AN ACT concerning insurance; relating to insurance holding companies; the version of risk-based capital instructions in effect; exempting certain domestic insurers from filing enterprise risk reports; amending K.S.A. 2018 Supp. 40-2c01 and 40-3305 and repealing the existing sections.

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

Section 1. K.S.A. 2018 Supp. 40-2c01 is hereby amended to read as follows: 40-2c01. As used in this act:

(a) "Adjusted RBC report" means an RBC report which has been adjusted by the commissioner in accordance with K.S.A. 40-2c04, and amendments thereto.

(b) "Corrective order" means an order issued by the commissioner specifying corrective actions which the commissioner has determined are required to address an RBC level event.

(c) "Domestic insurer" means any insurance company or risk retention group which is licensed and organized in this state.

(d) "Foreign insurer" means any insurance company or risk retention group not domiciled in this state which is licensed or registered to do business in this state pursuant to article 41 of chapter 40 of the Kansas Statutes Annotated, and amendments thereto, or K.S.A. 40-209, and amendments thereto.

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

(f) "Life and health insurer" means any insurance company licensed under article 4 or 5 of chapter 40 of the Kansas Statutes Annotated, and amendments thereto, or a licensed property and casualty insurer writing only accident and health insurance.

(g) "Property and casualty insurer" means any insurance company licensed under articles 9, 10, 11, 12, 12a, 15 or 16 of chapter 40 of the Kansas Statutes Annotated, and amendments thereto, but shall not include monoline mortgage guaranty insurers, financial guaranty insurers and title insurers.

(h) "Negative trend" means, with respect to a life and health insurer, a negative trend over a period of time, as determined in accordance with the "trend test calculation" included in the RBC.
instructions defined in subsection (j).

(i) "RBC" means risk-based capital.

(j) "RBC instructions" means the risk-based capital instructions promulgated by the NAIC, which are in effect on December 31, 2017, or any later version promulgated by the NAIC as may be adopted by the commissioner under K.S.A. 2018 Supp. 40-2c29, and amendments thereto.

(k) "RBC level" means an insurer's company action level RBC, regulatory action level RBC, authorized control level RBC, or mandatory control level RBC where:

(1) "Company action level RBC" means, with respect to any insurer, the product of 2.0 and its authorized control level RBC;

(2) "regulatory action level RBC" means the product of 1.5 and its authorized control level RBC;

(3) "authorized control level RBC" means the number determined under the risk-based capital formula in accordance with the RBC instructions; and

(4) "mandatory control level RBC" means the product of 0.70 and the authorized control level RBC.

(l) "RBC plan" means a comprehensive financial plan containing the elements specified in K.S.A. 40-2c06, and amendments thereto. If the commissioner rejects the RBC plan, and it is revised by the insurer, with or without the commissioner's recommendation, the plan shall be called the "revised RBC plan."

(m) "RBC report" means the report required by K.S.A. 40-2c02, and amendments thereto.

(n) "Total adjusted capital" means the sum of:

(1) An insurer's capital and surplus or surplus only if a mutual insurer; and

(2) such other items, if any, as the RBC instructions may provide.

(o) "Commissioner" means the commissioner of insurance.

Section 1. Sec. 2. K.S.A. 2018 Supp. 40-3305 is hereby amended to read as follows: 40-3305. (a) Every insurer which is authorized to do business in this state and which is a member of an insurance holding company system shall register with the commissioner of insurance, except a foreign insurer subject to registration requirements and standards adopted by statute or regulation in the jurisdiction of its domicile which are substantially similar to those contained in this section. Any insurer which is subject to registration under this section shall register within 15 days after it becomes subject to registration, and annually thereafter by May 1 of each year unless the commissioner of insurance for good cause shown extends the time for registration, and then within such extended time. The commissioner of insurance may require any authorized insurer
which that is a member of an insurance holding company system and
which that is not subject to registration under this section to furnish a copy
of the registration statement, the summary specified in subsection (c) or
other information filed by such insurance company with the insurance
regulatory authority of domiciliary jurisdiction.

(b) Pursuant to subsection (a), every insurer subject to registration
shall file a registration statement on a form provided by the commissioner
of insurance, which that shall contain current information about:

(1) The capital structure, general financial condition, ownership and
management of the insurer and any person controlling the insurer;

(2) the identity and relationship of every member of the insurance
holding company system;

(3) the following agreements in force and transactions currently
outstanding or which that occurred during the last calendar year between
such insurer and its affiliates:

(A) Loans, other investments, or purchases, sales or exchanges of
securities of the affiliates by the insurer or of the insurer by its affiliates;

(B) purchases, sales; or exchanges of assets;

(C) transactions not in the ordinary course of business;

(D) guarantees or undertakings for the benefit of an affiliate which
that result in an actual contingent exposure of the insurer's assets to
liability, other than insurance contracts entered into in the ordinary course
of the insurer's business;

(E) all management agreements, service contracts and cost sharing
arrangements;

(F) reinsurance agreements;

(G) dividends and other distributions to shareholders; and

(H) consolidated tax allocation agreements;

(4) other matters concerning transactions between registered insurers
and any affiliates as may be included from time to time in any registration
forms adopted or approved by the commissioner of insurance;

(5) any pledge of the insurer's stock, including stock of any
subsidiary or controlling affiliate, for a loan made to any member of the
insurance holding company system;

(6) if requested by the commissioner of insurance, the insurer shall
include financial statements of or within an insurance holding company
system, including all affiliates, if requested by the commissioner of
insurance. Financial statements may include, but are not limited to, annual
audited financial statements filed with the U.S. securities and exchange
commission (SEC) pursuant to the securities act of 1933, as amended, or
the securities exchange act of 1934, as amended. An insurer required to
file financial statements pursuant to this paragraph may satisfy the request
by providing the commissioner of insurance with the most recently filed
parent corporation financial statements that have been filed with the SEC;

(7) statements that the insurer's board of directors and principal officers oversee corporate governance and internal controls and that the insurer's principal officers have approved, implemented and continue to maintain and monitor corporate governance and internal control procedures; and

(8) any other information required by the commissioner of insurance by rules and regulations.

(c) All registration statements shall be accompanied by a summary outlining all items in the current registration statement representing changes from the prior registration statement.

(d) No information need be disclosed on the registration statement filed pursuant to subsection (b) if such information is not material for the purpose of this section. Unless the commissioner of insurance by rules and regulations or order provides otherwise, sales, purchases, exchanges, loans or extensions of credit, investments or guarantees, involving 5% or less of an insurer's admitted assets as of the December 31 immediately preceding shall be deemed immaterial for purposes of this section.

(e) Each registered insurer shall keep current the information required to be disclosed in such insurer's registration statement by reporting all material changes or additions on amendment forms provided by the commissioner of insurance within 15 days after the end of the month in which it learns of each such change or addition, except each registered insurer shall report all dividends and other distributions to shareholders within five business days following its declaration. Any such dividend or distribution shall not be paid for at least 10 business days from the commissioner's receipt of the notice of its declaration.

(f) Any person within an insurance holding company system subject to registration shall provide complete and accurate information to an insurer, where such information is reasonably necessary to enable the insurer to comply with the provisions of this act.

(g) The commissioner of insurance shall terminate the registration of any insurer which demonstrates that such insurer no longer is a member of an insurance holding company system.

(h) The commissioner of insurance may require or allow two or more affiliated insurers subject to registration hereunder to file a consolidated registration statement.

(i) The commissioner of insurance may allow an insurer which is authorized to do business in this state and which is part of an insurance holding company system to register on behalf of any affiliated insurer which is required to register under subsection (a) and to file all information and material required to be filed under this section.

(j) The provisions of this section shall not apply to any information or
transaction if and to the extent the commissioner of insurance by rule and regulation or order shall exempt the same from the provisions of this section.

(k) Any person may file with the commissioner of insurance a disclaimer of affiliation with any authorized insurer or such a disclaimer may be filed by such insurer or any member of an insurance holding company system. The disclaimer shall fully disclose all material relationships and bases for affiliation between such person and such insurer as well as the basis for disclaiming such affiliation. After a disclaimer has been filed, the insurer shall be relieved of any duty to register or report under this section which may arise out of the insurer's relationship with such person unless and until the commissioner of insurance disallows such a disclaimer. The commissioner of insurance shall disallow such a disclaimer only after furnishing all parties in interest with notice and opportunity to be heard in accordance with the provisions of the Kansas administrative procedure act.

(l)(1) Except as provided in paragraph (2), the ultimate controlling person of every insurer subject to registration also shall file an annual enterprise risk report. The report, to the best of the ultimate controlling person's knowledge and belief, shall identify the material risks within the insurance holding company system that could pose enterprise risk to the insurer. The report shall be appropriate to the nature, scale and complexity of the insurer. The report shall be filed with the lead state commissioner of insurance of the insurance holding company system as determined by the procedures within the financial analysis handbook adopted by the national association of insurance commissioners. The first enterprise risk report shall be filed no later than May 1, 2015, and annually thereafter by May 1 of each year unless the commissioner of insurance extends the time for filing for good cause shown.

(2) The ultimate controlling person of an a domestic insurer that is authorized, admitted or eligible to engage in the business of insurance only in this state with total direct and assumed annual premiums of less than $300 million is not required to submit an enterprise risk report under paragraph (1) unless the ultimate controlling person of the domestic insurer also controls other insurers that do not meet the requirements of this subsection. For the purposes of this subsection, an insurer is not considered to be authorized, admitted or eligible to engage in the business of insurance only in this state if the insurer directly or indirectly writes or assumes insurance in any other manner in another state.

(m) The failure of an insurer or an ultimate controlling person of the insurer to file a registration statement, any summary of the registration statement or enterprise risk filing within the specified time for filing shall be a violation by the insurer or by the ultimate controlling person of the
insurer, as applicable.

Sec. 3. K.S.A. 2018 Supp. 40-2c01 and 40-3305 are hereby repealed.

Sec. 4. This act shall take effect and be in force from and after its publication in the statute book.