

SENATE BILL No. 402

By Committee on Financial Institutions and Insurance

2-11

1 AN ACT concerning insurance; relating to producer licensing
2 requirements; agent conduct; pertaining to fees; renewal dates;
3 suspension, revocation or denial of licensure; licensure renewal;
4 amending K.S.A. 2019 Supp. 40-4902, 40-4903, 40-4905, 40-4909, 40-
5 4912, 40-4915, 40-5505 and 40-5512 and repealing the existing
6 sections.

7
8 *Be it enacted by the Legislature of the State of Kansas:*

9 Section 1. K.S.A. 2019 Supp. 40-4902 is hereby amended to read as
10 follows: 40-4902. As used in this act:

11 (a) "Approved subject" or "approved course" means any educational
12 presentation involving insurance fundamentals, insurance law, insurance
13 policies and coverage, insurance needs, insurance risk management,
14 insurance agency management or other areas, which is offered in a class,
15 seminar, computer based training, interactive internet training or other
16 similar form of instruction, and ~~which~~ *that* has been approved by the
17 commissioner under this act as expanding skills and knowledge obtained
18 prior to initial licensure under this act or developing new and relevant
19 skills and knowledge in preparation for such licensure.

20 (b) "Biennial due date" means the ~~date~~ *last day* of the birth month of
21 any licensed insurance agent who is required to complete C.E.C.'s and
22 report the completion of such C.E.C.'s to the commissioner pursuant to this
23 act, except that such due date shall not be earlier than two years from the
24 date of the insurance agent's initial licensure under this act. The biennial
25 due date for a registered business entity shall be the *last day of the month*
26 *of the* date of initial licensure under this act.

27 (c) "Biennium" means the period starting with the insurance agent's
28 biennial due date in 2001 and each two-year period thereafter for any
29 insurance agent who was born in an odd-numbered year. For any insurance
30 agent who was born in an even-numbered year, the term shall mean the
31 period starting with the insurance agent's biennial due date in 2002 and
32 each two-year period thereafter. The biennium for a registered business
33 entity shall be the two-year period following such business entity's initial
34 licensure or renewal of such license.

35 (d) "Broker" means any individual who acts or aids in any manner in
36 negotiating contracts of insurance, or in placing risks or in soliciting or

1 effecting contracts of insurance as an agent for an insured other than such
2 individual and not as an agent of an insurance company or any other type
3 of insurance carrier. The term "broker" ~~shall~~ *does* not include: A person
4 working as an officer for an insurance carrier, or in a clerical,
5 administrative or service capacity for an insurance carrier, licensed agent
6 or broker, provided that such person does not solicit contracts of insurance.
7 ~~The term "broker" shall not include;~~ *or* an attorney-at-law in the
8 performance of such attorney's duties, an insured who places or negotiates
9 the placement of such insured's own insurance, or any employee of an
10 insured engaged in placing or negotiating for placement of insurance for
11 such employee's employer.

12 (e) "Business entity" means any corporation, association, partnership,
13 limited liability company, limited liability partnership or other legal entity.

14 (f) "C.E.C." means continuing education credit containing at least 50
15 minutes of instruction in each clock hour. The term C.E.C. also includes
16 any value, expressed in a whole number of units, assigned by the
17 commissioner to an approved subject.

18 (g) "Commissioner" means the commissioner of insurance as defined
19 in K.S.A. 40-102, and amendments thereto. The term "commissioner
20 ~~shall~~" also ~~include~~ *includes* any authorized representative or designee of
21 the commissioner.

22 (h) "Department" means the insurance department established by
23 K.S.A. 40-102, and amendments thereto.

24 (i) "Home state" means the District of Columbia and any state or
25 territory of the United States in which an insurance agent maintains such
26 agent's principal place of residence or principal place of business and is
27 licensed to act as an insurance agent.

28 (j) "Inactive agent" means any licensed agent who presents evidence
29 satisfactory to the commissioner ~~which~~ *that* demonstrates that such agent
30 will not do any act toward transacting the business of insurance for not less
31 than two but not more than four years from the date such evidence is
32 received by the commissioner.

33 (k) "Insurance agent" and "agent" means any person required to be
34 licensed under the provisions of chapter 40 of the Kansas Statutes
35 Annotated, and amendments thereto, to sell, solicit or negotiate insurance.
36 For the purposes of this act, whenever the terms "agent" or "broker"
37 appear in chapter 40 of the Kansas Statutes Annotated, and amendments
38 thereto, each term ~~shall mean~~ *means* insurance agent unless the context
39 requires otherwise. "Insurance agent" also includes the terms "insurance
40 producer" or "producer."

41 (l) "Insurance" means any of the lines of authority specified in
42 ~~subsection (a) of~~ K.S.A. 2019 Supp. 40-4903(a), and amendments thereto.

43 (m) "Insurance producer" or "producer" means any person licensed

1 under the laws of another state to sell, solicit, or negotiate insurance. For
2 the purposes of this act, the terms "insurance agent" and "agent" ~~shall~~
3 include an "insurance producer" or "producer" when the context so
4 requires. In the context of a producer database maintained by this state,
5 another state or the NAIC, the term "producer ~~shall include~~" *includes*
6 "agent".

7 (n) "Insurer" and "insurance company" ~~shall have the meaning~~
8 ~~ascribed to the term~~ *means the same as "insurance company" as defined*
9 by K.S.A. 40-222c, and amendments thereto.

10 (o) "License" means a document issued by ~~this state's insurance~~ *the*
11 commissioner authorizing a person to act as an insurance agent for the
12 lines of authority specified in such document.

13 (p) "Limited line credit insurance" includes credit life, credit
14 disability, credit property, credit unemployment, involuntary
15 unemployment, mortgage life, mortgage guaranty, mortgage disability,
16 automobile dealer gap insurance and any other form of insurance offered
17 in connection with an extension of credit that is limited to partially or
18 wholly extinguishing that credit obligation that the insurance
19 commissioner determines should be designated a form of limited line
20 credit insurance.

21 (q) "Limited line credit insurance agent" means a person who sells,
22 solicits or negotiates one or more forms of limited line credit insurance
23 coverage to individuals through a master, corporate, group or individual
24 policy.

25 (r) "NAIC" means the national association of insurance
26 commissioners.

27 (s) "Negotiate" means the act of conferring directly with or offering
28 advice directly to any purchaser or prospective purchaser of a particular
29 contract of insurance concerning any of the substantive benefits, terms or
30 conditions of such contract, provided that the person engaged in such act
31 either sells insurance or obtains insurance from insurers for purchasers.

32 (t) "Person" means an individual or a business entity.

33 (u) "Sell" means to exchange a contract of insurance by any means,
34 for money or its equivalent, on behalf of an insurance company.

35 (v) "Solicit" ~~shall include~~ *includes* any attempt to sell insurance or
36 asking or urging a person to apply for any particular kind of insurance
37 from any particular insurance company.

38 Sec. 2. K.S.A. 2019 Supp. 40-4903 is hereby amended to read as
39 follows: 40-4903. (a) Unless denied licensure pursuant to K.S.A. 2019
40 Supp. 40-4909, and amendments thereto, any person who meets the
41 requirements of K.S.A. 2019 Supp. 40-4905, and amendments thereto,
42 shall be issued an insurance agent license. An insurance agent may receive
43 qualifications for a license in one or more of the following lines of

1 authority:

2 (1) Life—: Insurance coverage on human lives including benefits of
3 endowment and annuities, and may include benefits in the event of death
4 or dismemberment by accident and benefits for disability income.

5 (2) Accident and health or sickness—: Insurance coverage for
6 sickness, bodily injury or accidental death and may include benefits for
7 disability income.

8 (3) Property—: Insurance coverage for the direct or consequential
9 loss or damage to property of every kind.

10 (4) Casualty—: Insurance coverage against legal liability, including
11 that for death, injury or disability or damage to real or personal property.

12 (5) Variable life and variable annuity products—: Insurance
13 coverage provided under variable life insurance contracts, variable
14 annuities or any other life insurance or annuity product that reflects the
15 investment experience of a separate account.

16 (6) Personal lines—: Property and casualty insurance coverage sold
17 primarily to an individual or family for noncommercial purposes.

18 (7) Credit—: Limited line credit insurance.

19 (8) Crop insurance—: Limited line insurance for damage to crops
20 from unfavorable weather conditions, fire, lightning, flood, hail, insect
21 infestation, disease or other yield-reducing conditions or any other peril
22 subsidized by the federal crop insurance corporation, including multi-peril
23 crop insurance.

24 (9) Title insurance—: Limited line insurance that insures titles to
25 property against loss by reason of defective titles or encumbrances.

26 (10) Travel insurance—: Limited line insurance for personal risks
27 incidental to planned travel, including, but not limited to:

28 (A) Interruption or cancellation of trip or event;

29 (B) loss of baggage or personal effects;

30 (C) damages to accommodations or rental vehicles; or

31 (D) sickness, accident, disability or death occurring during travel.

32 Travel insurance does not include major medical plans, ~~which~~ *that* provide
33 comprehensive medical protection for travelers with trips lasting six
34 months or longer, for example, persons working overseas including
35 military personnel deployed overseas.

36 (11) Pre-need funeral insurance—: Limited line insurance that
37 allows for the purchase of a life insurance or annuity contract by or on
38 behalf of the insured solely to fund a pre-need contract or arrangement
39 with a funeral home for specific services.

40 (12) Bail bond insurance—: Limited line insurance that provides
41 surety for a monetary guarantee that an individual released from jail will
42 be present in court at an appointed time.

43 (13) Self-service storage unit insurance—: Limited line insurance

1 relating to the rental of self-service storage units, including:

2 (A) Personal effects insurance that provides coverage to renters of
3 storage units at the same facility for the loss of, or damage to, personal
4 effects that occurs at the same facility during the rental period; and

5 (B) any other coverage that the commissioner may approve as
6 meaningful and appropriate in connection with the rental of storage units.
7 Such insurance may only be issued in accordance with section 1, and
8 amendments thereto.

9 (14) Any other line of insurance permitted under the provisions of
10 chapter 40 of the Kansas Statutes Annotated, and amendments thereto, and
11 any rules and regulations promulgated thereunder.

12 (b) Unless suspended, revoked or refused renewal pursuant to K.S.A.
13 2019 Supp. 40-4909, and amendments thereto, an insurance agent license
14 shall remain in effect as long as:

15 (1) Education requirements for resident individual agents are met by
16 such insurance agent's biennial due date;

17 (2) *such insurance agent pays a biennial renewal application fee of*
18 *\$4; and*

19 (3) *such insurance agent submits an application for renewal on a*
20 *form prescribed by the commissioner.*

21 (c) On and after the effective date of this act: (1) Each licensed
22 insurance agent ~~who is an individual and holds a property or casualty~~
23 ~~qualification, or both, or a personal lines qualification shall biennially~~
24 ~~obtain a minimum of 12 24 C.E.C.s in courses certified as property and~~
25 ~~casualty which shall that include at least one hour three hours of~~
26 ~~instruction in insurance ethics which that also may include regulatory~~
27 ~~compliance. No more than three six of the required C.E.C.s shall be in~~
28 ~~insurance agency management.~~

29 (2) ~~Each licensed insurance agent who is an individual and holds a~~
30 ~~life, accident and health, or variable contracts qualification, or any~~
31 ~~combination thereof, shall biennially complete 12 C.E.C.s in courses~~
32 ~~certified as life, accident and health, or variable contracts which shall~~
33 ~~include at least one hour of instruction in insurance ethics which also may~~
34 ~~include regulatory compliance. No more than three of the required C.E.C.s~~
35 ~~shall be in insurance agency management.~~

36 (3) ~~Each licensed insurance agent who is an individual and holds only~~
37 ~~a crop qualification shall biennially obtain a minimum of two C.E.C.s in~~
38 ~~courses certified as crop C.E.C.s under the property and casualty category.~~

39 (4)(3) Each licensed insurance agent who is an individual and is
40 licensed only for title insurance shall biennially obtain a minimum of four
41 C.E.C.s in courses certified by the board of abstract examiners as title
42 C.E.C.s under the property and casualty category.

43 (5)(4) Each licensed insurance agent who is an individual and holds a

1 life insurance license solely for the purpose of selling pre-need funeral
2 insurance or annuity products shall file a report on or before such agent's
3 biennial due date affirming that such agent transacted no other insurance
4 business during the period covered by the report. Upon request of the
5 commissioner, an agent shall provide certification from an officer of each
6 insurance company ~~which~~ *that* has appointed such agent that the agent
7 transacted no other insurance business during the period covered by the
8 report. Agents who have offered to sell or sold only pre-need funeral
9 insurance are exempt from the requirement to obtain C.E.C.s.

10 ~~(6)~~(5) Each licensed insurance agent who is an individual and holds
11 only a bail bond qualification is exempt from the requirement to obtain
12 C.E.C.s.

13 ~~(d) On and after the effective date of this act, each individual~~
14 ~~insurance agent who holds a license with both a property or casualty~~
15 ~~qualification, or both, and a life, accident and health or variable contracts~~
16 ~~qualification, or any combination thereof, and who earns C.E.C.s from~~
17 ~~courses certified by the commissioner as qualifying for credit in any class,~~
18 ~~may apply, at such insurance agent's option, such C.E.C.s toward either the~~
19 ~~property or casualty continuing education requirement or to the life,~~
20 ~~accident and health or variable contracts continuing education~~
21 ~~requirement. However, no C.E.C. shall be applied to satisfy both the~~
22 ~~biennial property or casualty requirement, or both, and the biennial~~
23 ~~requirement for life, accident and health or variable contracts, or any~~
24 ~~combination thereof.~~

25 ~~(e)~~An instructor of an approved subject shall be entitled to the same
26 C.E.C. as a student completing the study.

27 ~~(f)~~(e) (1) An individual insurance agent who has been licensed for
28 more than one year, on or before such insurance agent's biennial due date,
29 shall file a report with the commissioner certifying that such insurance
30 agent has met the continuing education requirements for the previous
31 biennium ending on such insurance agent's biennial due date. Each
32 individual insurance agent shall maintain a record of all courses attended
33 together with a certificate of attendance for the remainder of the biennium
34 in which the courses were attended and the entire next succeeding
35 biennium.

36 (2) If the required report showing proof of continuing education
37 completion is not received by the commissioner by the individual
38 insurance agent's biennial due date, such individual insurance agent's
39 qualification and each and every corresponding license shall be suspended
40 automatically for a period of 90 calendar days or until such time as the
41 producer satisfactorily demonstrates completion of the continuing
42 education requirement whichever is sooner. In addition the commissioner
43 shall assess a penalty of \$100 for each license suspended. If such insurance

1 agent fails to furnish to the commissioner the required proof of continuing
2 education completion and the monetary penalty within 90 calendar days of
3 such insurance agent's biennial due date, such individual insurance agent's
4 qualification and each and every corresponding license shall expire on
5 such insurance agent's biennial due date. If after more than three but less
6 than 12 months from the date the license expired, the insurance agent
7 wants to reinstate such insurance agent's license, such individual shall
8 provide the required proof of continuing education completion and pay a
9 reinstatement fee in the amount of \$100 for each license suspended. If
10 after more than 12 months from the date an insurance agent's license has
11 expired, such insurance agent wants to reinstate such insurance agent's
12 license, such individual shall apply for an insurance agent's license,
13 provide the required proof of continuing education completion and pay a
14 reinstatement fee in the amount of \$100 for each license suspended. Upon
15 receipt of a written application from such insurance agent claiming
16 extreme hardship, the commissioner may waive any penalty imposed
17 under this subsection.

18 (3) On and after the effective date of this act, any applicant for an
19 individual insurance agent's license who previously held a license ~~which~~
20 *that* expires on or after June 30, 2001, because of failure to meet
21 continuing education requirements and who seeks to be relicensed shall
22 provide evidence that appropriate C.E.C.s have been completed for the
23 prior biennium.

24 (4) Upon receipt of a written application from an individual insurance
25 agent, the commissioner, in cases involving medical hardship or military
26 service, may extend the time within which to fulfill the minimum
27 continuing educational requirements for a period of not to exceed 180
28 days.

29 (5) This section shall not apply to any inactive insurance agent during
30 the period of such inactivity. For the purposes of this paragraph, "inactive
31 period" or "period of inactivity" ~~shall mean~~ *means* a continuous period of
32 time of not less than two years and not more than four years starting from
33 the date inactive status is granted by the commissioner. Before returning to
34 active status, such inactive insurance agent shall:

35 (A) File a report with the commissioner certifying that such agent has
36 met the continuing education requirement; and

37 (B) pay the renewal fee. If the required proof of continuing education
38 completion and the renewal fee is not furnished at the end of the inactive
39 period, such individual insurance agent's qualification and each and every
40 corresponding license shall expire at the end of the period of inactivity. For
41 issuance of a new license, the individual shall apply for a license and pass
42 the required examination.

43 (6) Any individual who allows such individual's insurance agent

1 license in this state and all other states in which such individual is licensed
2 as an insurance agent to expire for a period of four or more consecutive
3 years, shall apply for a new insurance agent license and pass the required
4 examination.

5 ~~(g)~~(f) (1) Each course, program of study, or subject shall be submitted
6 to and certified by the commissioner in order to qualify for purposes of
7 continuing education.

8 (2) Each request for certification of any course, program of study or
9 subject shall contain the following information:

10 (A) The name of the provider or provider organization;

11 (B) the title of such course, program of study or subject;

12 (C) the date the course, program of study or subject will be offered;

13 (D) the location where the course, program of study or subject will be
14 offered;

15 (E) an outline of each course, program of study or subject including a
16 schedule of times when such material will be presented;

17 (F) the names and qualifications of instructors;

18 (G) the number of C.E.C.s requested;

19 (H) a nonrefundable C.E.C. qualification fee in the amount of \$50 per
20 course, program of study or subject or \$250 per year for all courses,
21 programs of study or subjects submitted by a specific provider or provider
22 organization; and

23 (I) a nonrefundable annual provider fee of \$100.

24 (3) Upon receipt of such information, the commissioner shall grant or
25 deny certification of any submitted course, program of study or subject as
26 an approved subject, program of study or course and indicate the number
27 of C.E.C.s that will be recognized for each approved course, program of
28 study or subject. Each approved course, program of study or subject shall
29 be assigned by the commissioner to one or both of the following classes:

30 (A) Property and casualty; or

31 (B) life insurance, including annuity and variable contracts, and
32 accident and health insurance.

33 (4) Each course, program of study or subject shall have a value of at
34 least one C.E.C.

35 (5) (A) Each provider seeking approval of a course, program of study
36 or subject for continuing education credit shall issue or cause to be issued
37 to each person who attends a course, program of study or subject offered
38 by such provider a certificate of attendance. The certificate shall be signed
39 by either the instructor who presents the course, program of study or
40 course or such provider's authorized representative. Each provider shall
41 maintain a list of all individuals who attend courses offered by such
42 provider for continuing education credit for the remainder of the biennium
43 in which the courses are offered and the entire next succeeding biennium.

1 (B) The commissioner shall accept, without substantive review, any
2 course, program of study or subject submitted by a provider ~~which~~ that has
3 been approved by the insurance supervisory authority of any other state or
4 territory accredited by the NAIC. The commissioner may disapprove any
5 individual instructor or provider who has been the subject of disciplinary
6 proceedings or who has otherwise failed to comply with any other state's
7 or territory's laws or regulations.

8 (6) The commissioner may grant or approve any specific course,
9 program of study or course that has appropriate merit, such as any course,
10 programs of study or course with broad national or regional recognition,
11 without receiving any request for certification. The fee prescribed by
12 subsection ~~(g)~~ (f)(2) shall not apply to any approval granted pursuant to
13 this provision.

14 (7) The C.E.C. value assigned to any course, program of study or
15 subject, other than a correspondence course, computer based training,
16 interactive internet study training or other course pursued by independent
17 study, shall in no way be contingent upon passage or satisfactory
18 completion of any examination given in connection with such course,
19 program of study or subject. The commissioner shall establish, by rules
20 and regulations criteria for determining acceptability of any method used
21 for verification of the completion of each stage of any computer based or
22 interactive internet study training. Completion of any computer based
23 training or interactive internet study training shall be verified in
24 accordance with a method approved by the commissioner.

25 ~~(h)~~(g) Upon request, the commissioner shall provide a list of all
26 approved continuing education courses currently available to the public.

27 ~~(i)~~(h) An individual insurance agent who independently studies an
28 insurance course, program of study or subject ~~which~~ that is not an agent's
29 examination approved by the commissioner and who passes an
30 independently monitored examination, shall receive credit for the C.E.C.s
31 assigned by the commissioner as recognition for the approved subject. No
32 other credit shall be given for independent study.

33 ~~(j)~~(i) Any licensed individual insurance agent who is unable to
34 comply with license renewal procedures due to military service or some
35 other extenuating circumstances may request a waiver of those procedures
36 from the commissioner. Such agent may also request from the
37 commissioner a waiver of any examination requirement or any other fine
38 or sanction imposed for failure to comply with renewal procedures.

39 Sec. 3. K.S.A. 2019 Supp. 40-4905 is hereby amended to read as
40 follows: 40-4905. (a) Subject to the provisions of K.S.A. 2019 Supp. 40-
41 4904, and amendments thereto, it shall be unlawful for any person to sell,
42 solicit or negotiate any insurance within this state unless such person has
43 been issued a license as an insurance agent in accordance with this act.

1 (b) Any person applying for a resident insurance agent license shall
 2 make application on a form prescribed by the commissioner. The applicant
 3 shall declare under penalty of perjury that the statements made in the
 4 application are true, correct and complete to the best of the applicant's
 5 knowledge and belief. Before approving the application, the commissioner
 6 shall determine that the applicant:

7 (1) Is at least 18 years of age;

8 (2) has not committed any act that is grounds for denial pursuant to
 9 this section or suspension or revocation pursuant to K.S.A. 2019 Supp. 40-
 10 4909, and amendments thereto;

11 (3) has paid a nonrefundable fee in the amount of \$30; and

12 (4) has successfully passed the examination for each line of authority
 13 for which the applicant has applied.

14 (c) If the applicant is a business entity, then, *in addition to those*
 15 *determinations required by subsection (a)*, the commissioner shall ~~make~~
 16 ~~the following additional determinations in addition to those required by~~
 17 ~~subsection (a):~~

18 ~~(1) also determine the name and address of a licensed agent who~~
 19 ~~shall be responsible for the business entity's compliance with the insurance~~
 20 ~~laws of this state and the rules and regulations promulgated thereunder;~~

21 ~~(2) that each officer, director, partner and employee of the business~~
 22 ~~entity who acts as an insurance agent is licensed as an insurance agent;~~

23 ~~(3) that the business entity has disclosed to the department all of its~~
 24 ~~officers, directors and partners whether or not such officers, directors,~~
 25 ~~partners and employees are licensed as insurance agents; and~~

26 ~~(4) that the business entity has disclosed to the department each~~
 27 ~~officer, director, partner and employee who is licensed as an insurance~~
 28 ~~agent.~~

29 ~~(d) Any business entity which acts as an insurance agent and holds a~~
 30 ~~direct agency appointment from an insurance company shall be required to~~
 31 ~~obtain an insurance agent license.~~

32 ~~(e)(d)~~ The commissioner may require the applicant to furnish any
 33 document or other material reasonably necessary to verify the information
 34 contained in an application.

35 ~~(f)(e)~~ Each insurer that sells, solicits or negotiates any form of limited
 36 line credit insurance shall provide a program of instruction that may be
 37 approved by the commissioner to each individual employed by or acting
 38 on behalf of such insurer to sell, solicit or negotiate limited line credit
 39 insurance.

40 ~~(g)(1) Each licensed insurance agent shall notify the commissioner of~~
 41 ~~any officer, director, partner or employee of such insurance agent who:~~

42 ~~(A) Is licensed as an individual insurance agent; and~~

43 ~~(B) was not disclosed in such insurance agent's application for a~~

1 license or any renewal thereof.

2 ~~(2) Each licensed insurance agent shall notify the commissioner of~~
3 ~~any of its officers, directors, partners or employees who:~~

4 ~~(A) Have terminated such relationship as an officer, director, partner~~
5 ~~or employee of such insurance agent; and~~

6 ~~(B) has been previously disclosed in such insurance agent's~~
7 ~~application for a license or any renewal thereof.~~

8 ~~(3) Each licensed insurance agent shall notify the commissioner~~
9 ~~within 30 working days of occurrence of any event required to be reported~~
10 ~~under paragraphs (1) or (2) of this subsection. Failure to provide the~~
11 ~~commissioner with the information required by this subsection shall~~
12 ~~subject the licensee to a monetary penalty of \$10 per day for each working~~
13 ~~day the required information is late subject to a maximum of \$50 per~~
14 ~~person per licensing year.~~

15 *(f) (1) Each person or entity licensed in this state as an insurance*
16 *agent shall report the following to the commissioner within 30 days of*
17 *occurrence:*

18 *(A) Each disciplinary action on the agent's license or licenses by the*
19 *insurance regulatory agency of any other state or territory of the United*
20 *States;*

21 *(B) each disciplinary action on an occupational license held by the*
22 *licensee, other than an insurance agent's license, by the appropriate*
23 *regulatory authority of this or any other jurisdiction;*

24 *(C) each judgment or injunction entered against the licensee on the*
25 *basis of conduct involving fraud, deceit or misrepresentation, or a*
26 *violation of any insurance law;*

27 *(D) all details of any conviction of a misdemeanor or felony. The*
28 *details shall include the name of the arresting agency, the location and*
29 *date of the arrest, the nature of the charge or charges, the court in which*
30 *the case was tried and the disposition rendered by the court. Minor traffic*
31 *violations may be omitted;*

32 *(E) each change in name. If the change of name is effected by court*
33 *order, a copy of the court order shall be furnished to the commissioner;*

34 *(F) each change in residence or mailing address, email address or*
35 *telephone number;*

36 *(G) each change in the name or address of the agency with which the*
37 *agent is associated; and*

38 *(H) each termination of a business relationship with an insurer if the*
39 *termination is for cause, including the reason for the termination of the*
40 *business relationship with such insurer.*

41 *(2) Each person or entity licensed in this state as an insurance agent*
42 *shall provide to the commissioner, upon request, a current listing of*
43 *company affiliations and affiliated insurance agents.*

1 (3) *Each business entity licensed in this state as an insurance agent*
2 *shall report each change in legal or mailing address, email address and*
3 *telephone number to the commissioner within 30 days of occurrence.*

4 (4) *Each business entity licensed in this state as an insurance agent*
5 *shall report each change in the name and address of the licensed agent*
6 *who shall be responsible for the business entity's compliance with the*
7 *insurance laws of this state to the commissioner within 30 days of*
8 *occurrence.*

9 ~~(h)~~(g) Any applicant whose application for a license is denied shall be
10 given an opportunity for a hearing in accordance with the provisions of the
11 Kansas administrative procedure act.

12 ~~(i)~~(h) (1) The commissioner may require a person applying for a
13 resident insurance agent license to be fingerprinted and submit to a state
14 and national criminal history record check. The fingerprints shall be used
15 to identify the applicant and to determine whether the applicant has a
16 record of criminal arrests and convictions in this state or other
17 jurisdictions. The commissioner is authorized to submit the fingerprints to
18 the Kansas bureau of investigation and the federal bureau of investigation
19 for a state and national criminal history record check. Local and state law
20 enforcement officers and agencies shall assist the commissioner in the
21 taking and processing of fingerprints of applicants and shall release all
22 records of an applicant's arrests and convictions to the commissioner.

23 (2) The commissioner may conduct, or have a third party conduct, a
24 background check on a person applying for a resident insurance agent
25 license.

26 (3) Whenever the commissioner requires fingerprinting, a
27 background check, or both, any associated costs shall be paid by the
28 applicant.

29 (4) The commissioner may use the information obtained from a
30 background check, fingerprinting and the applicant's criminal history only
31 for purposes of verifying the identification of any applicant and in the
32 official determination of the fitness of the applicant to be issued a license
33 as an insurance agent in accordance with this act.

34 (5) A person applying for a resident insurance agent license who has
35 been fingerprinted and has submitted to a state and national criminal
36 history record check within the past 12 months in connection with the
37 successful issuance or renewal of any other state-issued license may
38 submit proof of such good standing to the commissioner in lieu of
39 submitting to the fingerprinting and criminal history record checks
40 described in subsections~~(i)~~(h)(1) and~~(i)~~(h)(2).

41 Sec. 4. K.S.A. 2019 Supp. 40-4909 is hereby amended to read as
42 follows: 40-4909. (a) The commissioner may deny, suspend, revoke or
43 refuse renewal of any license issued under this act if the commissioner

1 finds that the applicant or license holder has:

- 2 (1) Provided incorrect, misleading, incomplete or untrue information
3 in the license application.
- 4 (2) Violated:
 - 5 (A) Any provision of chapter 40 of the Kansas Statutes Annotated,
6 and amendments thereto, or any ~~rule~~ *rules* and ~~regulation~~ *regulations*
7 promulgated thereunder;
 - 8 (B) any subpoena or order of the commissioner;
 - 9 (C) any insurance law or regulation of another state; or
 - 10 (D) any subpoena or order issued by the regulatory official for
11 insurance in another state.
- 12 (3) Obtained or attempted to obtain a license under this act through
13 misrepresentation or fraud.
- 14 (4) Improperly withheld, misappropriated or converted any moneys
15 or properties received in the course of doing insurance business.
- 16 (5) Intentionally misrepresented the provisions, terms and conditions
17 of an actual or proposed insurance contract or application for insurance.
- 18 (6) Been convicted of a misdemeanor or felony.
- 19 (7) Admitted to or been found to have committed any insurance
20 unfair trade practice or fraud in violation of K.S.A. 40-2404, and
21 amendments thereto.
- 22 (8) Used any fraudulent, coercive, or dishonest practice, or
23 demonstrated any incompetence, untrustworthiness or financial
24 irresponsibility in the conduct of business in this state or elsewhere.
- 25 (9) Had an insurance agent license, or its equivalent, denied,
26 suspended or revoked in any ~~other~~ state, district or territory.
- 27 (10) Forged another person's name to an application for insurance or
28 to any document related to an insurance transaction.
- 29 (11) Improperly used notes or any other reference material to
30 complete an examination for an insurance license issued under this act.
- 31 (12) Knowingly accepted insurance business from an individual who
32 is not licensed.
- 33 (13) Failed to comply with any administrative or court order
34 imposing a child support obligation upon the applicant or license holder.
- 35 (14) Failed to pay any state income tax or comply with any
36 administrative or court order directing payment of state income tax.
- 37 (15) Rebated the whole or any part of any insurance premium or
38 offered in connection with the presentation of any contract of insurance
39 any other inducement not contained in the contract of insurance.
- 40 (16) Made any misleading representation or incomplete comparison
41 of policies to any person for the purposes of inducing or tending to induce
42 such person to lapse, forfeit or surrender such person's insurance then in
43 force.

1 (17) *Failed to respond to an inquiry from the commissioner within 15*
 2 *business days.*

3 (b) In addition, the commissioner may *deny*, suspend, revoke or
 4 refuse renewal of any license issued under this act if the commissioner
 5 finds that the interests of the insurer or the insurable interests of the public
 6 are not properly served under such license.

7 (c) (1) *In determining whether to grant or renew a license, the*
 8 *commissioner shall consider the:*

- 9 (A) *Applicant's age at the time of the conduct;*
- 10 (B) *recency of the conduct;*
- 11 (C) *reliability of the information concerning the conduct;*
- 12 (D) *seriousness of the conduct;*
- 13 (E) *factors underlying the conduct;*
- 14 (F) *cumulative effect of the conduct or information;*
- 15 (G) *evidence of rehabilitation;*
- 16 (H) *applicant's social contributions since the conduct;*
- 17 (I) *applicant's candor in the application process; and*
- 18 (J) *materiality of any omissions or misrepresentations.*

19 (2) *In determining whether to reinstate or grant to an applicant a*
 20 *license that has been revoked, the commissioner shall consider the:*

- 21 (A) *Present moral fitness of the applicant;*
- 22 (B) *demonstrated consciousness by the applicant of the wrongful*
 23 *conduct and disrepute that the conduct has brought to the insurance*
 24 *profession;*
- 25 (C) *extent of the applicant's rehabilitation;*
- 26 (D) *seriousness of the original conduct;*
- 27 (E) *applicant's conduct subsequent to discipline;*
- 28 (F) *amount of time that has elapsed since the original discipline;*
- 29 (G) *applicant's character, maturity and experience at the time of*
 30 *revocation; and*
- 31 (H) *applicant's present competence and skills in the insurance*
 32 *industry.*

33 (d) Any action taken under this section ~~which~~ *that* affects any license
 34 or imposes any administrative penalty shall be taken only after notice and
 35 an opportunity for a hearing conducted in accordance with the provisions
 36 of the Kansas administrative procedures act.

37 ~~(d)~~(e) The license of any business entity may be suspended, revoked
 38 or refused renewal if the insurance commissioner finds that any violation
 39 committed by an individual licensee employed by or acting on behalf of
 40 such business entity was known by or should have been known by one or
 41 more of the partners, officers or managers acting on behalf of the business
 42 entity and:

43 (1) Such violation was not reported to the insurance commissioner by

1 such business entity; or

2 (2) such business entity failed to take any corrective action.

3 ~~(e)~~(f) None of the following actions shall deprive the commissioner
4 of any jurisdiction or right to institute or proceed with any disciplinary
5 proceeding against such license, to render a decision suspending, revoking
6 or refusing to renew such license, or to establish and make a record of the
7 facts of any violation of law for any lawful purpose:

8 (1) The imposition of an administrative penalty under this section;

9 (2) the lapse or suspension of any license issued under this act by
10 operation of law;

11 (3) the licensee's failure to renew any license issued under this act; or

12 (4) the licensee's voluntary surrender of any license issued under this
13 act. No such disciplinary proceeding shall be instituted against any
14 licensee after the expiration of two years from the termination of the
15 license.

16 ~~(f)~~(g) Whenever the commissioner imposes any administrative
17 penalty or denies, suspends, revokes or refuses renewal of any license
18 pursuant to subsection (a), any costs incurred as a result of conducting an
19 administrative hearing authorized under the provisions of this section shall
20 be assessed against the person who is the subject of the hearing or any
21 business entity represented by such person who is the party to the matters
22 giving rise to the hearing. As used in this subsection, "costs" shall include
23 witness fees, mileage allowances, any costs associated with the
24 reproduction of documents which become a part of the hearing record and
25 the expense of making a record of the hearing.

26 ~~(g)~~(h) No person whose license as an agent or broker had been
27 suspended or revoked shall be employed by any insurance company doing
28 business in this state either directly, indirectly, as an independent
29 contractor or otherwise to negotiate or effect contracts of insurance,
30 suretyship or indemnity or perform any act toward the solicitation of or
31 transaction of any business of insurance during the period of such
32 suspension or revocation.

33 ~~(h)~~(i) In lieu of taking any action under subsection (a), the
34 commissioner may:

35 (1) Censure the person; or

36 (2) issue an order imposing an administrative penalty up to a
37 maximum of \$500 for each violation but not to exceed \$2,500 for the same
38 violation occurring within any six consecutive calendar months from the
39 date of the original violation unless such person knew or should have
40 known that the violative act could give rise to disciplinary action under
41 subsection (a). If such person knew or reasonably should have known the
42 violative act could give rise to any disciplinary proceeding authorized by
43 subsection (a), the commissioner may impose a penalty up to a maximum

1 of \$1,000 for each violation but not to exceed \$5,000 for the same
2 violation occurring within any six consecutive calendar months from the
3 date of the imposition of the original administrative penalty.

4 *(j) (1) An applicant to whom a license has been denied after a*
5 *hearing shall not apply for a license again until after the expiration of a*
6 *period of one year from the date of the commissioner's order or such other*
7 *period of time as the commissioner may prescribe in the order.*

8 *(2) A licensee whose license was revoked shall not apply for a license*
9 *again until after the expiration of a period of five years from the date of*
10 *the commissioner's order or such other period of time as the commissioner*
11 *may prescribe in the order or revocation.*

12 Sec. 5. K.S.A. 2019 Supp. 40-4912 is hereby amended to read as
13 follows: 40-4912. (a) Any company authorized to transact business in this
14 state may, upon determining that the insurance agent is of good business
15 reputation and, if an individual, has had experience in insurance or will
16 immediately receive a course of instruction in insurance and on the
17 policies and policy forms of such company, appoint such insurance agent
18 as the insurance agent of the company under the license in effect for the
19 insurance agent. The appointment shall be made on a form prescribed by
20 the commissioner. Such form shall be sent to the commissioner within 30
21 days of the date the company appoints such insurance agent. A
22 nonrefundable appointment or certification fee set forth in K.S.A. 40-252,
23 and amendments thereto, shall be paid in accordance with the billing
24 procedures established by the commissioner. Such procedures shall require
25 payment of the fees annually, based on the number of insurance agents
26 appointed during the calendar year preceding the return. The certification
27 fees required by K.S.A. 40-252, and amendments thereto, shall be due for
28 all insurance agents appointed by the company during the preceding
29 calendar year, irrespective of the number of months the insurance agent
30 was appointed for that year. The certification fee shall not be returned for
31 any reason, and failure of the company to certify an insurance agent within
32 30 working days of such insurance agent's appointment shall subject the
33 company to a penalty of not more than \$25 per calendar day from the date
34 the appropriate return was required from the date of appointment to the
35 date proper certification is recorded by the insurance department.

36 ~~(b) Certification of other than an individual insurance agent will~~
37 ~~automatically include each licensed insurance agent who is an officer,~~
38 ~~director, partner, employee or otherwise legally associated with the~~
39 ~~corporation, association, partnership or other legal entity appointed by the~~
40 ~~company. The required annual certification fee shall be paid for each~~
41 ~~licensed insurance agent certified by the company and the prescribed~~
42 ~~reporting form shall be returned at the same time the company files its tax~~
43 ~~returns as required by K.S.A. 40-252, and amendments thereto.~~

1 (e)—With respect to insurance on growing crops, evidence satisfactory
2 to the commissioner that the insurance agent is qualified to transact
3 insurance in accordance with standards or procedures established by any
4 branch of the federal government shall be deemed to be the equivalent of
5 certification by a company.

6 (d)(c) Duly licensed insurance agents transacting business in
7 accordance with the provisions of article 41 of chapter 40 of the Kansas
8 Statutes Annotated, and amendments thereto, shall be deemed to be
9 certified by a company for the kinds of insurance permitted under the
10 license in effect for the insurance agent.

11 Sec. 6. K.S.A. 2019 Supp. 40-4915 is hereby amended to read as
12 follows: 40-4915. (a) Notwithstanding the provisions of K.S.A. 2019
13 Supp. 40-4903 and 40-4906, and amendments thereto, any person who is
14 currently licensed as an insurance agent on the day before the effective
15 date of this act and whose biennial due date occurred during the 24
16 calendar months immediately preceding the effective date of this act shall
17 be deemed to be licensed as an insurance agent under this act unless such
18 person's license has been suspended, revoked or refused renewal prior to
19 the effective date of this act.

20 (b) Any person licensed as an insurance agent under the provisions of
21 subsection (a) shall renew such license in accordance with the provisions
22 of this act on or before the first occurrence of such person's biennial due
23 date after the effective date of this act.

24 (c) *If the required renewal application is not received by the*
25 *commissioner by the individual insurance agent's biennial due date, such*
26 *individual insurance agent's qualification and each corresponding license*
27 *shall be suspended automatically for a period of 90 calendar days or until*
28 *such time as the agent satisfactorily submits a completed application,*
29 *whichever occurs first. In addition, the commissioner shall assess a*
30 *penalty of \$100 for each license suspended. If such insurance agent fails*
31 *to furnish to the commissioner the required renewal application and the*
32 *monetary penalty within 90 calendar days of such insurance agent's*
33 *biennial due date, such individual insurance agent's qualification and*
34 *each corresponding license shall expire on such insurance agent's biennial*
35 *due date. If, after more than three but less than 12 months from the date*
36 *the license expired, the insurance agent desires to reinstate such insurance*
37 *agent's license, such individual shall provide the required renewal*
38 *application and pay a reinstatement fee in the amount of \$100 for each*
39 *license suspended. If, after more than 12 months from the date an*
40 *insurance agent's license has expired, such insurance agent desires to*
41 *reinstate such insurance agent's license, such individual shall apply for an*
42 *insurance agent's license, provide the required proof of continuing*
43 *education completion and pay a reinstatement fee in the amount of \$100*

1 *for each license suspended. Upon receipt of a written application from*
2 *such insurance agent claiming extreme hardship, the commissioner may*
3 *waive any penalty imposed under this subsection.*

4 Sec. 7. K.S.A. 2019 Supp. 40-5505 is hereby amended to read as
5 follows: 40-5505. (a) Before issuing a public adjuster license to an
6 applicant under ~~this~~ *the public adjusters licensing act*, the commissioner
7 shall find that the applicant:

8 (1) Is eligible to designate this state as the applicant's home state or is
9 a nonresident who is not eligible for a license under K.S.A. 2019 Supp. 40-
10 5508, and amendments thereto;

11 (2) has not committed any act that is a ground for denial, suspension
12 or revocation of a license as set forth in K.S.A. 2019 Supp. 40-5510, and
13 amendments thereto;

14 (3) is trustworthy, reliable and of good reputation, evidence of which
15 may be determined by the commissioner;

16 (4) is financially responsible to exercise the rights and privileges
17 under the license and has provided proof of financial responsibility as
18 required in K.S.A. 2019 Supp. 40-5511, and amendments thereto;

19 (5) has paid an application fee of \$100; and

20 (6) maintains an office in the home state with public access during
21 regular business hours or by reasonable appointment.

22 (b) In addition to satisfying the requirements of subsection (a), an
23 applicant shall:

24 (1) Be at least 18 years of age; and

25 (2) have successfully passed the public adjuster examination.

26 (c) The commissioner may require any documents reasonably
27 necessary to verify the information contained in the application.

28 (d) (1) *The commissioner may require a person applying for a public*
29 *adjuster license to be fingerprinted and submit to a state and national*
30 *criminal history record check or to submit to a background check, or both.*

31 (A) *The fingerprints shall be used to identify the applicant and to*
32 *determine whether the applicant has a record of criminal history in this*
33 *state or another jurisdiction. The commissioner shall submit the*
34 *fingerprints to the Kansas bureau of investigation and the federal bureau*
35 *of investigation for a state and national criminal history record check.*
36 *Local and state law enforcement officers and agencies shall assist the*
37 *commissioner in the taking and processing of fingerprints of applicants*
38 *and shall release all records of an applicant's arrests and convictions to*
39 *the commissioner.*

40 (B) *The commissioner may conduct or have a third-party conduct a*
41 *background check on a person applying for a public adjuster license.*

42 (2) *Whenever the commissioner requires fingerprinting or a*
43 *background check, or both, any associated costs shall be paid by the*

1 applicant.

2 (3) The commissioner may use the information obtained from a
3 background check, fingerprinting and the applicant's criminal history only
4 for purposes of verifying the identity of the applicant and in the official
5 determination of the fitness of the applicant to be issued a license as a
6 public adjuster in accordance with the public adjusters licensing act.

7 Sec. 8. K.S.A. 2019 Supp. 40-5512 is hereby amended to read as
8 follows: 40-5512. (a) As used in this section:

9 (1) "Biennial due date" means the *last day of the month of the* date of
10 birth of any public adjuster who is required to complete continuing
11 education credits and report the completion of the continuing education
12 credits to the commissioner, except that such due date shall not be earlier
13 than two years from the date of the public adjuster's initial licensure under
14 this act.

15 (2) "Biennium" means, for any public adjuster who was born in an
16 odd-numbered year, the two-year period starting with the public adjuster's
17 biennial due date in 2011 and each two-year period thereafter. For any
18 public adjuster who was born in an even-numbered year, such term means
19 the two-year period starting with the public adjuster's biennial due date in
20 2012 and each two-year period thereafter.

21 (b) An individual, who holds a public adjuster license and who is not
22 exempt under subsection (d), shall satisfactorily complete a minimum of
23 ~~12~~ 24 hours of continuing education courses, ~~which shall include 11 hours~~
24 ~~of property/casualty or general continuing education courses and one hour~~
25 *that includes three hours* of ethics, reported on a biennial basis in
26 conjunction with the license renewal cycle. Only continuing education
27 courses approved by the commissioner shall be used to satisfy the
28 requirements of this subsection.

29 (c) Unless suspended, revoked or refused renewal pursuant to K.S.A.
30 2019 Supp. 40-5510, and amendments thereto, a public adjuster's license
31 shall remain in effect as long as the education requirements for a resident
32 public adjuster are met by such public adjuster's biennial due date.

33 (d) The continuing education requirements of this section shall not
34 apply to licensees holding nonresident public adjuster licenses who have
35 met the continuing education requirements of their home state and whose
36 home state gives credit to residents of this state on the same basis.

37 Sec. 9. K.S.A. 2019 Supp. 40-4902, 40-4903, 40-4905, 40-4909, 40-
38 4912, 40-4915, 40-5505 and 40-5512 are hereby repealed.

39 Sec. 10. This act shall take effect and be in force from and after its
40 publication in the statute book.