AN ACT concerning insurance; relating to insurance laws and enforcement thereof; adding certain legal entities to the definition of "person"; amending K.S.A. 40-2,125 and repealing the existing section.

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

Section 1. K.S.A. 40-2,125 is hereby amended to read as follows: 40-2,125. (a) If the commissioner determines after notice and opportunity for a hearing that any person has engaged or is engaging in any act or practice constituting a violation of any provision of Kansas insurance statutes or any rule and regulation or order thereunder, the commissioner may in the exercise of discretion, order any one or more of the following:

(1) Payment of a monetary penalty of not more than $1,000 for each and every act or violation, unless the person knew or reasonably should have known such person was in violation of the Kansas insurance statutes or any rule and regulation or order thereunder, in which case the penalty shall be not more than $2,000 for each and every act or violation;

(2) Suspension or revocation of the person's license or certificate if such person knew or reasonably should have known that such person was in violation of the Kansas insurance statutes or any rule and regulation or order thereunder; or

(3) That such person cease and desist from the unlawful act or practice and take such affirmative action as in the judgment of the commissioner will carry out the purposes of the violated or potentially violated provision.

(b) If any person fails to file any report or other information with the commissioner as required by statute or fails to respond to any proper inquiry of the commissioner, the commissioner, after notice and opportunity for hearing, may impose a civil penalty of up to $1,000, for each violation or act, along with an additional penalty of up to $500 for each week thereafter that such report or other information is not provided to the commissioner.

(c) If the commissioner makes written findings of fact that there is a situation involving an immediate danger to the public health, safety or welfare or the public interest will be irreparably harmed by delay in issuing an order under subsection (a)(3), the commissioner may issue an emergency temporary cease and desist order. Such order, even when not an order within the meaning of K.S.A. 77-502, and amendments thereto, shall
be subject to the same procedures as an emergency order issued under
K.S.A. 77-536, and amendments thereto. Upon the entry of such an order,
the commissioner shall promptly notify the person subject to the order
that: (1) It has been entered; (2) the reasons therefor; and (3) that upon
written request within 15 days after service of the order the matter will be
set for a hearing which shall be conducted in accordance with the
provisions of the Kansas administrative procedure act. If no hearing is
requested and none is ordered by the commissioner, the order will remain
in effect until it is modified or vacated by the commissioner. If a hearing is
requested or ordered, the commissioner, after notice of and opportunity for
hearing to the person subject to the order, shall by written findings of fact
and conclusions of law vacate, modify or make permanent the order.
(d) For purposes of this section:
(1) "Person" means any individual, corporation, association,
partnership, reciprocal exchange, inter-insurer, Lloyd's insurer, fraternal
benefit society and any other legal entity engaged in the business of
insurance, rating organization, third party administrator, nonprofit dental
service corporation, nonprofit medical and hospital service corporation,
avtomobile club, premium financing company, health maintenance
organization, insurance holding company, mortgage guaranty insurance
company, risk retention or purchasing group, prepaid legal and dental
service plan, captive insurance company, automobile self-insurer or
reinsurance intermediary and any other legal entity under the jurisdiction
of the commissioner. The term "person" shall not include insurance
agents and brokers as such terms are defined in K.S.A. 40-4902, and
amendments thereto.
(2) "Commissioner" means the commissioner of insurance of this
state.
Sec. 2. K.S.A. 40-2,125 is hereby repealed.
Sec. 3. This act shall take effect and be in force from and after its
publication in the statute book.