AS AMENDED BY SENATE COMMITTEE
SESSION OF 2019

SENATE BILL NO. 32
By Committee on Financial Institutions and Insurance

1-22

AN ACT exempting certain non-insurance healthcare benefits coverage from the jurisdiction of the commissioner of insurance; amending K.S.A. 2018 Supp. 40-2222, 40-2222a and 40-2222b and repealing the existing sections.

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

Section 1. K.S.A. 2018 Supp. 40-2222 is hereby amended to read as follows:

40-2222. (a) Any person or other entity which provides coverage in this state for medical, surgical, chiropractic, physical therapy, speech pathology, audiology, professional mental health, dental, hospital, or optometric expenses, whether such coverage is by direct payment, reimbursement, or otherwise, shall be presumed to be subject to the jurisdiction of the commissioner of insurance unless the person or other entity:

(1) Is a professional association of architects incorporated in Kansas on October 4, 1954, which provides coverage for the payment of expenses described herein to or for the members of the association or dependents through a trust established November 1, 1986, and complies with K.S.A. 40-2222a, and amendments thereto;

(2) Is a professional association of dentists incorporated in Kansas on July 3, 1972, which provides coverage for the payment of expenses described herein to or for the members of the association or dependents through a trust established November 1, 1985, and complies with K.S.A. 40-2222a, and amendments thereto;

(3) (A) Is a trade association of banks incorporated in Kansas on August 9, 1978, which provides coverage for the payment of expenses described herein to or for the members of the association or dependents through a trust established July 1, 1989, and complies with K.S.A. 40-2222a, and amendments thereto; or

(B) Is a trade organization of banks incorporated in Kansas on June 1, 1982, which provides coverage for expenses described herein to or for members of the association or dependents, and complies with K.S.A. 40-2222a, and amendments thereto;

(4) Is a trade association of truckers incorporated in Kansas on July 1, 1985, which provides coverage for the payment of expenses described herein to or for the members of the association or dependents through a
trust established January 1, 1990, and complies with K.S.A. 40-2222a, and amendments thereto;

(5) is an association of physicians practicing in the Kansas City metropolitan area, incorporated in Missouri on March 5, 1891, and qualified as a foreign corporation in Kansas on May 19, 1987, which that provides coverage for the payment of expenses described herein to or for the members of the association, their employees and dependents through a trust established November 1, 1984, and complies with K.S.A. 40-2222a, and amendments thereto;

(6) is organized as a farmers' cooperative under the Kansas cooperative marketing act, K.S.A. 17-1601 et seq., and amendments thereto, on January 13, 1983, and is an association of farmers' cooperatives and other like associations operated on a cooperative basis and their affiliated companies, which that provides benefits for employees, and family members of such employees, of such associations, and complies with K.S.A. 40-2222a, and amendments thereto;

(7) is any other qualified trade, merchant, retail, or professional association or business league incorporated in Kansas which complies with K.S.A. 40-2222a, and amendments thereto;

(8) conclusively shows by submission of an appropriate certificate, license, letter or other document issued by the United States department of labor that such person or entity is not subject to Kansas law; or

(9) conclusively shows that it is subject to the jurisdiction of an agency of this state or the federal government. For purposes of this act, tax exempt status under section 501(c) of the federal internal revenue code of 1986 shall not be deemed to be jurisdiction of the federal government; or

(10) is a nonprofit agricultural membership organization incorporated in Kansas on June 23, 1931, or an affiliate thereof; that provides healthcare benefit coverage that shall not be considered insurance; for the payment of expenses described herein to or for the members of the organization and their dependents. Notwithstanding any provision of law to the contrary, the healthcare benefit coverage described in this paragraph shall not be considered insurance. The risk under such coverage may be reinsured by a company authorized to conduct reinsurance in Kansas. Providers of healthcare benefit coverage shall file a signed, certified actuarial statement of plan reserves annually with the commissioner of insurance.

(b) For the purposes of this section, a qualified trade, merchant, retail or professional association or business league shall mean any bona fide trade, merchant, retail or professional association or business league that:

(1) Has been in existence for at least five calendar years; and

(2) is comprised of five or more employers.

Sec. 2. K.S.A. 2018 Supp. 40-2222a is hereby amended to read as
follows: 40-2222a. At the time the initial application for coverage is taken
with respect to new applicants and upon the first renewal, reinstatement or
extension of coverage following the effective date of this act with respect
to persons previously covered, each association person or entity described
in subsection (a) of K.S.A. 40-2222, and amendments thereto, shall
provide a written notice stating that:
   (a) The coverage is not provided by an insurance company;
   (b) the plan is not subject to the laws and regulations relating to
       insurance companies;
   (c) the plan is not under the jurisdiction of the commissioner of
       insurance; and
   (d) if the plan does not pay medical expenses that are eligible for
       payment under the plan for any reason, the individuals covered by the plan
       may be liable for such expenses.

Sec. 3. K.S.A. 2018 Supp. 40-2222b is hereby amended to read as
follows: 40-2222b. (a) As a condition precedent to continuation of the
exemption provided by K.S.A. 40-2222, and amendments thereto, each
association person or entity described in subsection (a) of K.S.A. 40-2222,
and amendments thereto, shall, no later than May 1 of each year, pay a tax
at the rate of 1% per annum upon the annual Kansas gross premium
collected during the preceding calendar year. In the computation of the tax,
such associations persons or entities shall be entitled to deduct any annual
Kansas gross premiums returned on account of cancellation or dividends
returned to members or expenditures used for the purchase of reinsurance
or stop-loss coverage.

   (b) Every association person or entity subject to taxation under the
       provisions of this section shall pay the tax imposed and make a return
under oath to the commissioner of insurance under such rules and
       regulations and in such form and manner as the commissioner may
       prescribe.

Sec. 4. K.S.A. 2018 Supp. 40-2222, 40-2222a and 40-2222b are
hereby repealed.

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