

SENATE BILL No. 22

By Committee on Financial Institutions and Insurance

1-16

1 AN ACT concerning insurance; relating to title insurance; requiring title
2 agents to make their audit reports available for inspection upon request
3 of the commissioner of insurance instead of submitting such reports
4 annually; requiring the amount of surety bonds filed with the
5 commissioner to be \$100,000; eliminating the controlled business
6 exemption in certain counties; amending K.S.A. 40-1139 and K.S.A.
7 2024 Supp. 40-1137 and 40-2404 and repealing the existing sections.
8

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

10 Section 1. K.S.A. 2024 Supp. 40-1137 is hereby amended to read as
11 follows: 40-1137. A title insurance agent may operate as an escrow,
12 settlement or closing agent, provided that:

13 (a) All funds deposited with the title insurance agent in connection
14 with an escrow, settlement or closing shall be submitted for collection to,
15 invested in or deposited in a separate fiduciary trust account or accounts in
16 a qualified financial institution no later than the close of the next business
17 day, in accordance with the following requirements:

18 (1) The funds shall be the property of the person or persons entitled to
19 them under the provisions of the escrow, settlement or closing agreement
20 and shall be segregated for each depository by escrow, settlement or
21 closing in the records of the title insurance agent in a manner that permits
22 the funds to be identified on an individual basis;

23 (2) the funds shall be applied only in accordance with the terms of the
24 individual instructions or agreements under which the funds were
25 accepted; and

26 (3) an agent shall not retain any interest on any money held in an
27 interest-bearing account without the written consent of all parties to the
28 transaction.

29 (b) Funds held in an escrow account shall be disbursed only:

30 (1) Pursuant to written authorization of buyer and seller;

31 (2) pursuant to a court order; or

32 (3) when a transaction is closed according to the agreement of the
33 parties.

34 (c) A title insurance agent shall not commingle the agent's personal
35 funds or other moneys with escrow funds. In addition, the agent shall not
36 use escrow funds to pay or to indemnify against the debts of the agent or

1 of any other party. The escrow funds shall be used only to fulfill the terms
2 of the individual escrow and none of the funds shall be utilized until the
3 necessary conditions of the escrow have been met. All funds deposited for
4 real estate closings, including closings involving refinances of existing
5 mortgage loans, which exceed \$2,500 shall be in one of the following
6 forms:

7 (1) Lawful money of the United States;

8 (2) wire transfers such that the funds are unconditionally received by
9 the title insurance agent or the agent's depository;

10 (3) cashier's checks, certified checks, teller's checks or bank money
11 orders issued by a federally insured financial institution and
12 unconditionally held by the title insurance agent;

13 (4) funds received from governmental entities, federally chartered
14 instrumentalities of the United States or drawn on an escrow account of a
15 real estate broker licensed in the state or drawn on an escrow account of a
16 title insurer or title insurance agent licensed to do business in the state;

17 (5) other negotiable instruments that have been on deposit in the
18 escrow account at least 10 days; or

19 (6) a real-time or instant payment through the FedNow service
20 operated by the federal reserve banks or the clearing house payment
21 company's real-time payments (RTP) system.

22 (d) Each title insurance agent shall have an annual audit made of its
23 escrow, settlement and closing deposit accounts, conducted by a certified
24 public accountant or by a title insurer for which the title insurance agent
25 has a licensing agreement. The title insurance agent shall provide a copy of
26 the audit report to the commissioner ~~within 30 days after the close of the~~
27 ~~calendar year for which an audit is required~~ *upon request*. Title insurance
28 agents who are attorneys and who issue title insurance policies as part of
29 their legal representation of clients are exempt from the requirements of
30 this subsection. However, the title insurer, at its expense, may conduct or
31 cause to be conducted an annual audit of the escrow, settlement and
32 closing accounts of the attorney. Attorneys who are exclusively in the
33 business of title insurance are not exempt from the requirements of this
34 subsection.

35 (e) The commissioner may promulgate rules and regulations setting
36 forth the standards of the audit and the form of audit report required.

37 (f) If the title insurance agent is appointed by two or more title
38 insurers and maintains fiduciary trust accounts in connection with
39 providing escrow and closing settlement services, the title insurance agent
40 shall allow each title insurer reasonable access to the accounts and any or
41 all of the supporting account information in order to ascertain the safety
42 and security of the funds held by the title insurance agent.

43 (g) Nothing in this section is intended to amend, alter or supersede

1 other laws of this state or the United States, regarding an escrow holder's
2 duties and obligations.

3 Sec. 2. K.S.A. 40-1139 is hereby amended to read as follows: 40-
4 1139. (a) ~~The A~~ title insurance agent ~~who~~ *that* handles escrow, settlement
5 or closing accounts shall file with the commissioner a \$100,000 surety
6 bond or irrevocable letter of credit in a form acceptable to the
7 commissioner; *Such surety bond or irrevocable letter of credit shall be*
8 issued by an insurance company or financial institution *that is* authorized
9 to conduct business in this state; securing the applicant's or the title
10 insurance agent's faithful performance of all duties and obligations set out
11 in K.S.A. 40-1135 through 40-1141, and amendments thereto.

12 (b) ~~The terms of the bond or irrevocable letter of credit shall be:~~

13 ~~(1) The surety bond shall provide that such bond may not be~~
14 ~~terminated without 30 days prior written notice to the commissioner.~~

15 ~~(2) An(c) The irrevocable letter of credit shall:~~

16 ~~(1) Be issued by a bank which that is insured by the federal deposit~~
17 ~~insurance corporation or its successor if such letter of credit is; and~~

18 ~~(2) initially be issued for a term of at least one year and by its terms is~~
19 ~~automatically renewed at each expiration date for at least an additional~~
20 ~~one-year term unless at least 30 days prior written notice of intention not~~
21 ~~to renew is given provided to the commissioner of insurance.~~

22 ~~(e) The amount of the surety bond or irrevocable letter of credit for~~
23 ~~those agents servicing real estate transactions on property located in~~
24 ~~counties having a certain population shall be required as follows:~~

25 ~~(1) \$100,000 surety bond or irrevocable letter of credit in counties~~
26 ~~having a population of 40,001 and over;~~

27 ~~(2) \$50,000 surety bond or irrevocable letter of credit in counties~~
28 ~~having a population of 20,001 to 40,000; and~~

29 ~~(3) \$25,000 surety bond or irrevocable letter of credit in counties~~
30 ~~having a population of 20,000 or under.~~

31 (d) The surety bond or irrevocable letter of credit shall be for the
32 benefit of any person suffering a loss if the title insurance agent converts
33 or misappropriates money received or held in escrow, deposit or trust
34 accounts while acting as a title insurance agent providing any escrow or
35 settlement services.

36 Sec. 3. K.S.A. 2024 Supp. 40-2404 is hereby amended to read as
37 follows: 40-2404. The following are hereby defined as unfair methods of
38 competition and unfair or deceptive acts or practices in the business of
39 insurance:

40 (1) *Misrepresentations and false advertising of insurance policies.*
41 Making, issuing, circulating or causing to be made, issued or circulated,
42 any estimate, illustration, circular, statement, sales presentation, omission
43 or comparison that:

- 1 (a) Misrepresents the benefits, advantages, conditions or terms of any
2 insurance policy;
- 3 (b) misrepresents the dividends or share of the surplus to be received
4 on any insurance policy;
- 5 (c) makes any false or misleading statements as to the dividends or
6 share of surplus previously paid on any insurance policy;
- 7 (d) is misleading or is a misrepresentation as to the financial
8 condition of any person, or as to the legal reserve system upon which any
9 life insurer operates;
- 10 (e) uses any name or title of any insurance policy or class of
11 insurance policies misrepresenting the true nature thereof;
- 12 (f) is a misrepresentation for the purpose of inducing or tending to
13 induce the lapse, forfeiture, exchange, conversion or surrender of any
14 insurance policy;
- 15 (g) is a misrepresentation for the purpose of effecting a pledge or
16 assignment of or effecting a loan against any insurance policy; or
- 17 (h) misrepresents any insurance policy as being shares of stock.
- 18 (2) *False information and advertising generally.* Making, publishing,
19 disseminating, circulating or placing before the public, or causing, directly
20 or indirectly, to be made, published, disseminated, circulated or placed
21 before the public, in a newspaper, magazine or other publication, or in the
22 form of a notice, circular, pamphlet, letter or poster, or over any radio or
23 television station, or in any other way, an advertisement, announcement or
24 statement containing any assertion, misrepresentation or statement with
25 respect to the business of insurance or with respect to any person in the
26 conduct of such person's insurance business, that is untrue, deceptive or
27 misleading.
- 28 (3) *Defamation.* Making, publishing, disseminating or circulating,
29 directly or indirectly, or aiding, abetting or encouraging the making,
30 publishing, disseminating or circulating of any oral or written statement or
31 any pamphlet, circular, article or literature that is false, or maliciously
32 critical of or derogatory to the financial condition of any person, and that
33 is calculated to injure such person.
- 34 (4) *Boycott, coercion and intimidation.* Entering into any agreement
35 to commit, or by any concerted action committing, any act of boycott,
36 coercion or intimidation resulting in or tending to result in unreasonable
37 restraint of the business of insurance, or by any act of boycott, coercion or
38 intimidation monopolizing or attempting to monopolize any part of the
39 business of insurance.
- 40 (5) *False statements and entries.* (a) Knowingly filing with any
41 supervisory or other public official, or knowingly making, publishing,
42 disseminating, circulating or delivering to any person, or placing before
43 the public, or knowingly causing directly or indirectly, to be made,

1 published, disseminated, circulated, delivered to any person, or placed
2 before the public, any false material statement of fact as to the financial
3 condition of a person.

4 (b) Knowingly making any false entry of a material fact in any book,
5 report or statement of any person or knowingly omitting to make a true
6 entry of any material fact pertaining to the business of such person in any
7 book, report or statement of such person.

8 (6) *Stock operations and advisory board contracts.* Issuing or
9 delivering or permitting agents, officers or employees to issue or deliver,
10 agency company stock or other capital stock, or benefit certificates or
11 shares in any common-law corporation, or securities or any special or
12 advisory board contracts or other contracts of any kind promising returns
13 and profits as an inducement to insurance. Nothing herein shall prohibit
14 the acts permitted by K.S.A. 40-232, and amendments thereto.

15 (7) *Unfair discrimination.* (a) Making or permitting any unfair
16 discrimination between individuals of the same class and equal expectation
17 of life in the rates charged for any contract of life insurance or life annuity
18 or in the dividends or other benefits payable thereon, or in any other of the
19 terms and conditions of such contract.

20 (b) Making or permitting any unfair discrimination between
21 individuals of the same class and of essentially the same hazard in the
22 amount of premium, policy fees or rates charged for any policy or contract
23 of accident or health insurance or in the benefits payable thereunder, ~~or~~ in
24 any of the terms or conditions of such contract; or in any other manner
25 whatever.

26 (c) Refusing to insure, ~~or~~ refusing to continue to insure, ~~or~~ limiting
27 the amount, extent or kind of coverage available to an individual; or
28 charging an individual a different rate for the same coverage solely
29 because of blindness or partial blindness. With respect to all other
30 conditions, including the underlying cause of the blindness or partial
31 blindness, persons who are blind or partially blind shall be subject to the
32 same standards of sound actuarial principles or actual or reasonably
33 anticipated experience as are sighted persons. Refusal to insure includes
34 denial by an insurer of disability insurance coverage on the grounds that
35 the policy defines "disability" as being presumed in the event that the
36 insured loses such person's eyesight. However, an insurer may exclude
37 from coverage disabilities consisting solely of blindness or partial
38 blindness when such condition existed at the time the policy was issued.

39 (d) Refusing to insure, ~~or~~ refusing to continue to insure; or limiting
40 the amount, extent or kind of coverage available for accident and health
41 and life insurance to an applicant who is the proposed insured ~~or charge,~~
42 *charging* a different rate for the same coverage ~~or~~, excluding or limiting
43 coverage for losses or denying a claim incurred by an insured as a result of

1 abuse based on the fact that the applicant who, is the proposed insured, is,
2 has been, or may be the subject of domestic abuse, except as provided in
3 subsection (7)(d)(v). ~~"Abuse"~~ As used in this paragraph, "abuse" means
4 one or more acts defined in K.S.A. 60-3102, and amendments thereto,
5 between family members, current or former household members; or
6 current or former intimate partners.

7 (i) An insurer ~~may~~ shall not ask an applicant for life or accident and
8 health insurance who is the proposed insured if the individual is, has been
9 or may be the subject of domestic abuse, or seeks, has sought or had
10 reason to seek medical or psychological treatment or counseling
11 specifically for abuse, protection from abuse or shelter from abuse.

12 (ii) Nothing in this section shall be construed to prohibit a person
13 from declining to issue an insurance policy insuring the life of an
14 individual who is, has been or has the potential to be the subject of abuse if
15 the perpetrator of the abuse is the applicant or would be the owner of the
16 insurance policy.

17 (iii) No insurer that issues a life or accident and health policy to an
18 individual who is, has been or may be the subject of domestic abuse shall
19 be subject to civil or criminal liability for the death or any injuries suffered
20 by that individual as a result of domestic abuse.

21 (iv) No person shall refuse to insure, refuse to continue to insure,
22 limit the amount, extent or kind of coverage available to an individual or
23 charge a different rate for the same coverage solely because of physical or
24 mental condition, except where the refusal, limitation or rate differential is
25 based on sound actuarial principles.

26 (v) Nothing in this section shall be construed to prohibit a person
27 from underwriting or rating a risk on the basis of a preexisting physical or
28 mental condition, even if such condition has been caused by abuse,
29 provided that:

30 (A) The person routinely underwrites or rates such condition in the
31 same manner with respect to an insured or an applicant who is not a victim
32 of abuse;

33 (B) the fact that an individual is, has been or may be the subject of
34 abuse may not be considered a physical or mental condition; and

35 (C) such underwriting or rating is not used to evade the intent of this
36 section or any other provision of the Kansas insurance code.

37 (vi) Any person who underwrites or rates a risk on the basis of
38 preexisting physical or mental condition as set forth in subsection (7)(d)
39 (v), shall treat such underwriting or rating as an adverse underwriting
40 decision pursuant to K.S.A. 40-2,112, and amendments thereto.

41 (vii) The provisions of this paragraph shall apply to all policies of life
42 and accident and health insurance issued in this state after the effective
43 date of this act and all existing contracts that are renewed on or after the

1 effective date of this act.

2 (e) Refusing to insure, or refusing to continue to insure, or limiting
3 the amount, extent or kind of coverage available for life insurance to an
4 individual, or charging an individual a different rate for the same coverage,
5 solely because of such individual's status as a living organ donor. With
6 respect to all other conditions, persons who are living organ donors shall
7 be subject to the same standards of sound actuarial principles or actual or
8 reasonably anticipated experience as are persons who are not organ
9 donors.

10 (8) *Rebates.* (a) Except as otherwise expressly provided by law,
11 knowingly permitting, offering to make or making any contract of life
12 insurance, life annuity or accident and health insurance, or agreement as to
13 such contract other than as plainly expressed in the insurance contract
14 issued thereon; paying, allowing, giving or offering to pay, allow or give,
15 directly or indirectly, as inducement to such insurance, or annuity, any
16 rebate of premiums payable on the contract, any special favor or advantage
17 in the dividends or other benefits thereon, or any valuable consideration or
18 inducement whatever not specified in the contract; or giving, selling,
19 purchasing or offering to give, sell or purchase as inducement to such
20 insurance contract or annuity or in connection therewith, any stocks, bonds
21 or other securities of any insurance company or other corporation,
22 association or partnership, or any dividends or profits accrued thereon, or
23 anything of value whatsoever not specified in the contract.

24 (b) Nothing in subsection (7)(a) or (8)(a) shall be construed as
25 including within the definition of discrimination or rebates any of the
26 following practices:

27 (i) In the case of any contract of life insurance or life annuity, paying
28 bonuses to policyholders or otherwise abating their premiums in whole or
29 in part out of surplus accumulated from nonparticipating insurance. Any
30 such bonuses or abatement of premiums shall be fair and equitable to
31 policyholders and for the best interests of the company and its
32 policyholders;

33 (ii) in the case of life insurance policies issued on the industrial debit
34 plan, making allowance to policyholders who have continuously for a
35 specified period made premium payments directly to an office of the
36 insurer in an amount that fairly represents the saving in collection
37 expenses;

38 (iii) readjustment of the rate of premium for a group insurance policy
39 based on the loss or expense experience thereunder, at the end of the first
40 or any subsequent policy year of insurance thereunder, which may be
41 made retroactive only for such policy year;

42 (iv) engaging in an arrangement that would not violate section 106 of
43 the bank holding company act amendments of 1972, as interpreted by the

1 board of governors of the federal reserve system or section 5(q) of the
2 home owners' loan act;

3 (v) the offer or provision by insurers or producers, by or through
4 employees, affiliates or third-party representatives, of value-added
5 products or services at no or reduced cost when such products or services
6 are not specified in the policy of insurance if the product or service:

7 (A) Relates to the insurance coverage; and

8 (B) is primarily designed to satisfy one or more of the following:

9 (1) Provide loss mitigation or loss control;

10 (2) reduce claim costs or claim settlement costs;

11 (3) provide education about liability risks or risk of loss to persons or
12 property;

13 (4) monitor or assess risk, identify sources of risk or develop
14 strategies for eliminating or reducing risk;

15 (5) enhance health;

16 (6) enhance financial wellness through items such as education or
17 financial planning services;

18 (7) provide post-loss services;

19 (8) (a) incentivize behavioral changes to improve the health or reduce
20 the risk of death or disability of a customer;

21 (b) as used in this section, "customer" means a policyholder, potential
22 policyholder, certificate holder, potential certificate holder, insured,
23 potential insured or applicant; or

24 (9) assist in the administration of the employee or retiree benefit
25 insurance coverage.

26 (C) The cost to the insurer or producer offering the product or service
27 to any given customer shall be reasonable in comparison to such
28 customer's premiums or insurance coverage for the policy class.

29 (D) If the insurer or producer is providing the product or service
30 offered, the insurer or producer shall ensure that the customer is provided
31 with contact information, upon request, to assist the customer with
32 questions regarding the product or service.

33 (E) The commissioner may adopt rules and regulations when
34 implementing the permitted practices set forth in this section to ensure
35 consumer protection. Such rules and regulations, consistent with
36 applicable law, may address, among other issues, consumer data
37 protections and privacy, consumer disclosure and unfair discrimination.

38 (F) The availability of the value-added product or service shall be
39 based on documented objective criteria and offered in a manner that is not
40 unfairly discriminatory. The documented criteria shall be maintained by
41 the insurer or producer and produced upon request by the commissioner.

42 (G) If an insurer or producer does not have sufficient evidence but
43 has a good-faith belief that the product or service meets the criteria in

1 subsection (8)(b)(v)(B), the insurer or producer may provide the product or
2 service in a manner that is not unfairly discriminatory as part of a pilot or
3 testing program for not more than one year. An insurer or producer shall
4 notify the commissioner of such a pilot or testing program offered to
5 consumers in this state prior to launching and may proceed with the
6 program unless the commissioner objects within 21 days of notice.

7 (vi) An insurer or a producer may:

8 (A) Offer or give non-cash gifts, items or services, including meals to
9 or charitable donations on behalf of a customer, in connection with the
10 marketing, sale, purchase or retention of contracts of insurance, as long as
11 the cost does not exceed an amount determined to be reasonable by the
12 commissioner per policy year per term. The offer shall be made in a
13 manner that is not unfairly discriminatory. The customer shall not be
14 required to purchase, continue to purchase or renew a policy in exchange
15 for the gift, item or service.

16 (B) Conduct raffles or drawings to the extent permitted by state law,
17 as long as there is no financial cost to entrants to participate, the drawing
18 or raffle does not obligate participants to purchase insurance, the prizes are
19 not valued in excess of a reasonable amount determined by the
20 commissioner and the drawing or raffle is open to the public. The raffle or
21 drawing shall be offered in a manner that is not unfairly discriminatory.
22 The customer shall not be required to purchase, continue to purchase or
23 renew a policy in exchange for the gift, item or service.

24 (c) An insurer, producer or representative of an insurer or producer
25 shall not offer or provide insurance as an inducement to the purchase of
26 another policy.

27 (9) *Unfair claim settlement practices.* It is an unfair claim settlement
28 practice if any of the following or any rules and regulations pertaining
29 thereto are either committed flagrantly and in conscious disregard of such
30 provisions, or committed with such frequency as to indicate a general
31 business practice:

32 (a) Misrepresenting pertinent facts or insurance policy provisions
33 relating to coverages at issue;

34 (b) failing to acknowledge and act reasonably promptly upon
35 communications with respect to claims arising under insurance policies;

36 (c) failing to adopt and implement reasonable standards for the
37 prompt investigation of claims arising under insurance policies;

38 (d) refusing to pay claims without conducting a reasonable
39 investigation based upon all available information;

40 (e) failing to affirm or deny coverage of claims within a reasonable
41 time after proof of loss statements have been completed;

42 (f) not attempting in good faith to effectuate prompt, fair and
43 equitable settlements of claims in which liability has become reasonably

1 clear;

2 (g) compelling insureds to institute litigation to recover amounts due
3 under an insurance policy by offering substantially less than the amounts
4 ultimately recovered in actions brought by such insureds;

5 (h) attempting to settle a claim for less than the amount to which a
6 reasonable person would have believed that such person was entitled by
7 reference to written or printed advertising material accompanying or made
8 part of an application;

9 (i) attempting to settle claims on the basis of an application that was
10 altered without notice to, or knowledge or consent of the insured;

11 (j) making claims payments to insureds or beneficiaries not
12 accompanied by a statement setting forth the coverage under which
13 payments are being made;

14 (k) making known to insureds or claimants a policy of appealing from
15 arbitration awards in favor of insureds or claimants for the purpose of
16 compelling them to accept settlements or compromises less than the
17 amount awarded in arbitration;

18 (l) delaying the investigation or payment of claims by requiring an
19 insured, claimant or the physician of either to submit a preliminary claim
20 report and then requiring the subsequent submission of formal proof of
21 loss forms, both of which submissions contain substantially the same
22 information;

23 (m) failing to promptly settle claims, where liability has become
24 reasonably clear, under one portion of the insurance policy coverage in
25 order to influence settlements under other portions of the insurance policy
26 coverage; or

27 (n) failing to promptly provide a reasonable explanation of the basis
28 in the insurance policy in relation to the facts or applicable law for denial
29 of a claim or for the offer of a compromise settlement.

30 (10) *Failure to maintain complaint handling procedures.* Failure of
31 any person, who is an insurer on an insurance policy, to maintain a
32 complete record of all the complaints that it has received since the date of
33 its last examination under K.S.A. 40-222, and amendments thereto; but no
34 such records shall be required for complaints received prior to the effective
35 date of this act. The record shall indicate the total number of complaints,
36 their classification by line of insurance, the nature of each complaint, the
37 disposition of the complaints, the date each complaint was originally
38 received by the insurer and the date of final disposition of each complaint.
39 For purposes of this subsection, "complaint" means any written
40 communication primarily expressing a grievance related to the acts and
41 practices set out in this section.

42 (11) *Misrepresentation in insurance applications.* Making false or
43 fraudulent statements or representations on or relative to an application for

1 an insurance policy, for the purpose of obtaining a fee, commission,
2 money or other benefit from any insurer, agent, broker or individual.

3 (12) *Statutory violations.* Any violation of any of the provisions of
4 K.S.A. 40-216, 40-276a, 40-2,155 or 40-1515, and amendments thereto.

5 (13) *Disclosure of information relating to adverse underwriting*
6 *decisions and refund of premiums.* Failing to comply with the provisions of
7 K.S.A. 40-2,112, and amendments thereto, within the time prescribed in
8 such section.

9 (14) *Rebates and other inducements in title insurance.* (a) No title
10 insurance company or title insurance agent, or any officer, employee,
11 attorney, agent or solicitor thereof, may pay, allow or give, or offer to pay,
12 allow or give, directly or indirectly, as an inducement to obtaining any title
13 insurance business, any rebate, reduction or abatement of any rate or
14 charge made incident to the issuance of such insurance, any special favor
15 or advantage not generally available to others of the same classification, or
16 any money, thing of value or other consideration or material inducement.
17 The words "charge made incident to the issuance of such insurance"
18 includes, without limitations, escrow, settlement and closing charges.

19 (b) No insured named in a title insurance policy or contract nor any
20 other person directly or indirectly connected with the transaction involving
21 the issuance of the policy or contract, including, but not limited to,
22 mortgage lender, real estate broker, builder, attorney or any officer,
23 employee, agent representative or solicitor thereof, or any other person
24 may knowingly receive or accept, directly or indirectly, any rebate,
25 reduction or abatement of any charge, or any special favor or advantage or
26 any monetary consideration or inducement referred to in subsection (14)
27 (a).

28 (c) Nothing in this section shall be construed as prohibiting:

29 (i) The payment of reasonable fees for services actually rendered to a
30 title insurance agent in connection with a title insurance transaction;

31 (ii) the payment of an earned commission to a duly appointed title
32 insurance agent for services actually performed in the issuance of the
33 policy of title insurance; or

34 (iii) the payment of reasonable entertainment and advertising
35 expenses.

36 (d) Nothing in this section prohibits the division of rates and charges
37 between or among a title insurance company and its agent, or one or more
38 title insurance companies and one or more title insurance agents, if such
39 division of rates and charges does not constitute an unlawful rebate under
40 the provisions of this section and is not in payment of a forwarding fee or a
41 finder's fee.

42 (e) As used in subsections (14)(e) through (14)(i), unless the context
43 otherwise requires:

1 (i) "Associate" means any firm, association, organization, partnership,
2 business trust, corporation or other legal entity organized for profit in
3 which a producer of title business is a director, officer or partner thereof,
4 or owner of a financial interest; the spouse or any relative within the
5 second degree by blood or marriage of a producer of title business who is a
6 natural person; any director, officer or employee of a producer of title
7 business or associate; any legal entity that controls, is controlled by, or is
8 under common control with a producer of title business or associate; and
9 any natural person or legal entity with whom a producer of title business or
10 associate has any agreement, arrangement or understanding or pursues any
11 course of conduct, the purpose or effect of which is to evade the provisions
12 of this section.

13 (ii) "Financial interest" means any direct or indirect interest, legal or
14 beneficial, where the holder thereof is or will be entitled to 1% or more of
15 the net profits or net worth of the entity in which such interest is held.
16 Notwithstanding the foregoing, an interest of less than 1% or any other
17 type of interest shall constitute a "financial interest" if the primary purpose
18 of the acquisition or retention of that interest is the financial benefit to be
19 obtained as a consequence of that interest from the referral of title
20 business.

21 (iii) "Person" means any natural person, partnership, association,
22 cooperative, corporation, trust or other legal entity.

23 (iv) "Producer of title business" or "producer" means any person,
24 including any officer, director or owner of 5% or more of the equity or
25 capital or both of any person, engaged in this state in the trade, business,
26 occupation or profession of:

27 (A) Buying or selling interests in real property;

28 (B) making loans secured by interests in real property; or

29 (C) acting as broker, agent, representative or attorney for a person
30 who buys or sells any interest in real property or who lends or borrows
31 money with such interest as security.

32 (v) "Refer" means to direct or cause to be directed or to exercise any
33 power or influence over the direction of title insurance business, whether
34 or not the consent or approval of any other person is sought or obtained
35 with respect to the referral.

36 (f) No title insurer or title agent may accept any order for, issue a title
37 insurance policy to, or provide services to, an applicant if it knows or has
38 reason to believe that the applicant was referred to it by any producer of
39 title business or by any associate of such producer, where the producer, the
40 associate, or both, have a financial interest in the title insurer or title agent
41 to which business is referred unless the producer has disclosed to the
42 buyer, seller and lender the financial interest of the producer of title
43 business or associate referring the title insurance business.

1 (g) No title insurer or title agent may accept an order for title
2 insurance business, issue a title insurance policy, or receive or retain any
3 premium, or charge in connection with any transaction if: (i) The title
4 insurer or title agent knows or has reason to believe that the transaction
5 will constitute controlled business for that title insurer or title agent; and
6 (ii) 70% or more of the closed title orders of that title insurer or title agent
7 during the 12 full calendar months immediately preceding the month in
8 which the transaction takes place is derived from controlled business. ~~The~~
9 ~~prohibitions contained in this paragraph shall not apply to transactions~~
10 ~~involving real estate located in a county that has a population, as shown by~~
11 ~~the last preceding decennial census, of 10,000 or less.~~

12 (h) Within 90 days following the end of each business year, as
13 established by the title insurer or title agent, each title insurer or title agent
14 shall file with the department of insurance and any title insurer with which
15 the title agent maintains an underwriting agreement, a report executed by
16 the title insurer's or title agent's chief executive officer or designee, under
17 penalty of perjury, stating the percent of closed title orders originating
18 from controlled business. The failure of a title insurer or title agent to
19 comply with the requirements of this section, at the discretion of the
20 commissioner, shall be grounds for the suspension or revocation of a
21 license or other disciplinary action, with the commissioner able to mitigate
22 any such disciplinary action if the title insurer or title agent is found to be
23 in substantial compliance with competitive behavior as defined by federal
24 housing and urban development statement of policy 1996-2.

25 (i) (1) No title insurer or title agent may accept any title insurance
26 order or issue a title insurance policy to any person if it knows or has
27 reason to believe that such person was referred to it by any producer of
28 title business or by any associate of such producer, where the producer, the
29 associate, or both, have a financial interest in the title insurer or title agent
30 to which business is referred unless the producer has disclosed in writing
31 to the person so referred the fact that such producer or associate has a
32 financial interest in the title insurer or title agent, the nature of the
33 financial interest and a written estimate of the charge or range of charges
34 generally made by the title insurer or agent for the title services. Such
35 disclosure shall include language stating that the consumer is not obligated
36 to use the title insurer or agent in which the referring producer or associate
37 has a financial interest and shall include the names and telephone numbers
38 of not less than three other title insurers or agents that operate in the
39 county in which the property is located. If fewer than three insurers or
40 agents operate in that county, the disclosure shall include all title insurers
41 or agents operating in that county. Such written disclosure shall be signed
42 by the person so referred and must have occurred prior to any commitment
43 having been made to such title insurer or agent.

1 (2) No producer of title business or associate of such producer shall
2 require, directly or indirectly, as a condition to selling or furnishing any
3 other person any loan or extension thereof, credit, sale, property, contract,
4 lease or service, that such other person shall purchase title insurance of any
5 kind through any title agent or title insurer if such producer has a financial
6 interest in such title agent or title insurer.

7 (3) No title insurer or title agent may accept any title insurance order
8 or issue a title insurance policy to any person it knows or has reason to
9 believe that the name of the title company was pre-printed in the sales
10 contract, prior to the buyer or seller selecting that title company.

11 (4) Nothing in this paragraph shall prohibit any producer of title
12 business or associate of such producer from referring title business to any
13 title insurer or title agent of such producer's or associate's choice, and, if
14 such producer or associate of such producer has any financial interest in
15 the title insurer, from receiving income, profits or dividends produced or
16 realized from such financial interest, so long as:

17 (a) Such financial interest is disclosed to the purchaser of the title
18 insurance in accordance with paragraphs (i)(1) through (i)(4);

19 (b) the payment of income, profits or dividends is not in exchange for
20 the referral of business; and

21 (c) the receipt of income, profits or dividends constitutes only a return
22 on the investment of the producer or associate.

23 (5) Any producer of title business or associate of such producer who
24 violates the provisions of paragraphs (i)(2) through (i)(4), or any title
25 insurer or title agent who accepts an order for title insurance knowing that
26 it is in violation of paragraphs (i)(2) through (i)(4), in addition to any other
27 action that may be taken by the commissioner of insurance, shall be
28 subject to a fine by the commissioner in an amount equal to five times the
29 premium for the title insurance and, if licensed pursuant to K.S.A. 58-3034
30 et seq., and amendments thereto, shall be deemed to have committed a
31 prohibited act pursuant to K.S.A. 58-3602, and amendments thereto, and
32 shall be liable to the purchaser of such title insurance in an amount equal
33 to the premium for the title insurance.

34 (6) Any title insurer or title agent that is a competitor of any title
35 insurer or title agent that, subsequent to the effective date of this act, has
36 violated or is violating the provisions of this paragraph, shall have a cause
37 of action against such title insurer or title agent and, upon establishing the
38 existence of a violation of any such provision, shall be entitled, in addition
39 to any other damages or remedies provided by law, to such equitable or
40 injunctive relief as the court deems proper. In any such action under this
41 subsection, the court may award to the successful party the court costs of
42 the action together with reasonable attorney fees.

43 (7) The commissioner shall also require each title agent to provide

1 core title services as required by the real estate settlement procedures act.
2 (j) The commissioner shall adopt any rules and regulations necessary
3 to carry out the provisions of this act.

4 (15) *Disclosure of nonpublic personal information.* (a) No person
5 shall disclose any nonpublic personal information contrary to the
6 provisions of title V of the Gramm-Leach-Bliley act of 1999 (public law
7 106-102). The commissioner may adopt rules and regulations necessary to
8 carry out this subsection. Such rules and regulations shall be consistent
9 with and not more restrictive than the model regulation adopted on
10 September 26, 2000, by the national association of insurance
11 commissioners entitled "Privacy of consumer financial and health
12 information regulation".

13 (b) Nothing in this subsection shall be deemed or construed to
14 authorize the promulgation or adoption of any regulation that preempts,
15 supersedes or is inconsistent with any provision of Kansas law concerning
16 requirements for notification of, or obtaining consent from, a parent,
17 guardian or other legal custodian of a minor relating to any matter
18 pertaining to the health and medical treatment for such minor.

19 Sec. 4. K.S.A. 40-1139 and K.S.A. 2024 Supp. 40-1137 and 40-2404
20 are hereby repealed.

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