

HOUSE BILL No. 2821

By Committee on Insurance and Financial Institutions

2-11

9 AN ACT concerning insurance; relating to rates and rate modifications
10 for workers compensation insurance; amending K.S.A. 40-2109 and
11 repealing the existing section.
12

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

14 Section 1. K.S.A. 40-2109 is hereby amended to read as follows: 40-
15 2109. Every insurer undertaking to transact in this state the business of
16 either workers compensation or employer's liability insurance or both,
17 and every rating organization which files rates for such insurance shall
18 cooperate in the preparation and submission to the commissioner of in-
19 surance of a plan or plans, for the equitable apportionment among in-
20 surers of applicants for insurance who are in good faith, entitled to but
21 who are unable to procure through ordinary methods, such insurance.
22 Such plan or plans shall provide:

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

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

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

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

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

43 (2) Two members representative of the general public interest with

1 such members to be appointed for a term of two years.

2 The commissioner shall review the plan as soon as reasonably possible
3 after filing in order to determine whether it meets the requirements set
4 forth in subsections (a) and (c) above. As soon as reasonably possible after
5 the plan has been filed the commissioner shall in writing approve or
6 disapprove the same, except that any plan shall be deemed approved
7 unless disapproved within 45 days. Subsequent to the waiting period the
8 commissioner may disapprove any plan on the ground that it does not
9 meet the requirements set forth in subsections (a), (b) and (c) above, but
10 only after a hearing held upon not less than 10 days' written notice to
11 every insurer and rating organization affected specifying the matter to be
12 considered at such hearing, and only by an order specifying in what re-
13 spect the commissioner finds that such plan fails to meet such require-
14 ments and stating when within a reasonable period thereafter such plan
15 shall be deemed no longer effective. Such order shall not affect any as-
16 signment made or policy issued or made prior to the expiration of the
17 period set forth in such order. Amendments to such plan or plans shall
18 be prepared, and filed and reviewed in the same manner as herein pro-
19 vided with respect to the original plan or plans.

20 If no plan meeting the standards set forth in subsections (a), (b) and
21 (c) is submitted to the commissioner within the period stated in any order,
22 disapproving an existing plan the commissioner shall, if necessary to carry
23 out the purpose of this section after hearing, prepare and promulgate a
24 plan meeting such requirements. When such plan or plans or amend-
25 ments thereto have been approved or promulgated, no insurer shall there-
26 after issue a policy of workers compensation or employer's liability insur-
27 ance or undertake to transact such business in this state unless such
28 insurer shall participate in such an approved or promulgated plan. If, after
29 a hearing conducted in accordance with the provisions of the Kansas
30 administrative procedure act, the commissioner finds that any activity or
31 practice of any insurer or rating organization in connection with the op-
32 eration of such plan or plans is unfair or unreasonable or otherwise in-
33 consistent with the provisions of this section the commissioner may issue
34 a written order specifying in what respects such activity or practice is
35 unfair or unreasonable or otherwise inconsistent with the provisions of
36 this section and requiring discontinuance of such activity or practice.

37 (e) The commissioner shall approve rates and rate modifications for
38 each plan that provides workers compensation insurance ~~pursuant to this~~
39 ~~section which, over a period of time, but no later than January 1, 1997,~~
40 ~~will reduce the assessments levied by the plan to less than 10%. If the~~
41 ~~commissioner finds that the percentage of the total Kansas workers com-~~
42 ~~ensation premium volume written by the plan has not decreased below~~
43 ~~20% of the total amount of such premium volume by December 31, 1998,~~

1 ~~the provisions of this subsection shall no longer apply and the commis-~~
2 ~~sioner may cause the governing board of the plan to file new rates and~~
3 ~~rate modifications pursuant to this section. Notwithstanding the foregoing~~
4 ~~provisions of this subsection, the commissioner shall not approve rates or~~
5 ~~rating plans which produce rates or premiums for risks with less than~~
6 ~~\$2,250 annual premium that are higher than those which would be ap-~~
7 ~~plied to such risks in the voluntary market, except that this. *This* provision~~
8 ~~shall not prohibit the application of surcharges, experience modifications~~
9 ~~or other rating variables based on the claims experience of individual risks.~~
10 Sec. 2. K.S.A. 40-2109 is hereby repealed.
11 Sec. 3. This act shall take effect and be in force from and after its
12 publication in the statute book.