AN ACT concerning the Kansas open records act; relating to exceptions to disclosure of public records; legislative review; amending K.S.A. 2018 Supp. 9-513c, 40-3407 and 45-229 and repealing the existing sections.

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

Section 1. K.S.A. 2018 Supp. 9-513c is hereby amended to read as follows: 9-513c. (a) Notwithstanding any other provision of law, all information or reports obtained and prepared by the commissioner in the course of licensing or examining a person engaged in money transmission business shall be confidential and may not be disclosed by the commissioner except as provided in subsection (c) or (d).

(b) All confidential information shall be the property of the state of Kansas and shall not be subject to disclosure except upon the written approval of the state bank commissioner.

Section 1. The provisions of this subsection shall expire on June 30, 2019, unless the legislature acts to reenact such provisions. The provisions of this paragraph shall be reviewed by the legislature prior to July 1, 2019.

(c) (1) The commissioner shall have the authority to share supervisory information, including reports of examinations, with other state or federal agencies having regulatory authority over the person's money transmission business and shall have the authority to conduct joint examinations with other regulatory agencies.

(2) The requirements under any federal or state law regarding the confidentiality of any information or material provided to the nationwide multi-state licensing system, and any privilege arising under federal or state law, including the rules of any federal or state court, with respect to such information or material, shall continue to apply to such information or material after the information or material has been disclosed to the system. Such information and material may be shared with all state and federal regulatory officials with financial services industry oversight authority without the loss of confidentiality protections provided by federal and state laws.

(d) The commissioner may provide for the release of information to law enforcement agencies or prosecutorial agencies or offices who shall maintain the confidentiality of the information.

(e) The commissioner may accept a report of examination or
investigation from another state or federal licensing agency, in which the
accepted report is an official report of the commissioner. Acceptance of an
examination or investigation report does not waive any fee required by this
act.

(f) Nothing shall prohibit the commissioner from releasing to the
public a list of persons licensed or their agents or from releasing
aggregated financial data on such persons.

(g) The provisions of subsection (a) shall expire on July 1, 2021,
unless the legislature acts to reauthorize such provisions. The provisions of
subsection (a) shall be reviewed by the legislature prior to July 1, 2021.

Sec. 2. K.S.A. 2018 Supp. 40-3407 is hereby amended to read as
follows: 40-3407. (a) Except for investment purposes, all payments from
the fund shall be upon warrants of the state of Kansas issued pursuant to
vouchers approved by the executive director or the executive director's
designee, and, with respect to claim payments, accompanied by: (1) a file
stamped copy of a final judgment against a healthcare provider or inactive
healthcare provider for which the fund is liable; or (2) a file stamped copy
of a court approved settlement against a healthcare provider or inactive
healthcare provider for which the fund is liable.

(b) For investment purposes amounts shall be paid from the fund
upon vouchers approved by the chairperson of the pooled money
investment board.

(c) (1) Payments from the fund for attorney fees, expert witness fees,
and other costs related to claims, including invoices, statements and other
documentation thereof, shall not be subject to K.S.A. 45-218, and
amendments thereto.

(2) The provisions of this subsection shall expire on June 30, 2019,
unless the legislature acts to reenact such provisions. The provisions of this
section shall be reviewed by the legislature prior to July 1, 2019.

Sec. 3. K.S.A. 2018 Supp. 45-229 is hereby amended to read as
follows: 45-229. (a) It is the intent of the legislature that exceptions to
disclosure under the open records act shall be created or maintained only
if:

(1) The public record is of a sensitive or personal nature concerning
individuals;

(2) the public record is necessary for the effective and efficient
administration of a governmental program; or

(3) the public record affects confidential information.

The maintenance or creation of an exception to disclosure must be
compelled as measured by these criteria. Further, the legislature finds that
the public has a right to have access to public records unless the criteria in
this section for restricting such access to a public record are met and the
criteria are considered during legislative review in connection with the
particular exception to disclosure to be significant enough to override the
strong public policy of open government. To strengthen the policy of open
government, the legislature shall consider the criteria in this section before
enacting an exception to disclosure.

(b) Subject to the provisions of subsections (g) and (h), any new
exception to disclosure or substantial amendment of an existing exception
shall expire on July 1 of the fifth year after enactment of the new
exception or substantial amendment, unless the legislature acts to continue
the exception. A law that enacts a new exception or substantially amends
an existing exception shall state that the exception expires at the end of
five years and that the exception shall be reviewed by the legislature
before the scheduled date.

(c) For purposes of this section, an exception is substantially
amended if the amendment expands the scope of the exception to include
more records or information. An exception is not substantially amended if
the amendment narrows the scope of the exception.

(d) This section is not intended to repeal an exception that has been
amended following legislative review before the scheduled repeal of the
exception if the exception is not substantially amended as a result of the
review.

(e) In the year before the expiration of an exception, the revisor of
statutes shall certify to the president of the senate and the speaker of the
house of representatives, by July 15, the language and statutory citation of
each exception that will expire in the following year which meets the
criteria of an exception as defined in this section. Any exception that is not
identified and certified to the president of the senate and the speaker of the
house of representatives is not subject to legislative review and shall not
expire. If the revisor of statutes fails to certify an exception that the revisor
subsequently determines should have been certified, the revisor shall
include the exception in the following year's certification after that
determination.

(f) "Exception" means any provision of law that creates an exception
to disclosure or limits disclosure under the open records act pursuant to
K.S.A. 45-221, and amendments thereto, or pursuant to any other
 provision of law.

(g) A provision of law that creates or amends an exception to
disclosure under the open records law shall not be subject to review and
expiration under this act if such provision:

(1) Is required by federal law;
(2) applies solely to the legislature or to the state court system;
(3) has been reviewed and continued in existence twice by the
legislature; or
(4) has been reviewed and continued in existence by the legislature
during the 2013 legislative session and thereafter.

(h) (1) The legislature shall review the exception before its scheduled expiration and consider as part of the review process the following:

(A) What specific records are affected by the exception;

(B) whom does the exception uniquely affect, as opposed to the general public;

(C) what is the identifiable public purpose or goal of the exception;

(D) whether the information contained in the records may be obtained readily by alternative means and how it may be obtained;

(2) an exception may be created or maintained only if it serves an identifiable public purpose and may be no broader than is necessary to meet the public purpose it serves. An identifiable public purpose is served if the legislature finds that the purpose is sufficiently compelling to override the strong public policy of open government and cannot be accomplished without the exception and if the exception:

(A) Allows the effective and efficient administration of a governmental program, which administration that would be significantly impaired without the exception;

(B) protects information of a sensitive personal nature concerning individuals, the release of which such information would be defamatory to such individuals or cause unwarranted damage to the good name or reputation of such individuals or would jeopardize the safety of such individuals. Only information that would identify the individuals may be excepted under this paragraph; or

(C) protects information of a confidential nature concerning entities, including, but not limited to, a formula, pattern, device, combination of devices, or compilation of information which that is used to protect or further a business advantage over those who do not know or use it, if the disclosure of which such information would injure the affected entity in the marketplace.

(3) Records made before the date of the expiration of an exception shall be subject to disclosure as otherwise provided by law. In deciding whether the records shall be made public, the legislature shall consider whether the damage or loss to persons or entities uniquely affected by the exception of the type specified in paragraph (2)(B) or (2)(C) would occur if the records were made public.

(i) (1) Exceptions contained in the following statutes as continued in existence in section 2 of chapter 126 of the 2005 Session Laws of Kansas and that have been reviewed and continued in existence twice by the legislature as provided in subsection (g) are hereby continued in existence:

(2) Exceptions contained in the following statutes as certified by the revisor of statutes to the president of the senate and the speaker of the house of representatives pursuant to subsection (e) are hereby continued in existence:

17-2036, 40-5301, 45-221(a)(45), (46) and (49), 48-16a10, 58-4616, 60-3351, 72-972a, 74-50,217 and 75-53,105.

(j) (1) Exceptions contained in the following statutes as continued in existence in section 1 of chapter 87 of the 2006 Session Laws of Kansas and that have been reviewed and continued in existence twice by the legislature as provided in subsection (g) are hereby continued in existence: 1-501, 9-1303, 12-4516a, 39-970, 65-525, 65-5117, 65-6016, 65-6017 and 74-7508.

(2) Exceptions contained in the following statutes as certified by the revisor of statutes to the president of the senate and the speaker of the house of representatives pursuant to subsection (e) during 2015 and that have been reviewed during the 2016 legislative session are hereby continued in existence: 12-5611, 22-4906, 22-4909, 38-2310, 38-2311, 38-2326, 40-955, 44-1132, 45-221(a)(10)(F) and (a)(50), 60-3333, 65-4a05, 65-445(g), 65-6154, 71-218, 75-457, 75-712c, 75-723 and 75-7c06.
revisor of statutes to the president of the senate and the speaker of the
house of representatives pursuant to subsection (e) and that have been
reviewed during the 2014 legislative session and continued in existence by
the legislature as provided in subsection (g) are hereby continued in
eexistence: 1-205, 2-2204, 8-240, 8-247, 8-255c, 8-1324, 8-1325, 12-
17,150, 12-2001, 17-12a607, 38-1008, 38-2209, 40-5006, 40-5108, 41-
2905, 41-2906, 44-706, 44-1518, 45-221(a)(44), (45), (46), (47) and (48),
50-6a11, 56-1a610, 56a-1204, 65-1,243, 65-16,104, 65-3239, 74-50,184,
74-8134, 74-99b06, 77-503a and 82a-2210.

(l) Exceptions contained in the following statutes as certified by the
revisor of statutes to the president of the senate and the speaker of the
house of representatives pursuant to subsection (e) during 2016 and that
have been reviewed during the 2017 legislative session are hereby
continued in existence: 12-5711, 21-2511, 22-4909, 38-2313, 45-221(a)
(51) and (52), 65-516, 65-1505, 74-2012, 74-5607, 74-8745, 74-8752, 74-
8772, 75-7d01, 75-7d05, 75-5133, 75-7427 and 79-3234.

(m) Exceptions contained in the following statutes as certified by the
revisor of statutes to the president of the senate and the speaker of the
house of representatives pursuant to subsection (e) during 2012 and that
have been reviewed during the 2013 legislative session and continued in
existence by the legislature as provided in subsection (g) are hereby
continued in existence: 12-5811, 40-222, 40-223j, 40-5007a, 40-5009a,
40-5012a, 65-1685, 65-1695, 65-2838a, 66-1251, 66-1805, 72-60c01, 75-
712 and 75-5366.

(n) Exceptions contained in the following statutes as certified by the
revisor of statutes to the president of the senate and the speaker of the
house of representatives pursuant to subsection (e) and that have been
reviewed during the 2018 legislative session are hereby continued in
existence: 9-513c(c)(2), 39-709, 45-221(a)(26), (53) and (54), 65-682, 65-
6834, 75-7c06 and 75-7c20.

(o) Exceptions contained in the following statutes as certified by the
revisor of statutes to the president of the senate and the speaker of the
house of representatives pursuant to subsection (e) that have been
reviewed during the 2019 legislative session are hereby continued in
existence: 21-2511(h)(2), 21-5905(a)(7), 22-2302(b) and (c), 22-2502(d)
and (e), 40-222(k)(7), 44-714(e), 45-221(a)(55), 46-1106(g) regarding 46-
1106(i), 65-2836(i), 65-2839(c), 65-2842(d), 65-28a05(n), article 6(d) of
65-6230, 72-6314(a) and 74-7047(b).

Sec. 4. K.S.A. 2018 Supp. 9-513c, 40-3407 and 45-229 are hereby
repealed.

Sec. 5. This act shall take effect and be in force from and after its
publication in the statute book.