AN ACT concerning workers in shared employment arrangements;

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

Section 1. K.S.A. 2011 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, except
that disclosure shall not be required for any information contained in a
filing or in any supporting documentation for the filing when such
information is either a trade secret or copyrighted. For the purposes of this
section, the term "trade secret" shall have the meaning ascribed to it in
K.S.A. 60-3320, and amendments thereto. 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 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. 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.

(m) (1) Except as permitted by paragraph (2), any entity that purchases a workers compensation policy for the covered employees of more than one employer pursuant to a shared employment relationship with each employer must purchase the workers compensation policy on a separate multiple coordinate policy basis. Such workers compensation policies must be issued pursuant to K.S.A. 44-501 et seq., and amendments thereto, from an insurer holding a certificate of authority to do business in this state and providing workers compensation coverage.

(2) The commissioner of insurance may allow an insurer to issue coverage through a master policy if the commissioner is satisfied that the insurer is able to track and report individual client experience to the advisory organization in an acceptable fashion. All such master policies must be filed with the commissioner for prior approval. The use of master policies for the covered employees of more than one employer pursuant to
a shared employment relationship shall be permitted if such master policy
is filed with the commissioner at least 30 days prior to the use of such
master policy and the commissioner is satisfied that the insurer is able to
track and report individual client experience to the advisory organization
in an acceptable fashion. If the commissioner determines that the master
policy or the insurer cannot track and report individual client experience
to the advisory organization in an acceptable fashion, the commissioner
shall disapprove such master policy and shall notify the insurer in writing.
Any insurer who issues a policy which is disapproved under this statute
shall be entitled to a hearing before the commissioner.

(3) The commissioner of insurance shall be authorized to adopt such
rules and regulations as are reasonable and necessary to carry out the
purpose and the provisions of this subsection.

(4) The provisions of this subsection shall not apply to any workers'
compensation policies purchased on or before December 31 – March 31,
2013 –

Sec. 2. K.S.A. 2011 Supp. 40-955 is hereby repealed.
Sec. 3. This act shall take effect and be in force from and after {}
{March 31, 2013, and} its publication in the statute book.