AN ACT concerning insurance; relating to rates and rate modifications
for workers compensation insurance; amending K.S.A. 40-2109 and
repealing the existing section.

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

Section 1. K.S.A. 40-2109 is hereby amended to read as follows: 40-
2109. Every insurer undertaking to transact in this state the business of
either workers compensation or employer's liability insurance or both,
and every rating organization which files rates for such insurance shall
cooperate in the preparation and submission to the commissioner of
insurance of a plan or plans, for the equitable apportionment among
insurers of applicants for insurance who are in good faith, entitled to but
who are unable to procure through ordinary methods, such insurance.
Such plan or plans shall provide:

(a) Reasonable rules governing the equitable distribution of risks by
direct insurance, reinsurance or otherwise and their assignment to
insurers;

(b) rates and rate modifications applicable to such risks which shall
be reasonable, adequate and not unfairly discriminatory;

(c) a method whereby applicants for insurance, insured and insurers
may have a hearing on grievances and the right of appeal to the
commissioner;

(d) for every such plan or plans, there shall be a governing board to
be appointed by the commissioner of insurance which shall meet at least
annually to review and prescribe operating rules, and which shall consist
of the following members:

(1) Seven members who shall be appointed as follows: Three of
such members shall be representatives of foreign insurance companies,
two members shall be representatives of domestic insurance companies
and two members shall be licensed independent insurance agents. Such
members shall be appointed for a term of three years, except that the
initial appointment shall include two members appointed for a two-year
term and two members appointed for a one-year term, as designated by
the commissioner; and

(2) Two members representative of the general public interest with
such members to be appointed for a term of two years.
The commissioner shall review the plan as soon as reasonably possible after filing in order to determine whether it meets the requirements set forth in subsections (a) and (c) above. As soon as reasonably possible after the plan has been filed the commissioner shall in writing approve or disapprove the same, except that any plan shall be deemed approved unless disapproved within 45 days. Subsequent to the waiting period the commissioner may disapprove any plan on the ground that it does not meet the requirements set forth in subsections (a), (b) and (c) above, but only after a hearing held upon not less than 10 days' written notice to every insurer and rating organization affected specifying the matter to be considered at such hearing, and only by an order specifying in what respect the commissioner finds that such plan fails to meet such requirements and stating when within a reasonable period thereafter such plan shall be deemed no longer effective. Such order shall not affect any assignment made or policy issued or made prior to the expiration of the period set forth in such order. Amendments to such plan or plans shall be prepared, and filed and reviewed in the same manner as herein provided with respect to the original plan or plans.

If no plan meeting the standards set forth in subsections (a), (b) and (c) is submitted to the commissioner within the period stated in any order, disapproving an existing plan the commissioner shall, if necessary to carry out the purpose of this section after hearing, prepare and promulgate a plan meeting such requirements. When such plan or plans or amendments thereto have been approved or promulgated, no insurer shall thereafter issue a policy of workers compensation or employer's liability insurance or undertake to transact such business in this state unless such insurer shall participate in such an approved or promulgated plan. If, after a hearing conducted in accordance with the provisions of the Kansas administrative procedure act, the commissioner finds that any activity or practice of any insurer or rating organization in connection with the operation of such plan or plans is unfair or unreasonable or otherwise inconsistent with the provisions of this section the commissioner may issue a written order specifying in what respects such activity or practice is unfair or unreasonable or otherwise inconsistent with the provisions of this section and requiring discontinuance of such activity or practice.

(e) The commissioner shall approve rates and rate modifications for each plan that provides workers compensation insurance pursuant to this section which, over a period of time, but no later than January 1, 1997, will reduce the assessments levied by the plan to less than 10%. If the commissioner finds that the percentage of the total Kansas workers compensation premium volume written by the plan has not decreased below 20% of the total amount of such premium volume by December
31, 1998, the provisions of this subsection shall no longer apply and the
commissioner may cause the governing board of the plan to file new rates
and rate modifications pursuant to this section. Notwithstanding the
foregoing provisions of this subsection, the commissioner shall not
approve rates or rating plans which produce rates or premiums for risks
with less than $2,250 annual premium that are higher than those which
would be applied to such risks in the voluntary market, except that this.
This provision shall not prohibit the application of surcharges, experience
modifications or other rating variables based on the claims experience of
individual risks.
Sec. 2. K.S.A. 40-2109 is hereby repealed.
Sec. 3. This act shall take effect and be in force from and after its
publication in the statute book.