

**40-2903. Same; definitions.** As used in this act: (a) "Association" means the Kansas insurance guaranty association created by this act.

(b) "Commissioner" means the commissioner of insurance of this state.

(c) "Covered claim" means an unpaid claim, including one for unearned premiums, which arises out of and is within the coverage and not in excess of the applicable limits of an insurance policy to which this act applies issued by an insurer, if such insurer becomes an insolvent insurer after the effective date of this act and:

(1) The claimant or insured is a resident of this state at the time of the insured event. For entities other than an individual, the residence of a claimant, insured or policyholder is the state in which the principal place of business of such claimant, insured or policyholder is located at the time of the insured events; or

(2) the claim is a first party claim for damage to property that is permanently located in this state.

"Covered claim" shall not include:

(1) Any amount due any reinsurer, insurer, insurance pool or underwriting association, as subrogation recoveries or otherwise;

(2) any amount awarded as punitive or exemplary damages unless such damages were covered under the policy of the insolvent insurer;

(3) any claim by an affiliate of the insolvent insurer.

(d) "Domiciliary state" means:

(1) The state in which an insurer is incorporated or organized; or

(2) in the case of an alien insurer, the state of entry of such insurer.

(e) "Insolvent insurer" means:

(1) An insurer licensed by the commissioner to transact insurance in this state either at the time the policy was issued or when the insured event occurred; and

(2) determined to be insolvent by a court of competent jurisdiction and against whom a final order of liquidation has been entered by a court of competent jurisdiction in the insurer's domiciliary state.

(f) "Member insurer" means any person who (1) is authorized to write any kind of insurance to which this act applies under K.S.A. 40-2902, and amendments thereto, including the exchange of reciprocal or inter-insurance contracts; and

(2) is licensed by the commissioner to transact insurance in this state. This act shall not apply to those persons transacting business pursuant to the provisions of K.S.A. 40-202, and amendments thereto.

(g) "Net direct written premiums" means first gross premiums written in this state on insurance policies to which this act applies, less return premiums thereon and dividends paid or credited to policyholders on such direct business. "Net direct written premiums" does not include premiums on contracts between insurers or reinsurers.

(h) "Person" means any individual, corporation, partnership, association or voluntary organization.

(i) The provisions of this section, as amended on July 1, 2006, shall apply to all claims which have not been paid prior to April 14, 2005.

**History:** L. 1970, ch. 185, § 3; L. 2005, ch. 92, § 1; L. 2006, ch. 122, § 2; July 1.