

HOUSE BILL No. 2537

AN ACT concerning insurance; relating to disclosure statements contained in policy documents and explanatory materials printed in any language other than English; relating to the confidentiality of certain documents; relating to the continuation of health insurance for certain emergency personnel; relating to the continuation of health insurance for spouse and children of employees of the department of corrections; relating to the purchase of certain insurance by the state fair board; amending K.S.A. 2-224 and K.S.A. 2013 Supp. 40-216, 40-222, 40-2140, 75-4105 and 75-4109 and repealing the existing sections.

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

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

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

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

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

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

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

(iv) form filing for workers compensation.

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

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

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

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

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

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

(2) the English language version of the contract for insurance or in-

demnity or explanatory materials delivered shall be the controlling version; and

(3) any contract of insurance or indemnity or explanatory materials written in any language other than English shall contain a disclosure statement ~~in 10-point boldface type~~, printed in both the English language and the other language used, stating the English version of the contract of insurance or indemnity is the official or controlling version and that the version is written in any language other than English is furnished for informational purposes only.

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

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

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

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

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

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

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

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

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

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

(b) In scheduling and determining the nature, scope and frequency of examinations of financial condition, the commissioner shall consider such matters as the results of financial statement analyses and ratios, changes in management or ownership, actuarial opinions, reports of independent certified public accountants and other criteria as set forth in the examiner’s handbook adopted by the national association of insurance commissioners and in effect when the commissioner exercises discretion under this subsection.

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

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

(e) In lieu of examining the financial condition of a foreign or alien insurance company, the commissioner of insurance may accept the report

of the examination made by or upon the authority of the company's state of domicile or port-of-entry state until January 1, 1994. Thereafter, such reports as they relate to financial condition may only be accepted if:

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

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

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

(g) The refusal of any company, by its officers, directors, employees or agents, to submit to examination or to comply with any reasonable written request of the examiners shall be grounds for suspension or refusal of, or nonrenewal of any license or authority held by the company to engage in an insurance or other business subject to the commissioner's jurisdiction. Any such proceedings for suspension, revocation or refusal of any license or authority shall be conducted in accordance with the provisions of the Kansas administrative procedure act.

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

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

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

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

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

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

(B) rejecting the examination report with directions to the examiners to reopen the examination for purposes of obtaining additional data, documentation or information, and refile pursuant to subsection (k); or

(C) call and conduct a fact-finding hearing in accordance with K.S.A.

40-281, and amendments thereto, for purposes of obtaining additional documentation, data, information and testimony.

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

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

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

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

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

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

(7) All working papers, recorded information, documents and copies thereof produced by, obtained by or disclosed to the commissioner or any other person in the course of an examination made under this act *including analysis by the commissioner pertaining to either the financial condition or the market regulation of a company* must be given confidential treatment and are not subject to subpoena and may not be made public by the commissioner or any other person, except to the extent otherwise specifically provided in K.S.A. 45-215 et seq., and amendments thereto. Access may also be granted to the national association of insurance commissioners *and its affiliates*. Such parties must agree in writing prior to receiving the information to provide to it the same confidential treatment as required by this section, unless the prior written consent of the company to which it pertains has been obtained.

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

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

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

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

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

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

(b) For the purposes of this section:

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

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

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

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

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

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

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

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

(b) For the purposes of this section:

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

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

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

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

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

(B) *the Kansas department of corrections.*

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

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

Sec. 5. K.S.A. 2-224 is hereby amended to read as follows: 2-224. (a) The state fair board is hereby authorized to purchase safe burglary and messenger robbery insurance coverage in amounts deemed appropriate by such board for the period of the annual Kansas state fair and during the remainder of the year. Such board is also authorized to purchase insurance coverage for any rented or borrowed motorized vehicles used during the state fair indemnifying the board against loss or damage to such vehicles and against liability for the operation of such vehicles. ~~The insurance shall be acquired through the committee on surety bonds and insurance as provided by law.~~

(b) *The state fair board is hereby authorized to purchase event cancellation and rain insurance coverage in amounts deemed appropriate by such board for the period of the annual Kansas state fair and during the remainder of the year.*

(c) *Any insurance purchased pursuant to this section shall not be required to be acquired through the committee on surety bonds and insurance as required by K.S.A. 75-4101 et seq., and amendments thereto.*

Sec. 6. K.S.A. 2013 Supp. 75-4105 is hereby amended to read as follows: 75-4105. Except as provided in K.S.A. 2-224 and K.S.A. 2013 Supp. 75-4125, and amendments thereto, all surety bonds and insurance contracts purchased pursuant to this act shall be purchased by the com-

mittee in the manner prescribed for the purchase of supplies, materials, equipment or contractual services under K.S.A. 75-3738 to 75-3744, inclusive, and amendments thereto. The director of accounts and reports shall not pay any premium or rate on any surety bond or insurance contract until the purchase of such surety bond or contract shall have been approved by the secretary of the committee. Surety bonds or insurance contracts having a premium or rate in excess of \$500 purchased hereunder shall be purchased on sealed bids as provided by law for the purchase of other materials, equipment or contractual services. Where more than one state agency is covered by any bond or insurance contract, the committee shall prorate the cost of premiums or rates on any and all such bonds or contracts, except as provided in K.S.A. 75-4114, and amendments thereto, purchased as charges upon the funds of the state agency wherein any covered state officers or employees are employed or covered property is located or controlled. Such prorated charges shall constitute a lawful charge by the committee upon the funds available to any such state agency and shall be paid by each such state agency to the committee, or to the surety or insurance carrier if the committee requires it, in the manner provided by law for the payment of other obligations of such state agency.

Sec. 7. K.S.A. 2013 Supp. 75-4109 is hereby amended to read as follows: 75-4109. (a) *Subject to the provisions of K.S.A. 2-224, and amendments thereto*, the committee, at least once every three years, shall approve the property and casualty insurance coverages that shall be purchased by each state agency.

(b) *Subject to the provisions of K.S.A. 2-224, and amendments thereto*, the committee shall require that each state agency purchase the insurance coverages prescribed by K.S.A. 74-4703, 74-4705, 74-4707, 75-712e, 75-2728, 76-218, 76-391, 76-394, 76-747 and 76-491, and amendments ~~to these sections~~ *thereto*, and shall prescribe the terms, conditions and amounts of such coverage giving due regard to the operations and requirements of the agencies involved.

(c) *Subject to the provisions of K.S.A. 2-224, and amendments thereto*, the committee shall, in addition to the coverages specified in subsection (b), designate the insurance coverages to be purchased by each state agency that are deemed by the committee to be necessary to protect the state for property of others that may be in the possession or control of such state agencies.

(d) Such coverages as are specified in subsections (b) and (c) may also include coverages on property of the state that are deemed by the committee to be incidental to the basic coverages herein required, and the committee shall prescribe the terms, conditions and amounts of all insurance coverages purchased pursuant to this section. Property of the state board of regents of any university or college which is referred to in subsection (b) may be self-insured as provided under this act.

(e) No property insurance coverage may be purchased by the committee, except as provided herein or by K.S.A. 2013 Supp. 75-4125, and amendments thereto, or specifically required by other Kansas statutes or appropriations.

Sec. 8. K.S.A. 2-224 and K.S.A. 2013 Supp. 40-216, 40-222, 40-2140, 75-4105 and 75-4109 are hereby repealed.

Sec. 9. This act shall take effect and be in force from and after its publication in the statute book.

I hereby certify that the above BILL originated in the HOUSE, and was adopted by that body

HOUSE adopted
Conference Committee Report _____

Speaker of the House.

Chief Clerk of the House.

Passed the SENATE
as amended _____

SENATE adopted
Conference Committee Report _____

President of the Senate.

Secretary of the Senate.

APPROVED _____

Governor.