AN ACT concerning insurance; relating to rates and rate modifications for
workers compensation insurance; [authorizing the state fair board to
purchase workers compensation insurance;] amending K.S.A. 40-2109
and K.S.A. 2010 Supp. 40-955 and repealing the existing section sections.

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

New Section 1. (a) Notwithstanding the provisions of K.S.A. 44-
576, and amendments thereto, the state fair board is hereby authorized to
purchase workers compensation insurance. Any contract for the purchase
of workers compensation insurance entered into by the state fair board
shall be purchased in the manner prescribed for the purchase of supplies,
materials, equipment and contractual services as provided in K.S.A. 75-
3738 through 75-3744, and amendments thereto, and any such contract
having a premium or rate in excess of $500 shall be purchased on the basis
of sealed bids. Such contract shall not be subject to the provisions of
K.S.A. 75-4101 through 75-4114 and K.S.A. 2010 Supp. 75-4125, and
amendments thereto.]

(b) If the state fair board enters into a contract for the purchase of
workers compensation insurance as described in subsection (a), from and
after the end of the payroll period in which such workers compensation
policy takes effect, the state fair board shall not be subject to the self-
insurance assessment prescribed by K.S.A. 44-576, and amendments
thereto, and the director of accounts and reports shall cease to transfer
any amounts for such self-assessment for the state fair board pursuant to
such statute.]

(c) Notwithstanding the provisions of K.S.A. 44-575, and
amendments thereto, if the state fair board enters into a contract for the
purchase of workers compensation insurance as described in subsection
(a), the state workers compensation self-insurance fund shall not be liable
for any compensation claims under the workers compensation act relating
to the state fair board and arising during the term of such] [contract, or
for any other amounts otherwise required to be paid under the workers
compensation act during the term of such contract.]

(d) The state fair board shall notify the secretary of administration
and the Kansas health policy authority of the effective date of any
workers compensation policy acquired pursuant to this section.]

[Section 1. Sec. 2. K.S.A. 2010 Supp. 40-955 is hereby amended to
read as follows: 40-955. (a) Every insurer shall file with the commissioner,
except as to inland marine risks where general custom of the industry is
not to use manual rates or rating plans, every manual of classifications,
rules and rates, every rating plan, policy form and every modification of
any of the foregoing which it proposes to use. Every such filing shall
indicate the proposed effective date and the character and extent of the
coverage contemplated and shall be accompanied by the information
upon which the insurer supports the filings. A filing and any supporting
information shall be open to public inspection after it is filed with the
commissioner. An insurer may satisfy its obligations to make such filings
by authorizing the commissioner to accept on its behalf the filings made
by a licensed rating organization or another insurer. Nothing contained in
this act shall be construed to require any insurer to become a member or
subscriber of any rating organization.

(b) Certificate of insurance forms must be filed with the
commissioner of insurance and approved prior to use. Notwithstanding
the "large risk" filing exemption in subsection (j), a certificate of
insurance cannot be used to modify, alter or amend the insurance policy it
describes. The certificate of insurance shall contain the following or
similar language: The certificate of insurance neither affirmatively nor
negatively amends, extends or alters the coverage afforded by the policies
listed thereon. An industry standard setting organization may be
authorized by the commissioner of insurance to file certificate of
insurance forms on behalf of authorized insurers.

(c) Any rate filing for the basic coverage required by K.S.A. 40-3401
et seq., and amendments thereto, loss costs filings for workers
compensation, and rates for assigned risk plans established by article 21
of chapter 40 of the Kansas Statutes Annotated, and amendments thereto,
or rules and regulations established by the commissioner shall require
approval by the commissioner before its use by the insurer in this state. As
soon as reasonably possible after such filing has been made, the
commissioner shall in writing approve or disapprove the same, except that
any filing shall be deemed approved unless disapproved within 30 days of
receipt of the filing.

(d) Any other rate filing, except personal lines filings, shall become
effective on filing or any prospective date selected by the insurer, subject
to the commissioner disapproving the same if the rates are determined to
be inadequate, excessive, unfairly discriminatory or otherwise fails to
meet the requirements of this act. Subject to the provisions of K.S.A. 40-954,
and amendments thereto, an insurer may file up to four workers compensation
loss cost multipliers and up to four policy holder dividend plans within a single insurer. Eligibility for individual loss cost multipliers and dividend plans shall be based on insurer underwriting criteria and judgment. Personal lines rate filings shall be on file for a waiting period of 30 days before becoming effective, subject to the commissioner disapproving the same if the rates are determined to be inadequate, excessive, unfairly discriminatory or otherwise fail to meet requirements of this act. The term "personal lines" shall mean insurance for noncommercial automobile, homeowners, dwelling fire-and-renters insurance policies, as defined by the commissioner by rules and regulations. A filing complies with this act unless it is disapproved by the commissioner within the waiting period or pursuant to subsection (f).

(e) In reviewing any rate filing the commissioner may require the insurer or rating organization to provide, at the insurer's or rating organization's expense, all information necessary to evaluate the reasonableness of the filing, to include payment of the cost of an actuary selected by the commissioner to review any rate filing, if the department of insurance does not have a staff actuary in its employ.

(f) (1) (A) If a filing is not accompanied by the information required by this act, the commissioner shall promptly inform the company or organization making the filing. The filing shall be deemed to be complete when the required information is received by the commissioner or the company or organization certifies to the commissioner the information requested is not maintained by the company or organization and cannot be obtained.

(B) If the commissioner finds a filing does not meet the requirements of this act, the commissioner shall send to the insurer or rating organization that made the filing, written notice of disapproval of the filing, specifying in what respects the filing fails to comply and stating the filing shall not become effective.

(C) If at any time after a filing becomes effective, the commissioner finds a filing does not comply with this act, the commissioner shall after a hearing held on not less than 10 days' written notice to every insurer and rating organization that made the filing issue an order specifying in what respects the filing failed to comply with the act, and stating when, within a reasonable period thereafter, the filing shall be no longer effective. Copies of the order shall be sent to such insurer or rating organization. The order shall not affect any contract or policy made or issued prior to the expiration of the period set forth in the order.

(2) (A) In the event an insurer or organization has no legally effective rate because of an order disapproving rates, the commissioner shall specify an interim rate at the time the order is issued. The interim rate may be modified by the commissioner on the commissioner's own motion.
or upon motion of an insurer or organization.

(B) The interim rate or any modification thereof shall take effect prospectively in contracts of insurance written or renewed 15 days after the commissioner's decision setting interim rates.

(C) When the rates are finally determined, the commissioner shall order any overcharge in the interim rates to be distributed appropriately, except refunds to policyholders the commissioner determines are de minimis may not be required.

(3) (A) Any person or organization aggrieved with respect to any filing that is in effect may make written application to the commissioner for a hearing thereon, except that the insurer or rating organization that made the filing may not proceed under this subsection. The application shall specify the grounds to be relied on by the applicant.

(B) If the commissioner finds the application is made in good faith, that the applicant would be so aggrieved if the applicant's grounds are established, and that such grounds otherwise justify holding such a hearing, the commissioner shall, within 30 days after receipt of the application, hold a hearing on not less than 10 days' written notice to the applicant and every insurer and rating organization that made such filing.

(C) Every rating organization receiving a notice of hearing or copy of an order under this section, shall promptly notify all its members or subscribers affected by the hearing or order. Notice to a rating organization of a hearing or order shall be deemed notice to its members or subscribers.

(g) No insurer shall make or issue a contract or policy except in accordance with filings which have been filed or approved for such insurer as provided in this act.

(1) On an application for personal motor vehicle insurance where the applicant has applied for collision or comprehensive coverage, the applicant shall be allowed to identify a lienholder listed on the certificate of title for the motor vehicle described in the application.

(2) On an application for property insurance on real property, the applicant shall be allowed to identify a mortgagee listed on a mortgage for the real property described in the application.

(h) The commissioner may adopt rules and regulations to allow suspension or modification of the requirement of filing and approval of rates as to any kind of insurance, subdivision or combination thereof, or as to classes of risks, the rates for which cannot practicably be filed before they are used.

(i) Except for workers compensation and employer's liability line, the following categories of commercial lines risks are considered special risks which are exempt from the filing requirements in this section: (1) Risks that are written on an excess or umbrella basis; (2) commercial risks, or
portions thereof, that are not rated according to manuals, rating plans, or schedules including "a" rates; (3) large risks; and (4) special risks designated by the commissioner, including but not limited to risks insured under highly protected risks rating plans, commercial aviation, credit insurance, boiler and machinery, inland marine, fidelity, surety and guarantee bond insurance risks.

(j) For the purposes of this subsection, "large risk" means: (1) An insured that has total insured property values of $5,000,000 or more; (2) an insured that has total annual gross revenues of $10,000,000 or more; or (3) an insured that has in the preceding calendar year a total paid premium of $50,000 or more for property insurance, $50,000 or more for general liability insurance, or $100,000 or more for multiple lines policies.

(k) The exemption for any large risk contained in subsection (h) shall not apply to workers compensation and employer's liability insurance, insurance purchasing groups, and the basic coverage required by K.S.A. 40-3401 et seq., and amendments thereto.

(l) Underwriting files, premium, loss and expense statistics, financial and other records pertaining to special risks written by any insurer shall be maintained by the insurer and shall be subject to examination by the commissioner.

Section 1. Sec. 2. [3.] 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. 2–3. [4.] K.S.A. 40-2109 is and K.S.A. 2010 Supp. 40-955 are
hereby repealed.
Sec. 3–4. [5.] This act shall take effect and be in force from and after its
publication in the statute book.