

HOUSE BILL No. 2072

By Committee on Judiciary

1-24

1 AN ACT concerning arbitration; relating to validity of an agreement to
2 arbitrate in a contract of insurance; amending K.S.A. 2018 Supp. 5-428
3 and repealing the existing section.
4

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

6 Section 1. K.S.A. 2018 Supp. 5-428 is hereby amended to read as
7 follows: 5-428. (a) (1) *Except as provided in subsection (a)(2), an*
8 *agreement contained in a record to submit to arbitration any existing or*
9 *subsequent controversy arising between the parties to the agreement is*
10 *valid, enforceable and irrevocable, except upon a ground that exists at law*
11 *or in equity for the revocation of a contract.*

12 (2) *An agreement contained in a contract of insurance to submit to*
13 *arbitration any existing or subsequent controversy arising between the*
14 *parties to the agreement, except for those contracts between insurance*
15 *companies, including reinsurance contracts, shall not be valid,*
16 *enforceable or irrevocable.*

17 (b) The court shall decide whether an agreement to arbitrate exists or
18 a controversy is subject to an agreement to arbitrate.

19 (c) An arbitrator shall decide whether a condition precedent to
20 arbitrability has been fulfilled and whether a contract containing a valid
21 agreement to arbitrate is enforceable.

22 (d) If a party to a judicial proceeding challenges the existence of, or
23 claims that a controversy is not subject to, an agreement to arbitrate, the
24 arbitration proceeding may continue, pending final resolution of the issue
25 by the court, unless the court otherwise orders.

26 Sec. 2. K.S.A. 2018 Supp. 5-428 is hereby repealed.

27 Sec. 3. This act shall take effect and be in force from and after its
28 publication in the statute book.