AN ACT concerning insurance; relating to third party administrators; license and renewal application fees; amending K.S.A. 2018 Supp. 40-3812, 40-3813 and 40-3814 and repealing the existing sections.

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

Section 1. K.S.A. 2018 Supp. 40-3812 is hereby amended to read as follows: 40-3812. (a) A person shall apply to be an administrator in its home state and shall receive a license from the regulatory authority of its home state prior to performing any function of an administrator in this state.

(b) A person applying to Kansas as its home state shall apply for licensure by submitting to the commissioner an application in the form prescribed by the commissioner that shall include or be accompanied by the following information and documents:

(1) All basic organizational documents of the applicant, including any articles of incorporation, articles of association, partnership agreement, trade name certificate, trust agreement, shareholder agreement, certificate of existence from the Kansas secretary of state and other applicable documents and all amendments to such documents;

(2) the bylaws, rules, regulations or similar documents regulating the internal affairs of the applicant;

(3) NAIC biographical affidavits for the individuals who are directly or indirectly responsible for the conduct of affairs of the applicant, including all members of the board of directors, board of trustees, executive committee or other governing board or committee, the principal officers in the case of a corporation or the partners or members in the case of a partnership, association or limited liability company, any shareholders or members holding directly or indirectly 10% or more of the voting stock, voting securities or voting interest of the applicant and any other person who directly or indirectly exercises control or influence over the affairs of the applicant;

(4) audited annual financial statements or reports for the two most recent fiscal years that demonstrate that the applicant has a positive net worth. If the applicant has been in existence for less than two fiscal years, the uniform application shall include financial statements or reports, certified by at least two officers, owners or directors of the applicant and
prepared in accordance with GAAP, for any completed fiscal years and for
any month during the current fiscal year for which such financial
statements or reports have been completed. An audited annual financial
report prepared on a consolidated basis shall include a columnar
consolidating or combining worksheet that shall be filed with the report
and include the following:
(A) Amounts shown on the consolidated audited financial report
shown on the worksheet;
(B) amounts for each entity stated separately; and
(C) explanations of consolidating and eliminating entries included.
The applicant shall also include such other information as the
commissioner may require in order to review the current financial
condition of the applicant;
(5) in lieu of submitting audited financial statements, and upon
written application by an applicant and good cause shown, the
commissioner may grant a hardship exemption from filing audited
financial statements and allow the submission of unaudited financial
statements. Acceptable formats for unaudited financial statements, that
shall include notes, are:
(A) Reports compiled or reviewed by a certified public accountant; or
(B) internal financial reports prepared in accordance with GAAP,
certified by at least two officers, owners or directors of the administrator.
If unaudited financial statements are submitted, the applicant must also
secure and maintain a surety bond in a form prescribed by the
commissioner for the use and benefit of the commissioner to be held in
trust for the benefit and protection of covered persons and any payor or
self-funded plan against loss by reason of acts of fraud or dishonesty, for
the greater of 10% of funds handled for the benefit of Kansas residents or
$20,000. Administrators of self-funded plans in Kansas are subject to the
mandatory surety bond requirement found in subsection (h), regardless of
whether they file audited or unaudited financial reports;
(6) a statement describing the business plan, including information on
staffing levels and activities, proposed in this state and nationwide. The
plan shall provide details setting forth the applicant's capability for
providing a sufficient number of experienced and qualified personnel in
the areas of claims processing, record keeping and underwriting;
(7) the license application fee as provided for by rules and
regulations in the amount of $400; and
(8) such other pertinent information as may be required by the
commissioner.
(c) An administrator licensed or applying for licensure under the
provisions of this section shall make available for inspection by the
commissioner, copies of all contracts with payors or other persons utilizing
the services of the administrator.

(d) An administrator licensed or applying for licensure under the provisions of this section shall produce its accounts, records and files for examination, and makes its officers available to give information with respect to its affairs, as often as reasonably required by the commissioner.

(e) The commissioner may refuse to issue a license if the commissioner determines that the applicant or any individual responsible for the conduct of affairs of the applicant is not competent, trustworthy, financially responsible or of good personal and business reputation, or has had an insurance or an administrator certificate of authority or license denied or revoked for cause by any jurisdiction, or if the commissioner determines that any of the grounds set forth in K.S.A. 40-3810, and amendments thereto, exist with respect to the applicant.

(f) A license issued under this section shall remain valid, unless surrendered, suspended or revoked by the commissioner, for so long as the administrator continues in business in this state and remains in compliance with the provisions of this act and any applicable rules and regulations.

(g) An administrator licensed or applying for licensure under the provisions of this section shall immediately notify the commissioner of any material change in its ownership, control or other fact or circumstance affecting its qualification for a license in this state.

(h) An administrator licensed or applying for a home state license that administers or will administer governmental or church self-insured plans in this state or any other state shall maintain a surety bond for the use and benefit of the commissioner to be held in trust for the benefit and protection of covered persons and any payor or self-funded plan against loss by reason of acts of fraud or dishonesty. The bond shall be in the greater of the following amounts:

1. $100,000; or
2. an amount equal to 10% of the aggregate total amount of self-funded coverage under church plans or governmental plans handled in this state and all additional states in which the administrator is authorized to do business.

Sec. 2. K.S.A. 2018 Supp. 40-3813 is hereby amended to read as follows: 40-3813. (a) Unless an administrator has obtained a home state license in this state, any administrator who performs duties as an administrator in this state shall obtain a nonresident administrator license in accordance with the provisions of this section by filing with the commissioner the uniform application, accompanied by a letter of certification. In lieu of requiring an administrator to file a letter of certification with the uniform application, the commissioner may verify the nonresident administrator's home state certificate of authority or license status through an electronic database maintained by the NAIC, its
affiliates or subsidiaries.

(b) An administrator shall not be eligible for a nonresident administrator license under the provisions of this section if it does not hold a license in a home state that has adopted a substantially similar law governing administrators.

(c) Except as provided in subsections (b) and (h) the commissioner shall issue to the administrator a nonresident administrator license promptly upon receipt of a complete application.

(d) Each nonresident administrator shall file biennially, as a part of its application for renewal of its license, a statement that its home state administrator license remains in force and has not been revoked or suspended by its home state during the preceding years. Each nonresident administrator renewal application shall be accompanied by a renewal application fee in the amount of $200.

(e) At the time of filing the application for licensing required under the provisions of this section, the nonresident administrator shall pay a license application fee as provided for by rules and regulations in the amount of $400.

(f) An administrator licensed or applying for licensure under the provisions of this act shall produce its accounts, records and files for examination, and make its officers available to give information with respect to its affairs, as often as reasonably required by the commissioner.

(g) A nonresident administrator is not required to hold a nonresident administrator license in this state if the administrator is licensed in its home state and the administrator's duties in this state are limited to:

(1) The administration of a group policy or plan and no more than a total of 20% of covered persons, for all plans the administrator services, reside in this state; and

(2) the total number of covered persons residing in this state is less than 100.

(h) The commissioner may refuse to issue a nonresident administrator license, or delay the issuance of a nonresident administrator license, if the commissioner determines that, due to events or information obtained subsequent to the home state's licensure of the administrator, the nonresident administrator cannot satisfy the requirements of this act or that grounds exist for the home state's revocation or suspension of the administrator's home state certificate of authority or license.

Sec. 3. K.S.A. 2018 Supp. 40-3814 is hereby amended to read as follows: 40-3814. (a) Each administrator licensed under the provisions of this act shall file an annual report for the preceding calendar year with the commissioner on or before July 1 of each year, or within such extension of time as the commissioner may grant for good cause, accompanied by an annual report fee in the amount of $100. The annual report shall include:
(1) An audited financial statement attested to by an independent
certified public accountant. An audited annual financial report prepared on
a consolidated basis shall include a columnar consolidating or combining
worksheet that shall be filed with the report and include the following:
(A) Amounts shown on the consolidated audited financial report
shown on the worksheet;
(B) amounts for each entity stated separately; and
(C) explanations of consolidating and eliminating entries included.
(2) In lieu of submitting an audited financial statement, and upon
written application by an administrator and good cause shown, the
commissioner may grant a hardship exemption from filing audited
financial statements and allow the submission of unaudited financial
statements. Acceptable formats for unaudited financial statements, that
shall include notes, are:
(A) Reports compiled or reviewed by a certified public accountant; or
(B) internal financial reports prepared in accordance with GAAP,
certified by at least two officers, owners or directors of the administrator.
If unaudited financial statements are submitted, the administrator must
secure and maintain a surety bond in a form prescribed by the
commissioner for the use and benefit of the commissioner to be held in
trust for the benefit and protection of covered persons and any payor or
self-funded plan against loss by reason of acts of fraud or dishonesty, for
the greater of 10% of funds handled for the benefit of Kansas residents or
$20,000.
(b) The annual report shall be in the form and contain such matters as
the commissioner prescribes and shall be verified by at least two officers,
owners or directors of the administrator.
(c) The annual report shall include the complete names and addresses
of all payors and for self-funded plans, all employers and trusts, with
which the administrator had agreements during the preceding fiscal year.
The report shall also include the number of Kansas residents covered by
each of the plans.
Sec. 4. K.S.A. 2018 Supp. 40-3812, 40-3813 and 40-3814 are hereby
repealed.
Sec. 5. This act shall take effect and be in force from and after its
publication in the statute book.