

## HOUSE BILL No. 2593

By Committee on Judiciary

Requested by Joe Molina on behalf of the Kansas Bar Association

1-24

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1 AN ACT concerning arbitration; making certain agreements to arbitrate in  
2 contracts of insurance invalid and creating exceptions therefor;  
3 amending K.S.A. 5-428 and repealing the existing section.  
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5 *Be it enacted by the Legislature of the State of Kansas:*

6 Section 1. K.S.A. 5-428 is hereby amended to read as follows: 5-428.

7 (a) (1) *Except as provided in paragraph (2), an agreement contained in a*  
8 *record to submit to arbitration any existing or subsequent controversy*  
9 *arising between the parties to the agreement is valid, enforceable and*  
10 *irrevocable, except upon a ground that exists at law or in equity for the*  
11 *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 K.S.A. 5-428 is hereby repealed.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.