9 *(h) When making an examination under this act, the commissioner*
10 *may retain attorneys, appraisers, independent actuaries, independent*
11 *certified public accountants or other professionals and specialists as*
12 *examiners, the reasonable cost of which shall be borne by the company*
13 *which is the subject of the examination.*

14 *(i) Nothing contained in this act shall be construed to limit the*
15 *commissioner's authority to terminate or suspend any examination in*
16 *order to pursue other legal or regulatory action pursuant to the*
17 *insurance laws of this state.*

18 *(j) Nothing contained in this act shall be construed to limit the*
19 *commissioner's authority to use and, if appropriate, to make public any*
20 *final or preliminary examination report in the furtherance of any legal*
21 *or regulatory action which the commissioner may, in the commissioner's*
22 *sole discretion, deem appropriate.*

23 *(k) (1) No later than 30 days following completion of the*
24 *examination or at such earlier time as the commissioner shall prescribe,*
25 *the examiner in charge shall file with the department a verified written*
26 *report of examination under oath. No later than 30 days following*
27 *receipt of the verified report, the department shall transmit the report to*
28 *the company examined, together with a notice which shall afford such*
29 *company examined a reasonable opportunity of not more than 30 days*
30 *to make a written submission or rebuttal with respect to any matters*
31 *contained in the examination report.*

32 *(2) Within 30 days of the end of the period allowed for the receipt of*
33 *written submissions or rebuttals, the commissioner shall fully consider*
34 *and review the report, together with any written submissions or rebuttals*
35 *and any relevant portions of the examiners workpapers and enter an*
36 *order:*

37 *(A) Adopting the examination report as filed or with modification*
38 *or corrections. If the examination report reveals that the company is*
39 *operating in violation of any law, regulation or prior order of the*
40 *commissioner, the commissioner may order the company to take any*
41 *action the commissioner considers necessary and appropriate to cure*
42 *such violations; or*

43 *(B) rejecting the examination report with directions to the*

1 *examiners to reopen the examination for purposes of obtaining*
2 *additional data, documentation or information, and refiling pursuant to*
3 *subsection (k); or*

4 *(C) call and conduct a fact-finding hearing in accordance with*
5 *K.S.A. 40-281, and amendments thereto, for purposes of obtaining*
6 *additional documentation, data, information and testimony.*

7 *(3) All orders entered as a result of revelations contained in the*
8 *examination report shall be accompanied by findings and conclusions*
9 *resulting from the commissioner's consideration and review of the*
10 *examination report, relevant examiner workpapers and any written*
11 *submissions or rebuttals. Within 30 days of the issuance of the adopted*
12 *report, the company shall file affidavits executed by each of its directors*
13 *stating under oath that they have received a copy of the adopted report*
14 *and related orders.*

15 *(4) Upon the adoption of the examination report, the commissioner*
16 *shall hold the content of the examination report as private and*
17 *confidential information for a period of 30 days except to the extent*
18 *provided in paragraph (5). Thereafter, the commissioner may open the*
19 *report for public inspection so long as no court of competent jurisdiction*
20 *has stayed its publication.*

21 *(5) (A) Except as provided in paragraph (B), nothing contained in*
22 *this act shall prevent or be construed as prohibiting the commissioner*
23 *from disclosing the content of an examination report, preliminary*
24 *examination report or results, or any matter relating thereto, at any time*
25 *to:*

- 26 *(i) The insurance department of this or any other state or country;*
27 *(ii) law enforcement officials of this or any other state or agency of*
28 *the federal government or any other country; or*
29 *(iii) officials of any agency of another country.*

30 *(B) The commissioner shall not share any information listed in*
31 *paragraph (A) unless the agency or office receiving the report or matters*
32 *relating thereto agrees in writing to hold it confidential and in a manner*
33 *consistent with this act.*

34 *(6) In the event the commissioner determines that regulatory action*
35 *is appropriate as a result of any examination, the commissioner may*
36 *initiate any proceedings or actions as provided by law.*

37 *(7) All working papers, recorded information, documents and*
38 *copies thereof produced by, obtained by or disclosed to the commissioner*
39 *or any other person in the course of an examination made under this act*
40 *including analysis by the commissioner pertaining to either the financial*
41 *condition or the market regulation of a company must be given*
42 *confidential treatment and are not subject to subpoena and may not be*
43 *made public by the commissioner or any other person, except to the*

1 *extent otherwise specifically provided in K.S.A. 45-215 et seq., and*
2 *amendments thereto. Access may also be granted to the national*
3 *association of insurance commissioners and its affiliates. Such parties*
4 *must agree in writing prior to receiving the information to provide to it*
5 *the same confidential treatment as required by this section, unless the*
6 *prior written consent of the company to which it pertains has been*
7 *obtained.*

8 (8) *Whenever it appears to the commissioner of insurance from*
9 *such examination or other satisfactory evidence that the solvency of any*
10 *such insurance company is impaired, or that it is doing business in*
11 *violation of any of the laws of this state, or that its affairs are in an*
12 *unsound condition so as to endanger its policyholders, the commissioner*
13 *of insurance shall give the company a notice and an opportunity for a*
14 *hearing in accordance with the provisions of the Kansas administrative*
15 *procedure act. If the hearing confirms the report of the examination, the*
16 *commissioner shall suspend the certificate of authority of such company*
17 *until its solvency shall have been fully restored and the laws of the state*
18 *fully complied with. The commissioner may, if there is an unreasonable*
19 *delay in restoring the solvency of such company and in complying with*
20 *the law, revoke the certificate of authority of such company to do*
21 *business in this state. Upon revoking any such certificate the*
22 *commissioner shall commence an action to dissolve such company or to*
23 *enjoin the same from doing or transacting business in this state.*

24 *New Sec. 3. (a) (1) Except as provided in paragraph (2), whenever a*
25 *municipality provides for the payment of premiums for any health*
26 *benefit plan for its emergency personnel, it shall pay premiums for the*
27 *continuation of coverage under COBRA for the surviving spouse and*
28 *eligible dependent children under the age of 26 years of any emergency*
29 *personnel who dies in the line of duty. Premiums for continuation of*
30 *coverage under COBRA shall be paid for 18 months.*

31 (2) *A municipality may not be required to pay the premiums*
32 *described in paragraph (1) for a surviving spouse:*

33 (A) *On or after the end of the 18th calendar month after the date of*
34 *death of the deceased emergency personnel;*

35 (B) *upon the remarriage of the deceased emergency personnel's*
36 *surviving spouse; or*

37 (C) *upon the deceased emergency personnel's surviving spouse*
38 *reaching the age of 65.*

39 (b) *For the purposes of this section:*

40 (1) *"Emergency personnel" means an attendant as such term is*
41 *defined in K.S.A. 65-6112, and amendments thereto.*

42 (2) *"Health benefit plan" shall have the meaning ascribed to it in*
43 *K.S.A. 40-4602, and amendments thereto.*

1 (3) "Municipality" means a city or county.

2 {Sec. 4. K.S.A. 2013 Supp. 40-2140 is hereby amended to read as
 3 follows: 40-2140. (a) (1) Except as provided in paragraph (2), whenever
 4 a state agency or municipality provides for the payment of premiums for
 5 any health benefit plan for law enforcement officers employed by such
 6 state agency or such municipality, the state agency or municipality shall
 7 pay premiums for the continuation of coverage under COBRA for the
 8 surviving spouse and eligible dependent children under the age of 26
 9 years of a law enforcement officer who dies in the line of duty.
 10 Premiums for continuation of coverage under COBRA shall be paid for
 11 18 months.

12 (2) Neither the state agency nor the municipality may be required to
 13 pay the premiums described in paragraph (1) for a surviving spouse:

14 (A) On or after the end of the 18th calendar month after the date of
 15 death of the deceased law enforcement officer;

16 (B) upon the remarriage of the deceased law enforcement officer's
 17 surviving spouse; or

18 (C) upon the deceased law enforcement officer's surviving spouse
 19 reaching the age of 65.

20 (b) For the purposes of this section:

21 (1) "Health benefit plan" shall have the meaning ascribed to such
 22 term in K.S.A. 40-4602, and amendments thereto.

23 (2) "Law enforcement officer" means an employee employed by:

24 (A) A law enforcement agency ~~and:~~

25 (A)—whose principal duties are engagement in the enforcement of
 26 law and maintenance of order within this state and its political
 27 subdivisions; and

28 (B)—who is certified pursuant to the provisions of the Kansas law
 29 enforcement training act, K.S.A. 74-5601 et seq., and amendments
 30 thereto; or

31 (B) the Kansas department of corrections.

32 (3) "Municipality" means a city, county or township.

33 (4) "State agency" shall have the meaning ascribed to such term in
 34 K.S.A. 75-3701, and amendments thereto. }

35 Sec. ~~2.4~~ {5.} K.S.A. 2013 Supp. 40-216 ~~is and~~,} 40-222 {and 40-
 36 2140} are hereby repealed.

37 Sec. ~~3.5~~ {6.} This act shall take effect and be in force from and after
 38 its publication in the statute book.