

HOUSE BILL No. 2048

By Committee on Insurance

Requested by Eric Turek, Kansas Insurance Department

1-21

1 AN ACT concerning insurance; relating to the powers, duties and
2 responsibilities of the commissioner; eliminating the requirement that
3 the commissioner submit certain reports to the governor; removing
4 certain specific entities from the definition of person for the purpose of
5 enforcing insurance law; amending K.S.A. 40-108 and 40-2253 and
6 K.S.A. 2024 Supp. 40-2,125 and repealing the existing sections.
7

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

9 Section 1. K.S.A. 40-108 is hereby amended to read as follows: 40-
10 108. ~~The commissioner of insurance shall make an annual report to the~~
11 ~~governor of the general conduct and condition of the insurance companies,~~
12 ~~including fraternal benefit societies, doing business in this state.~~ The
13 commissioner of insurance shall keep and preserve in a permanent form a
14 full record of the commissioner's proceedings, including a concise
15 statement of the condition of each company reported, visited or examined
16 by the commissioner.

17 Sec. 2. K.S.A. 2024 Supp. 40-2,125 is hereby amended to read as
18 follows: 40-2,125. (a) If the commissioner determines after notice and
19 opportunity for a hearing that any person has engaged or is engaging in
20 any act or practice constituting a violation of any provision of Kansas
21 insurance statutes or any rule and regulation or order thereunder, the
22 commissioner may, in the exercise of discretion, order any one or more of
23 the following:

24 (1) Payment of a monetary penalty of not more than \$1,000 for each
25 and every act or violation, unless the person knew or reasonably should
26 have known *that* such person was in violation of the Kansas insurance
27 statutes or any rule and regulation or order thereunder, in which case the
28 penalty shall be not more than \$2,000 for each and every act or violation;

29 (2) suspension or revocation of the person's license or certificate if
30 such person knew or reasonably should have known that such person was
31 in violation of the Kansas insurance statutes or any rule and regulation or
32 order thereunder; or

33 (3) that such person cease and desist from the unlawful act or practice
34 and take such affirmative action—~~as~~ *that*, in the judgment of the
35 commissioner, will carry out the purposes of the violated or potentially

1 violated provision.

2 (b) If any person fails to file any report or other information with the
3 commissioner as required by statute or fails to respond to any proper
4 inquiry of the commissioner, the commissioner, after notice and
5 opportunity for hearing, may impose a civil penalty of up to \$1,000, for
6 each violation or act, along with an additional penalty of up to \$500 for
7 each week thereafter that such report or other information is not provided
8 to the commissioner.

9 (c) If the commissioner makes written findings of fact that there is a
10 situation involving an immediate danger to the public health, safety or
11 welfare or the public interest will be irreparably harmed by delay in
12 issuing an order under subsection (a)(3), the commissioner may issue an
13 emergency temporary cease and desist order. Such order, even when not an
14 order within the meaning of K.S.A. 77-502, and amendments thereto, shall
15 be subject to the same procedures as an emergency order issued under
16 K.S.A. 77-536, and amendments thereto. Upon the entry of such an order,
17 the commissioner shall promptly notify the person subject to the order
18 that: (1) ~~Such order~~ has been entered; (2) the reasons therefor; and (3)
19 that upon written request within 15 days after service of the order, the
20 matter will be set for a hearing, which shall be conducted in accordance
21 with the provisions of the Kansas administrative procedure act. If no
22 hearing is requested and none is ordered by the commissioner, the order
23 will remain in effect until it is modified or vacated by the commissioner. If
24 a hearing is requested or ordered, the commissioner, after notice of and
25 opportunity for hearing to the person subject to the order, shall, by written
26 findings of fact and conclusions of law vacate, modify or make permanent
27 the order.

28 (d) For purposes of this section:

29 (1) "Person" means any individual, corporation, association,
30 partnership, reciprocal exchange, inter-insurer, Lloyd's insurer, fraternal
31 benefit society ~~and any other legal entity engaged in the business of~~
32 ~~insurance, rating organization, third party administrator, nonprofit dental~~
33 ~~service corporation, nonprofit medical and hospital service corporation,~~
34 ~~automobile club, premium financing company, health maintenance~~
35 ~~organization, insurance holding company, mortgage guaranty insurance~~
36 ~~company, risk retention or purchasing group, prepaid legal and dental~~
37 ~~service plan, captive insurance company, automobile self-insurer or~~
38 ~~reinsurance intermediary~~ and any other legal entity under the jurisdiction
39 of the commissioner. The term "person" does not include insurance agents
40 and brokers as such terms are defined in K.S.A. 40-4902, and amendments
41 thereto.

42 (2) "Commissioner" means the commissioner of insurance of this
43 state.

1 Sec. 3. K.S.A. 40-2253 is hereby amended to read as follows: 40-
2 2253. (a) The commissioner of insurance shall devise universal forms to be
3 utilized by every insurance company, including health maintenance
4 organizations where applicable, offering any type of accident and sickness
5 policy covering individuals residing in this state for the purpose of
6 receiving every claim under such policy by persons covered thereunder. In
7 the preparation of such forms, the commissioner may confer with
8 representatives of insurance companies, health maintenance organizations,
9 trade associations and other interested parties. Upon completion and final
10 adoption of such forms by the commissioner, the commissioner shall
11 notify those companies affected by sending them a copy of such forms and
12 an explanation of the requirements of this section. Every such company
13 shall implement utilization of such forms not later than six months
14 following the date of the commissioner's notification.

15 (b) An accident and sickness insurer may not refuse to accept a claim
16 submitted on duly promulgated uniform claim forms. An insurer may
17 accept claims submitted on any other form.

18 (c) An accident and sickness insurer does not violate subsection (a)
19 by using a document that the accident and sickness insurer has been
20 required to use by the federal government or the state.

21 ~~(d) The commissioner of insurance shall report to the governor and to~~
22 ~~the legislature, no later than the commencement of the 1993 regular~~
23 ~~session of the Kansas legislature, regarding the development of uniform~~
24 ~~electronic data interchange formats and standards, along with a proposed~~
25 ~~plan, including an analysis of the cost impact thereof.~~

26 Sec. 4. K.S.A. 40-108 and 40-2253 and K.S.A. 2024 Supp. 40-2,125
27 are hereby repealed.

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