

HOUSE BILL No. 2352

AN ACT concerning insurance; relating to coverage for autism spectrum disorder; motor vehicle liability insurance, mailing notice of termination of coverage; certain financial examinations, consulting fees, examination period; surplus lines insurance, gross premiums and tax thereon; amending K.S.A. 40-2127 and K.S.A. 2014 Supp. 40-223, 40-246c, 40-2,194 and 40-3118 and repealing the existing sections; also repealing K.S.A. 2014 Supp. 40-5701, 40-5702 and 40-5703.

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

Section 1. On January 1, 2016, K.S.A. 2014 Supp. 40-2,194 is hereby amended to read as follows: 40-2,194. (a) (1) (A) Any large group health insurance policy, medical service plan, contract, hospital service corporation contract, hospital and medical service corporation contract, fraternal benefit society or health maintenance organization which provides coverage for accident and health services and which is delivered, issued for delivery, amended or renewed on or after January 1, 2015, shall provide coverage for the diagnosis and treatment of autism spectrum disorder in any covered individual whose age is less than 12 years.

(B) Any grandfathered individual or group health insurance policy, medical service plan, contract, hospital service corporation contract, hospital and medical service corporation contract, fraternal benefit society or health maintenance organization which provides coverage for accident and health services and which is delivered, issued for delivery, amended or renewed on or after January 1, 2016, shall provide coverage for the diagnosis and treatment of autism spectrum disorder in any covered individual whose age is less than 12 years.

(2) Such coverage shall be provided in a manner determined in consultation with the autism services provider and the patient. Services provided by autism services providers under this section shall include applied behavior analysis when required by a licensed physician, licensed psychologist or licensed specialist clinical social worker but otherwise shall be limited to the care, services and related equipment prescribed or ordered by a licensed physician, licensed psychologist or licensed specialist clinical social worker.

(3) Coverage provided under this section for applied behavior analysis shall be subject to a limitation of:

(A) 1,300 hours per calendar year for four years beginning on the later of the date of diagnosis or January 1, 2015, for any covered individual diagnosed with autism spectrum disorder between birth and five years of age; and

(B) except as provided in subparagraph (A), 520 hours per calendar year for any covered individual less than 12 years of age.

Upon prior approval by the health benefit plan, such maximum benefit limit may be exceeded if the provision of applied behavior analysis services beyond the maximum limit is medically necessary for such individual. Any payment made by an insurer on behalf of a covered individual for any care, treatment, intervention, service or item, the provision of which was for the treatment of a health condition unrelated to such covered individual's autism spectrum disorder, shall not be applied toward any maximum benefit established under this paragraph. Except for the coverage for applied behavior analysis, no coverage required under this section shall be subject to the age and hour limitations described in this paragraph.

(4) On or after January 1, 2015, through June 30, 2016, reimbursement shall be allowed only for services provided by a provider licensed, trained and qualified to provide such services or by an autism specialist or an intensive individual service provider as such terms are defined by the Kansas department for aging and disability services Kansas autism waiver. On or after July 1, 2016, reimbursement shall be allowed only for services provided by an autism service provider licensed or exempt from licensure under the applied behavior analysis licensure act, except that reimbursement shall be allowed for services provided by an autism specialist, an intensive individual service provider or any other individual qualified to provide services under the home and community based services autism waiver administered by the Kansas department for aging and disability services.

(5) Any insurer or other entity which administers claims for services provided for the treatment of autism spectrum disorder under this section shall have the right and obligation to deny any claim for services based upon medical necessity or a determination that the covered individual has

reached the maximum medical improvement for the covered individual's autism spectrum disorder.

(6) Except for inpatient services, if an insured is receiving treatment for autism spectrum disorder, such insurer shall have the right to review the treatment plan not more than once in a period of six consecutive months, unless the insurer and the insured's treating physician or psychologist agree that a more frequent review is necessary. Any such agreement regarding the right to review a treatment plan more frequently shall apply only to a particular insured being treated for autism spectrum disorder and shall not apply to all individuals being treated for autism spectrum disorder by a physician or psychologist. The cost of obtaining any review or treatment plan shall be borne by the insurer.

(7) No insurer can terminate coverage, or refuse to deliver, execute, issue, amend, adjust or renew coverage to an individual solely because the individual is diagnosed with or has received treatment for autism spectrum disorder.

(b) For the purposes of this section:

(1) "Applied behavior analysis" means the design, implementation and evaluation of environmental modifications, using behavioral stimuli and consequences, to produce socially significant improvement in human behavior, including the use of direct observation, measurement and functional analysis of the relationship between environment and behavior.

(2) "Autism spectrum disorder" means a neurobiological disorder, an illness of the nervous system, which includes:

(A) "Autistic disorder," which is:

(i) Six or more items from (a), (b) and (c) of this subparagraph, with at least two items from (a) of this subparagraph, and one item each from (b) and (c) of this subparagraph:

(a) Qualitative impairment in social interaction, as manifested by at least two of the following:

(1) Marked impairment in the use of multiple nonverbal behaviors such as eye-to-eye gaze, facial expression, body postures and gestures to regulate social interaction;

(2) failure to develop peer relationships appropriate to developmental level;

(3) a lack of spontaneous seeking to share enjoyment, interests or achievements with other people; or

(4) lack of social or emotional reciprocity;

(b) qualitative impairments in communication as manifested by at least one of the following:

(1) Delay in, or total lack of, the development of spoken language;

(2) in individuals with adequate speech, marked impairment in the ability to initiate or sustain a conversation with others;

(3) stereotyped and repetitive use of language or idiosyncratic language; or

(4) lack of varied, spontaneous make-believe play or social imitative play appropriate to developmental level;

(c) restricted repetitive and stereotyped patterns of behavior, interests and activities, as manifested by at least one of the following:

(1) Encompassing preoccupation with one or more stereotyped and restricted patterns of interest that is abnormal either in intensity or focus;

(2) apparently inflexible adherence to specific, nonfunctional routines or rituals;

(3) stereotyped and repetitive motor mannerisms; or

(4) persistent preoccupation with parts of objects;

(ii) delays or abnormal functioning in at least one of the following areas, with onset prior to age three years, including social interaction, language as used in social communication or symbolic or imaginative play; and

(iii) the disturbance is not better accounted for by Rett's disorder or childhood disintegrative disorder;

(B) "Asperger's disorder," which is:

(i) a qualitative impairment in social interaction, as manifested by at least two of the following:

(a) Marked impairment in the use of multiple nonverbal behaviors such as eye-to-eye gaze, facial expression, body postures and gestures to regulate social interaction;

(b) failure to develop peer relationships appropriate to developmental level;

(c) lack of spontaneous seeking to share enjoyment, interests or achievements with other people; or

(d) lack of social or emotional reciprocity;

(ii) restricted repetitive and stereotyped patterns of behavior, interests and activities, as manifested by at least one of the following:

(a) Encompassing preoccupation with one or more stereotyped and restricted patterns of interest that is abnormal either in intensity or focus;

(b) apparently inflexible adherence to specific, nonfunctional routines or rituals;

(c) stereotyped and repetitive motor mannerisms; or

(d) persistent preoccupation with parts of objects;

(iii) the disturbance causes clinically significant impairment in social, occupational or other important areas of functioning;

(iv) there is no clinically significant general delay in language;

(v) there is no clinically significant delay in cognitive development or in the development of age-appropriate self-help skills, adaptive behavior (other than in social interaction), and curiosity about the environment in childhood; and

(vi) criteria are not met for another specific pervasive developmental disorder or schizophrenia;

(C) “pervasive developmental disorder not otherwise specified,” is a severe and pervasive impairment in the development of reciprocal social interaction associated with impairment in either verbal or nonverbal communication skills or with the presence of stereotyped behavior, interests and activities, but the criteria are not met for a specific pervasive developmental disorder, schizophrenia, schizotypal personality disorder, or avoidant personality disorder;

(D) “Rett’s disorder,” includes:

(i) All of the following:

(a) Apparently normal prenatal and perinatal development;

(b) apparently normal psychomotor development through the first five months after birth; and

(c) normal head circumference at birth;

(ii) onset of all of the following after the period of normal development:

(a) Deceleration of head growth between ages five and 48 months;

(b) loss of previously acquired purposeful hand skills between ages five and 30 months with the subsequent development of stereotyped hand movements;

(c) loss of social engagement early in the course of development;

(d) appearance of poorly coordinated gait or trunk movements; and

(e) severely impaired expressive and receptive language development with severe psychomotor retardation;

(E) “childhood disintegrative disorder,” is:

(i) Apparently normal development for at least the first two years after birth as manifested by the presence of age-appropriate verbal and nonverbal communication, social relationships, play and adaptive behavior;

(ii) clinically significant loss of previously acquired skills in at least two of the following areas: Expressive or receptive language, social skills or adaptive behavior, bowel or bladder control or play and motor skills;

(iii) abnormalities of functioning in at least two of the following areas: Qualitative impairment in social interaction; qualitative impairments in communication; restricted, repetitive and stereotyped patterns of behavior, interests and activities, including motor stereotypies and mannerisms; and

(iv) the disturbance is not better accounted for by another specific pervasive developmental disorder or by schizophrenia.

(3) “Diagnosis of autism spectrum disorder” means any medically necessary assessment, evaluation or test performed by a licensed physician, licensed psychologist or licensed specialist clinical social worker to determine whether an individual has autism spectrum disorder.

(4) “Grandfathered health benefit plan” shall have the meaning ascribed to such term in 42 U.S.C. § 18011. The term “grandfathered health benefit plan” includes both small employer group health benefit plans

that are grandfathered and individual health benefit plans that are grandfathered.

(5) “Health benefit plan” shall have the meaning ascribed to such term in K.S.A. 40-4602, and amendments thereto.

(6) “Large employer” means, in connection with a group health benefit plan with respect to a calendar year and a plan year, an employer who employed an average of at least ~~51~~ 101 employees on business days during the preceding calendar year and who employs at least one employee on the first day of the plan year.

(7) “Small employer” means, in connection with a group health benefit plan with respect to a calendar year and a plan year, an employer who employed an average of at least one but not more than ~~50~~ 100 employees on business days during the preceding calendar year and who employs at least one employee on the first day of the plan year.

(c) If an individual has been diagnosed as having autism spectrum disorder meeting the diagnostic criteria described in the edition of the diagnostic and statistical manual of mental disorders available at the time of diagnosis, then that individual shall not be required to undergo any additional or repeated evaluation based upon the adoption of a subsequent edition of the diagnostic and statistical manual of mental disorders adopted by rules and regulations of the behavioral sciences regulatory board in order to remain eligible for coverage under this section.

(d) Except as otherwise provided in subsection (a), no individual or group health insurance policy, medical service plan, contract, hospital service corporation contract, hospital and medical service corporation contract, fraternal benefit society or health maintenance organization which provides coverage for accident and health services and which provides coverage with respect to autism spectrum disorder shall:

(1) Impose on the coverage required by this section any dollar limits, deductibles or coinsurance provisions that are less favorable to an insured than the dollar limits, deductibles or coinsurance provisions that apply to physical illness generally under the accident and sickness insurance policy; or

(2) impose on the coverage required by this section any limit upon the number of visits that a covered individual may make for treatment of autism spectrum disorder.

(e) The provisions of this section shall not apply to any policy or certificate which provides coverage for any specified disease, specified accident or accident-only coverage, credit, dental, disability income, hospital indemnity, long-term care insurance as defined by K.S.A. 40-2227, and amendments thereto, vision care or any other limited supplemental benefit nor to any medicare supplement policy of insurance as defined by the commissioner of insurance by rules and regulations, any coverage issued as a supplement to liability insurance, workers’ compensation or similar insurance, automobile medical-payment insurance or any insurance under which benefits are payable with or without regard to fault, whether written on a group, blanket or individual basis.

(f) This section shall not be construed as limiting benefits that are otherwise available to an individual under any individual or group health insurance policy, medical service plan, contract, hospital service corporation contract, hospital and medical service corporation contract, fraternal benefit society or health maintenance organization which provides coverage for accident and health services.

(g) The provisions of K.S.A. 40-2249a, and amendments thereto, shall not apply to the provisions of this section.

(h) The commissioner of the department of insurance shall grant a small employer with a group health benefit plan a waiver from the provisions of this section, if the small employer demonstrates to the commissioner by actual claims experience over any consecutive twelve-month period that compliance with this section has increased the cost of the health insurance policy by an amount of two and a half percent or greater over the period of a calendar year in premium costs to the small employer.

(i) Nothing contained in this section shall require coverage for or payment of full or partial day care or habilitation services, community support services, services at intermediate care facilities, school-based rehabilitative services or overnight, boarding and extended stay services at facilities for autism patients. Only services actually rendered on an hourly basis or fractional portion thereof by certified applied behavior analysis

(ABA) providers as herein defined shall be required to be covered under this section. Nothing in this section shall require coverage or payment hereunder for services that are otherwise provided, authorized or required to be provided by public or private schools receiving any state or federal funding for such services.

Sec. 2. K.S.A. 2014 Supp. 40-3118 is hereby amended to read as follows: 40-3118. (a) No motor vehicle shall be registered or reregistered in this state unless the owner, at the time of registration, has in effect a policy of motor vehicle liability insurance covering such motor vehicle, as provided in this act, or is a self-insurer thereof, or the motor vehicle is used as a driver training motor vehicle, as defined in K.S.A. 72-5015, and amendments thereto, in an approved driver training course by a school district or an accredited nonpublic school under an agreement with a motor vehicle dealer, and such policy of motor vehicle liability insurance is provided by the school district or accredited nonpublic school. As used in this section, the term “financial security” means such policy or self-insurance. The director shall require that the owner certify and provide verification of financial security, in the manner prescribed by K.S.A. 8-173, and amendments thereto, that the owner has such financial security, and the owner of each motor vehicle registered in this state shall maintain financial security continuously throughout the period of registration. In addition, when an owner certifies that such financial security is a motor vehicle liability insurance policy meeting the requirements of this act, the director may require that the owner or owner’s insurance company produce records to prove the fact that such insurance was in effect at the time the vehicle was registered and has been maintained continuously from that date. Such records may be produced by displaying such records on a cellular phone or any other type of portable electronic device. Any person to whom such records are displayed on such cellular phone or other type of portable electronic device shall be prohibited from viewing any other content or information stored on such cellular phone or other type of portable electronic device. Failure to produce such records shall be prima facie evidence that no financial security exists with regard to the vehicle concerned. It shall be the duty of insurance companies, upon the request of the director, to notify the director within 30 calendar days of the date of the receipt of such request by the director of any insurance that was not in effect on the date of registration and maintained continuously from that date.

(b) Except as otherwise provided in K.S.A. 40-276, 40-276a and 40-277, and amendments thereto, and except for termination of insurance resulting from nonpayment of premium or upon the request for cancellation by the insured, no motor vehicle liability insurance policy, or any renewal thereof, shall be terminated by cancellation or failure to renew by the insurer until at least 30 days after mailing a notice of termination, by certified or registered mail ~~or~~, United States post office certificate of mailing, *or any other mail tracking method currently used, approved or accepted by the United States postal service* to the named insured at the latest address filed with the insurer by or on behalf of the insured. Time of the effective date and hour of termination stated in the notice shall become the end of the policy period. Every such notice of termination sent to the insured for any cause whatsoever shall include on the face of the notice a statement that financial security for every motor vehicle covered by the policy is required to be maintained continuously throughout the registration period, that the operation of any such motor vehicle without maintaining continuous financial security therefor is a class B misdemeanor and shall be subject to a fine of not less than \$300 and not more than \$1,000 and that the registration for any such motor vehicle for which continuous financial security is not provided is subject to suspension and the driver’s license of the owner thereof is subject to suspension.

(c) The director of vehicles shall verify a sufficient number of insurance certifications each calendar year as the director deems necessary to insure compliance with the provisions of this act. The owner or owner’s insurance company shall verify the accuracy of any owner’s certification upon request, as provided in subsection (a).

(d) (1) In addition to any other requirements of this act, the director shall require a person to acquire insurance and for such person’s insurance company to maintain on file with the division evidence of such in-

urance for a period of one year when a person has been convicted in this or another state of any of the violations enumerated in K.S.A. 8-285, and amendments thereto.

(2) The director shall also require any driver whose driving privileges have been suspended pursuant to this section to maintain such evidence of insurance as required above.

(3) The company of the insured shall immediately mail notice to the director whenever any policy required by this subsection to be on file with the division is terminated by the insured or the insurer for any reason. The receipt by the director of such termination shall be prima facie evidence that no financial security exists with regard to the person concerned.

(4) No cancellation notice shall be sent to the director if the insured adds or deletes a vehicle, adds or deletes a driver, renews a policy or is issued a new policy by the same company. No cancellation notice shall be sent to the director prior to the date the policy is terminated if the company allows a grace period for payment until such grace period has expired and the policy is actually terminated.

(5) For the purposes of this act, the term “conviction” includes pleading guilty or nolo contendere, being convicted or being found guilty of any violation enumerated in this subsection without regard to whether sentence was suspended or probation granted. A forfeiture of bail, bond or collateral deposited to secure a defendant’s appearance in court, which forfeiture has not been vacated, shall be equivalent to a conviction.

(6) The requirements of this subsection shall apply whether or not such person owns a motor vehicle.

(e) Whenever the director shall receive prima facie evidence, as prescribed by this section, that continuous financial security covering any motor vehicle registered in this state is not in effect, the director shall notify the owner by registered or certified mail or United States post office certificate of mailing that, at the end of 30 days after the notice is mailed, the registration for such motor vehicle and the driving privileges of the owner of the vehicle shall be suspended or revoked, pursuant to such rules and regulations as the secretary of revenue shall adopt, unless within 10 days after the notice is mailed: (1) Such owner shall demonstrate proof of continuous financial security covering such vehicle to the satisfaction of the director. Such proof of continuous financial security may be provided by the owner by displaying such proof on a cellular phone or other portable electronic device; or (2) such owner shall mail a written request which is postmarked within 10 days after the notice is mailed requesting a hearing with the director. Any person to whom such proof of continuous financial security is displayed on a cellular phone or other portable electronic device shall view only such evidence of continuous financial security. Such person shall be prohibited from viewing any other content or information stored on such cellular phone or other portable electronic device. Upon receipt of a timely request for a hearing, the director shall afford such person an opportunity for hearing within the time and in the manner provided in K.S.A. 8-255, and amendments thereto. If, within the ten-day period or at the hearing, such owner is unable to demonstrate proof of continuous financial security covering the motor vehicle in question, the director shall revoke the registration of such motor vehicle and suspend the driving privileges of the owner of the vehicle.

(f) Whenever the registration of a motor vehicle or the driving privileges of the owner of the vehicle are suspended or revoked for failure of the owner to maintain continuous financial security, such suspension or revocation shall remain in effect until satisfactory proof of insurance has been filed with the director as required by subsection (d) and a reinstatement fee in the amount herein prescribed is paid to the division of vehicles. Such reinstatement fee shall be in the amount of \$100 except that if the registration of a motor vehicle of any owner is revoked within one year following a prior revocation of the registration of a motor vehicle of such owner under the provisions of this act such fee shall be in the amount of \$300. The division of vehicles shall remit such fees to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the state highway fund.

(g) In no case shall any motor vehicle, the registration of which has been revoked for failure to have continuous financial security, be reregistered in the name of the owner thereof, the owner's spouse, parent or child or any member of the same household, until the owner complies with subsection (f). In the event the registration plate has expired, no new plate shall be issued until the motor vehicle owner complies with the reinstatement requirements as required by this act.

(h) Evidence that an owner of a motor vehicle, registered or required to be registered in this state, has operated or permitted such motor vehicle to be operated in this state without having in force and effect the financial security required by this act for such vehicle, together with proof of records of the division of vehicles indicating that the owner did not have such financial security, shall be prima facie evidence that the owner did at the time and place alleged, operate or permit such motor vehicle to be operated without having in full force and effect financial security required by the provisions of this act.

(i) Any owner of a motor vehicle registered or required to be registered in this state who shall make a false certification concerning financial security for the operation of such motor vehicle as required by this act, shall be guilty of a class A misdemeanor. Any person, firm or corporation giving false information to the director concerning another's financial security for the operation of a motor vehicle registered or required to be registered in this state, knowing or having reason to believe that such information is false, shall be guilty of a class A misdemeanor.

(j) The director shall administer and enforce the provisions of this act relating to the registration of motor vehicles, and the secretary of revenue shall adopt such rules and regulations as may be necessary for its administration.

(k) Whenever any person has made application for insurance coverage and such applicant has submitted payment or partial payment with such application, the insurance company, if payment accompanied the application and if insurance coverage is denied, shall refund the unearned portion of the payment to the applicant or agent. Such refund may:

- (1) Accompany the notice of denial of coverage; or
- (2) be separately returned in not more than 10 days from the date of such notice.

If payment did not accompany the application to the insurance company but was made to the agent, the agent shall refund the unearned portion of the payment to the applicant upon receipt of the company's notice of denial.

(l) For the purpose of this act, "declination of insurance coverage" means a final denial, in whole or in part, by an insurance company or agent of requested insurance coverage.

Sec. 3. K.S.A. 2014 Supp. 40-223 is hereby amended to read as follows: 40-223. (a) (1) Except as provided in K.S.A. 40-110 and 40-253, and amendments thereto, any person who makes any examination under the provisions of this act may receive, as full compensation for such person's services, on a per diem basis an amount fixed by the commissioner, which shall not exceed the amount recommended by the national association of insurance commissioners, for such time necessarily and actually occupied in going to and returning from the place of such examination and for such time the examiner is necessarily and actually engaged in making such examination including any day within the regular workweek when the examiner would have been so engaged had the company or society been open for business, together with such necessary and actual expenses for traveling and subsistence as the examiner shall incur because of the performance of such services.

(2) For the purposes of this act, "necessary and actual expenses" shall be limited, whether for travel within the state or travel outside the state, to those limitations expressed in K.S.A. 75-3207, and amendments thereto, which pertain to official travel outside the state. The daily charge shall be calculated by dividing the amount the examiner is authorized by the commissioner of insurance to charge per week by the number of days in the regular workweek of the company or society being examined.

(b) (1) All of such compensation, expenses, the employer's share of the federal insurance contributions act taxes, the employer's contribution to the Kansas public employees retirement system as provided in K.S.A.

74-4920, and amendments thereto, the self-insurance assessment for the ~~workmen's~~ workers compensation act as provided in K.S.A. 44-576, and amendments thereto, the employer's cost of the state health care benefits program under K.S.A. 75-6507, and amendments thereto, a pro rata amount determined by the commissioner to provide vacation and sick leave for the examiner not to exceed the number of days allowed state officers and employees in the classified service pursuant to regulations promulgated in accordance with the Kansas civil service act, all outside consulting and data processing fees necessary to perform any examination, and a pro rata amount determined by the commissioner not to exceed an annual aggregate of \$18,000 to fund the purchase, maintenance and enhancement of examination equipment and computer software shall be paid to the commissioner of insurance by the insurance company or society so examined, on demand of the commissioner.

(2) The amount paid for all outside consulting and data processing fees necessary to perform any financial examination at any one company or society, including examination of such company's or society's subsidiaries or any combination thereof, and the pro rata amount to fund the purchase of examination equipment and computer software shall not collectively total more than:

(A) \$50,000 for any insurance company or society which has less than \$200,000,000 in gross premiums, both direct and assumed, in the preceding calendar year; or

(B) ~~\$100,000~~-\$500,000 for any insurance company or society which has \$200,000,000 or more in gross premiums, both direct and assumed, in the preceding calendar year.

(3) The amount paid for all outside consulting and data processing fees necessary to perform any market regulation examination at any one company or society, including examination of such company's or society's subsidiaries, or any combination thereof, and the pro rata amount to fund the purchase of examination equipment and computer software shall not collectively total more than \$25,000.

(c) Such demand shall be accompanied by the sworn statement of the person making such examination, setting forth in separate items the number of days necessarily and actually occupied in going to and returning from the place of such examination, the number of days the examiners were necessarily and actually engaged in making such examination including those days within the regular workweek while the examination was in progress and the company or society had closed for business, and the necessary and actual expenses for traveling and subsistence, incurred in and on account of such services.

(d) A duplicate of every such sworn statement shall be kept on file in the office of the commissioner of insurance. All moneys so paid to the commissioner of insurance shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the insurance company examination fund. The state treasurer shall issue duplicate receipts therefor, one to be delivered to the commissioner of insurance and the other to be filed with the director of accounts and reports.

Sec. 4. K.S.A. 40-2127 is hereby amended to read as follows: 40-2127. (a) Not later than July 1, 1993, and July 1 of each succeeding year, the board shall submit an audited financial report for the plan for the preceding calendar year to the commissioner in a form provided or prescribed by the commissioner.

(b) The financial status of the plan shall be subject to examination by the commissioner or the commissioner's designee. Such examination shall be conducted at least once every ~~three~~ five years ~~beginning January 1, 1995~~. The commissioner shall transmit a copy of the results of such examination to the legislature by February 1 of the year following the year in which the examination is conducted.

New Sec. 5. The following definitions shall apply to K.S.A. 40-246b through 40-246e, and amendments thereto, and section 7, and amendments thereto:

(a) "Exempt commercial purchaser" means any person purchasing commercial insurance that, at the time of placement, meets the following requirements:

(1) The person employs or retains a qualified risk manager to negotiate insurance coverage;

(2) the person has paid aggregate nationwide commercial property and casualty insurance premiums in excess of \$100,000 in the immediately preceding 12 months; and

(3) the person:

(A) Possesses a net worth in excess of \$20,040,000, except that this amount shall be adjusted every five years by rules and regulations of the commissioner of insurance to account for the percentage change in the consumer price index;

(B) generates annual revenues in excess of \$55,100,000, except that this amount shall be adjusted every five years by rules and regulations of the commissioner of insurance to account for the percentage change in the consumer price index;

(C) employs more than 500 full-time or full-time-equivalent employees per insured entity or is a member of an affiliated group employing more than 1,000 employees in the aggregate;

(D) is a not-for-profit organization or public entity generating annual budgeted expenditures of at least \$33,060,000, except that this amount shall be adjusted every five years by rules and regulations of the commissioner of insurance to account for the percentage change in the consumer price index; or

(E) is a municipality with a population in excess of 50,000 persons.

(b) “Home state” (1) In general, except as provided in subparagraph (2), the term “home state” means, with respect to an insured:

(A) The state in which an insured maintains its principal place of business or, in the case of an individual, the individual’s principal residence; or

(B) if 100% of the insured risk is located out of the state referred to in paragraph (1)(A), the state to which the greatest percentage of the insured’s taxable premium for that insurance contract is allocated.

(2) Affiliated groups. If more than one insured from an affiliated group are named insureds on a single non-admitted insurance contract, the term “home state” means the home state, as determined pursuant to paragraph (1), of the member of the affiliated group that has the largest percentage of premium attributed to it under such insurance contract.

(c) “Nonadmitted insurer” means an insurer that is not authorized or admitted to transact the business of insurance under the law of the home state, but does not include a risk retention group as that term is defined in 15 U.S.C. § 3901(a)(4), as in effect on July 1, 2015.

(d) “Principal place of business” means, with respect to determining the home state of the insured, the state where the insured maintains its headquarters and where the insured’s high-level officers direct, control and coordinate the business activities of the insured.

(e) “Surplus lines insurance” means insurance procured by a surplus lines licensee from a surplus lines insurer as permitted under the law of the home state. “Surplus lines insurance” shall also mean excess lines insurance as may be defined by applicable state law.

(f) This section shall take effect on and after January 1, 2016.

Sec. 6. On January 1, 2016, K.S.A. 2014 Supp. 40-246c is hereby amended to read as follows: 40-246c. (a) On March 1 of each year, each licensed agent shall collect and pay to the commissioner a ~~sum-based tax of 6%~~ *tax of 6%* on the total gross premiums charged, less any return premiums, for surplus lines insurance ~~provided transacted~~ *transacted* by the licensee pursuant to the license. ~~Where the insurance covers properties, risks or exposures located or to be performed both in and out of this state, the sum payable shall be computed based on:~~

~~(1) An amount equal to 6% of that portion of the gross premiums allocated to this state, plus~~

~~(2) an amount equal to the portion of the premiums allocated to other states or territories on the basis of the tax rates and fees applicable to properties, risks or exposures located or to be performed outside of this state, less~~

~~(3) the amount of gross premiums allocated to this state and returned to the insured for insureds whose home state is this state.~~

(b) The tax on any portion of the premium unearned at termination of insurance, if any, having been credited by the state to the licensee shall

be returned to the policyholder directly by the surplus lines licensee or through the producing broker. The surplus lines licensee is prohibited from rebating any part of the tax for any reason. ~~To the extent that other states where portions of the properties, risks or exposures reside have failed to enter into a compact or reciprocal allocation procedure with this state, the net premium tax collected shall be retained by this state.~~

(c) The individual responsible for filing the statement shall be the agent who signs the policy or the agent of record with the company. The commissioner of insurance shall collect double the amount of tax herein provided from any licensee or other responsible individual as herein described who shall fail, refuse or neglect to transmit the required affidavit or statement or shall fail to pay the tax imposed by this section, to the commissioner within the period specified.

New Sec. 7. (a) A surplus lines producer seeking to place non-admitted insurance for an exempt commercial purchaser is not required to file the signed statement under K.S.A. 40-246b, and amendments thereto, if the surplus lines producer has disclosed to the exempt commercial purchaser that such insurance may or may not be available from the admitted market that may provide greater protection with more regulatory oversight and the exempt commercial purchaser has subsequently requested in writing the surplus lines producer to procure or place such insurance from a nonadmitted insurer.

(b) This section shall take effect on and after January 1, 2016.

New Sec. 8. The commissioner of insurance may adopt such rules and regulations as are reasonable, necessary and incidental to the enforcement and administration of the provisions of K.S.A. 2014 Supp. 40-246b through 40-246e and section 3, and amendments thereto. Such rules and regulations shall be adopted no later than January 1, 2017.

(b) This section shall take effect on and after January 1, 2016.

Sec. 9. K.S.A. 40-2127 and K.S.A. 2014 Supp. 40-223 and 40-3118 are hereby repealed.

Sec. 10. On January 1, 2016, K.S.A. 2014 Supp. 40-246c, 40-2,194, 40-5701, 40-5702 and 40-5703 are hereby repealed.

Sec. 11. This act shall take effect and be in force from and after its publication in the statute book.

I hereby certify that the above BILL originated in the HOUSE, and was adopted by that body

\_\_\_\_\_  
HOUSE adopted  
Conference Committee Report \_\_\_\_\_

\_\_\_\_\_  
*Speaker of the House.*

\_\_\_\_\_  
*Chief Clerk of the House.*

Passed the SENATE  
as amended \_\_\_\_\_

SENATE adopted  
Conference Committee Report \_\_\_\_\_

\_\_\_\_\_  
*President of the Senate.*

\_\_\_\_\_  
*Secretary of the Senate.*

APPROVED \_\_\_\_\_

\_\_\_\_\_  
*Governor.*