

SENATE BILL No. 66

By Committee on Financial Institutions and Insurance

1-31

1 AN ACT concerning insurance; relating to insurance holding companies;
2 exempting certain domestic insurers from filing enterprise risk reports;
3 amending K.S.A. 2018 Supp. 40-3305 and repealing the existing
4 section.

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

7 Section 1. K.S.A. 2018 Supp. 40-3305 is hereby amended to read as
8 follows: 40-3305. (a) Every insurer ~~which that~~ is authorized to do business
9 in this state and ~~which that~~ is a member of an insurance holding company
10 system shall register with the commissioner of insurance, except a foreign
11 insurer subject to registration requirements and standards adopted by
12 statute or regulation in the jurisdiction of its domicile ~~which that~~ are
13 substantially similar to those contained in this section. Any insurer ~~which~~
14 *that* is subject to registration under this section shall register within 15
15 days after it becomes subject to registration, and annually thereafter by
16 May 1 of each year unless the commissioner of insurance for good cause
17 shown extends the time for registration, and then within such extended
18 time. The commissioner of insurance may require any authorized insurer
19 ~~which that~~ is a member of an insurance holding company system and
20 ~~which that~~ is not subject to registration under this section to furnish a copy
21 of the registration statement, the summary specified in subsection (c) or
22 other information filed by such insurance company with the insurance
23 regulatory authority of domiciliary jurisdiction.

24 (b) Pursuant to subsection (a), every insurer subject to registration
25 shall file a registration statement on a form provided by the commissioner
26 of insurance, ~~which that~~ shall contain current information about:

27 (1) The capital structure, general financial condition, ownership and
28 management of the insurer and any person controlling the insurer;

29 (2) the identity and relationship of every member of the insurance
30 holding company system;

31 (3) the following agreements in force and transactions currently
32 outstanding or ~~which that~~ occurred during the last calendar year between
33 such insurer and its affiliates:

34 (A) Loans, other investments, or purchases, sales or exchanges of
35 securities of the affiliates by the insurer or of the insurer by its affiliates;

36 (B) purchases, sales; or exchanges of assets;

- 1 (C) transactions not in the ordinary course of business;
- 2 (D) guarantees or undertakings for the benefit of an affiliate ~~which~~
3 *that* result in an actual contingent exposure of the insurer's assets to
4 liability, other than insurance contracts entered into in the ordinary course
5 of the insurer's business;
- 6 (E) all management agreements, service contracts and cost sharing
7 arrangements;
- 8 (F) reinsurance agreements;
- 9 (G) dividends and other distributions to shareholders; and
- 10 (H) consolidated tax allocation agreements;
- 11 (4) other matters concerning transactions between registered insurers
12 and any affiliates as may be included from time to time in any registration
13 forms adopted or approved by the commissioner of insurance;
- 14 (5) any pledge of the insurer's stock, including stock of any
15 subsidiary or controlling affiliate, for a loan made to any member of the
16 insurance holding company system;
- 17 ~~(6) if requested by the commissioner of insurance, the insurer shall~~
18 ~~include~~ financial statements of or within an insurance holding company
19 system, including all affiliates, *if requested by the commissioner of*
20 *insurance*. Financial statements may include, but are not limited to, annual
21 audited financial statements filed with the U.S. securities and exchange
22 commission (SEC) pursuant to the securities act of 1933, as amended, or
23 the securities exchange act of 1934, as amended. An insurer required to
24 file financial statements pursuant to this paragraph may satisfy the request
25 by providing the commissioner of insurance with the most recently filed
26 parent corporation financial statements that have been filed with the SEC;
- 27 (7) statements that the insurer's board of directors and principal
28 officers oversee corporate governance and internal controls and that the
29 insurer's principal officers have approved, implemented and continue to
30 maintain and monitor corporate governance and internal control
31 procedures; and
- 32 (8) any other information required by the commissioner of insurance
33 by rules and regulations.
- 34 (c) All registration statements shall be accompanied by a summary
35 outlining all items in the current registration statement representing
36 changes from the prior registration statement.
- 37 (d) No information need be disclosed on the registration statement
38 filed pursuant to subsection (b) if such information is not material for the
39 purpose of this section. Unless the commissioner of insurance by rules and
40 regulations or order provides otherwise, sales, purchases, exchanges, loans
41 or extensions of credit, investments or guarantees, involving ~~5%~~ 0.5% or
42 less of an insurer's admitted assets as of the December 31 immediately
43 preceding shall be deemed immaterial for purposes of this section.

1 (e) Each registered insurer shall keep current the information required
2 to be disclosed in such insurer's registration statement by reporting all
3 material changes or additions on amendment forms provided by the
4 commissioner of insurance within 15 days after the end of the month in
5 which it learns of each such change or addition, except each registered
6 insurer shall report all dividends and other distributions to shareholders
7 within five business days following its declaration. Any such dividend or
8 distribution shall not be paid for at least 10 business days from the
9 commissioner's receipt of the notice of its declaration.

10 (f) Any person within an insurance holding company system subject
11 to registration shall provide complete and accurate information to an
12 insurer, where such information is reasonably necessary to enable the
13 insurer to comply with the provisions of this act.

14 (g) The commissioner of insurance shall terminate the registration of
15 any insurer ~~which~~ *that* demonstrates that such insurer no longer is a
16 member of an insurance holding company system.

17 (h) The commissioner of insurance may require or allow two or more
18 affiliated insurers subject to registration hereunder to file a consolidated
19 registration statement.

20 (i) The commissioner of insurance may allow an insurer ~~which~~ *that* is
21 authorized to do business in this state and ~~which~~ *that* is part of an
22 insurance holding company system to register on behalf of any affiliated
23 insurer ~~which~~ *that* is required to register under subsection (a) and to file all
24 information and material required to be filed under this section.

25 (j) The provisions of this section shall not apply to any information or
26 transaction if and to the extent the commissioner of insurance by rule and
27 regulation or order ~~shall exempt~~ *exempts* the same from the provisions of
28 this section.

29 (k) Any person may file with the commissioner of insurance a
30 disclaimer of affiliation with any authorized insurer or such a disclaimer
31 may be filed by such insurer or any member of an insurance holding
32 company system. The disclaimer shall fully disclose all material
33 relationships and bases for affiliation between such person and such
34 insurer as well as the basis for disclaiming such affiliation. After a
35 disclaimer has been filed, the insurer shall be relieved of any duty to
36 register or report under this section which may arise out of the insurer's
37 relationship with such person unless and until the commissioner of
38 insurance disallows such a disclaimer. The commissioner of insurance
39 shall disallow such a disclaimer only after furnishing all parties in interest
40 with notice and opportunity to be heard in accordance with the provisions
41 of the Kansas administrative procedure act.

42 (l) (1) Except as provided in paragraph (2), the ultimate controlling
43 person of every insurer subject to registration also shall file an annual

1 enterprise risk report. The report, to the best of the ultimate controlling
2 person's knowledge and belief, shall identify the material risks within the
3 insurance holding company system that could pose enterprise risk to the
4 insurer. *The report shall be appropriate to the nature, scale and*
5 *complexity of the insurer.* The report shall be filed with the lead state
6 commissioner of insurance of the insurance holding company system as
7 determined by the procedures within the financial analysis handbook
8 adopted by the national association of insurance commissioners. The first
9 enterprise risk report shall be filed no later than May 1, 2015, and annually
10 thereafter by May 1 of each year unless the commissioner of insurance
11 extends the time for filing for good cause shown.

12 (2) The ultimate controlling person of ~~an~~ *a domestic insurer that is*
13 *authorized, admitted or eligible to engage in the business of insurance*
14 *only in this state* with total direct and assumed annual premiums of less
15 than \$300 million is not required to submit an enterprise risk report *under*
16 *paragraph (1) unless the ultimate controlling person of the domestic*
17 *insurer also controls other insurers that do not meet the requirements of*
18 *this subsection. For the purposes of this subsection, an insurer is not*
19 *considered to be authorized, admitted or eligible to engage in the business*
20 *of insurance only in this state if the insurer directly or indirectly writes or*
21 *assumes insurance in any other manner in another state.*

22 (m) The failure of an insurer or an ultimate controlling person of the
23 insurer to file a registration statement, any summary of the registration
24 statement or enterprise risk filing within the specified time for filing shall
25 be a violation by the insurer or by the ultimate controlling person of the
26 insurer, as applicable.

27 Sec. 2. K.S.A. 2018 Supp. 40-3305 is hereby repealed.

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