

As Amended by Senate Committee

Session of 2019

SENATE BILL No. 32

By Committee on Financial Institutions and Insurance

1-22

1 AN ACT exempting certain non-insurance healthcare benefits coverage
2 from the jurisdiction of the commissioner of insurance; amending
3 K.S.A. 2018 Supp. 40-2222, 40-2222a and 40-2222b and repealing the
4 existing sections.

5
6 *Be it enacted by the Legislature of the State of Kansas:*

7 Section 1. K.S.A. 2018 Supp. 40-2222 is hereby amended to read as
8 follows: 40-2222. (a) Any person or other entity ~~which that~~ provides
9 coverage in this state for medical, surgical, chiropractic, physical therapy,
10 speech pathology, audiology, professional mental health, dental, hospital,
11 or optometric expenses, whether such coverage is by direct payment,
12 reimbursement, or otherwise, shall be presumed to be subject to the
13 jurisdiction of the commissioner of insurance unless the person or other
14 entity:

15 (1) Is a professional association of architects incorporated in Kansas
16 on October 4, 1954, ~~which that~~ provides coverage for the payment of
17 expenses described herein to or for the members of the association or
18 dependents through a trust established November 1, 1986, ~~and complies~~
19 ~~with K.S.A. 40-2222a, and amendments thereto;~~

20 (2) is a professional association of dentists incorporated in Kansas on
21 July 3, 1972, ~~which that~~ provides coverage for the payment of expenses
22 described herein to or for the members of the association or dependents
23 through a trust established November 1, 1985, ~~and complies with K.S.A.~~
24 ~~40-2222a, and amendments thereto;~~

25 (3) (A) is a trade association of banks incorporated in Kansas on
26 August 9, 1978, ~~which that~~ provides coverage for the payment of
27 expenses described herein to or for the members of the association or
28 dependents through a trust established July 1, 1989, ~~and complies with~~
29 ~~K.S.A. 40-2222a, and amendments thereto;~~ or

30 (B) is a trade organization of banks incorporated in Kansas on June 1,
31 1982, ~~which that~~ provides coverage for expenses described herein to or for
32 members of the association or dependents, ~~and complies with K.S.A. 40-~~
33 ~~2222a, and amendments thereto;~~

34 (4) is a trade association of truckers incorporated in Kansas on July 1,
35 1985, ~~which that~~ provides coverage for the payment of expenses described
36 herein to or for the members of the association or dependents through a

1 trust established January 1, 1990, ~~and complies with K.S.A. 40-2222a, and~~
2 ~~amendments thereto;~~

3 (5) is an association of physicians practicing in the Kansas City
4 metropolitan area, incorporated in Missouri on March 5, 1891, and
5 qualified as a foreign corporation in Kansas on May 19, 1987, ~~which that~~
6 ~~provides coverage for the payment of expenses described herein to or for~~
7 ~~the members of the association, their employees and dependents through a~~
8 ~~trust established November 1, 1984, and complies with K.S.A. 40-2222a,~~
9 ~~and amendments thereto;~~

10 (6) is organized as a farmers' cooperative under the Kansas
11 cooperative marketing act, K.S.A. 17-1601 et seq., and amendments
12 thereto, on January 13, 1983, and is an association of farmers' cooperatives
13 and other like associations operated on a cooperative basis and their
14 affiliated companies, ~~which that~~ provides benefits for employees, and
15 family members of such employees, of such associations, ~~and complies~~
16 ~~with K.S.A. 40-2222a, and amendments thereto;~~

17 (7) is any other qualified trade, merchant, retail, or professional
18 association or business league incorporated in Kansas which complies with
19 K.S.A. 40-2222a, and amendments thereto;

20 (8) conclusively shows by submission of an appropriate certificate,
21 license, letter or other document issued by the United States department of
22 labor that such person or entity is not subject to Kansas law; ~~or~~

23 (9) conclusively shows that it is subject to the jurisdiction of an
24 agency of this state or the federal government. For purposes of this act, tax
25 exempt status under section 501(c) of the federal internal revenue code of
26 1986 shall not be deemed to be jurisdiction of the federal government; *or*

27 *(10) is a nonprofit agricultural membership organization*
28 *incorporated in Kansas on June 23, 1931, or an affiliate thereof, that*
29 *provides healthcare benefit coverage ~~that shall not be considered~~*
30 *insurance, for the payment of expenses described herein to or for the*
31 *members of the organization and their dependents. **Notwithstanding any***
32 *provision of law to the contrary, the healthcare benefit coverage*
33 *described in this paragraph shall not be considered insurance. The risk*
34 *under such coverage may be reinsured by a company authorized to*
35 *conduct reinsurance in Kansas. Providers of healthcare benefit coverage*
36 *shall file a signed, certified actuarial statement of plan reserves annually*
37 *with the commissioner of insurance.*

38 (b) For the purposes of this section, a qualified trade, merchant, retail
39 or professional association or business league shall mean any bona fide
40 trade, merchant, retail or professional association or business league that:

- 41 (1) Has been in existence for at least five calendar years; and
- 42 (2) is comprised of five or more employers.

43 Sec. 2. K.S.A. 2018 Supp. 40-2222a is hereby amended to read as

1 follows: 40-2222a. At the time the initial application for coverage is taken
2 with respect to new applicants and upon the first renewal, reinstatement or
3 extension of coverage following the effective date of this act with respect
4 to persons previously covered, each ~~association~~ *person or entity* described
5 in ~~subsection (a)~~ of K.S.A. 40-2222, and amendments thereto, shall
6 provide a written notice stating that:

7 (a) The coverage is not provided by an insurance company;

8 (b) the plan is not subject to the laws and regulations relating to
9 insurance companies;

10 (c) the plan is not under the jurisdiction of the commissioner of
11 insurance; and

12 (d) if the plan does not pay medical expenses that are eligible for
13 payment under the plan for any reason, the individuals covered by the plan
14 may be liable for such expenses.

15 Sec. 3. K.S.A. 2018 Supp. 40-2222b is hereby amended to read as
16 follows: 40-2222b. (a) As a condition precedent to continuation of the
17 exemption provided by K.S.A. 40-2222, and amendments thereto, each
18 ~~association~~ *person or entity* described in ~~subsection (a)~~ of K.S.A. 40-2222,
19 and amendments thereto, shall, no later than May 1 of each year, pay a tax
20 at the rate of 1% per annum upon the annual Kansas gross premium
21 collected during the preceding calendar year. In the computation of the tax,
22 such ~~associations~~ *persons or entities* shall be entitled to deduct any annual
23 Kansas gross premiums returned on account of cancellation or dividends
24 returned to members or expenditures used for the purchase of reinsurance
25 or stop-loss coverage.

26 (b) Every ~~association~~ *person or entity* subject to taxation under the
27 provisions of this section shall pay the tax imposed and make a return
28 under oath to the commissioner of insurance under such rules and
29 regulations and in such form and manner as the commissioner may
30 prescribe.

31 Sec. 4. K.S.A. 2018 Supp. 40-2222, 40-2222a and 40-2222b are
32 hereby repealed.

33 Sec. 5. This act shall take effect and be in force from and after its
34 publication in the statute book.