

SENATE BILL No. 37

AN ACT concerning insurance; relating to producer licensing requirements; agent conduct; pertaining to examinations; fees; renewal dates; suspension, revocation or denial of licensure; licensure renewal; amending K.S.A. 2020 Supp. 40-241, 40-4902, 40-4903, 40-4905, 40-4909, 40-4912, 40-4915, 40-5505 and 40-5512 and repealing the existing sections.

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

Section 1. K.S.A. 2020 Supp. 40-241 is hereby amended to read as follows: 40-241. Any applicant or prospective applicant for an agent's license, if an individual, shall be given an examination by the commissioner or the commissioner's designee to determine whether such applicant possesses the competence and knowledge of the kinds of insurance and transactions under the license applied for, or to be applied for, of the duties and responsibilities of such a license and of the pertinent provisions of the laws of this state. The applicant shall be tested on each class or subclassification of insurance—~~which~~ *that* may be written. An examination fee prescribed in rules and regulations adopted by the commissioner shall be paid by the applicant and shall be required for each class of insurance for each attempt to pass the examination. Such examination fee shall be in addition to the certification fee required under K.S.A. 40-252, and amendments thereto. There shall be four classes of insurance for the purposes of this act:

- (1) Life;
- (2) accident and health;
- (3) casualty and allied lines; and
- (4) property and allied lines.

An insurance license may be issued as a subclassification of casualty and allied lines to any auto rental agency. An auto rental agency may offer or sell insurance only in connection with and incidental to the rental of motor vehicles, whether at the rental office, at the point of delivery of a vehicle, or by preselection of coverage in a master, corporate or group rental agreement, in any of the following general categories:

- (1) Personal accident insurance covering risks of travel;;
  - (2) motor vehicle liability insurance;;
  - (3) personal effects insurance providing coverage to renters and other occupants of the motor vehicle;;
  - (4) roadside assistance and emergency sickness protection programs; and
  - (5) any other travel or auto-related coverage an auto rental company may offer in connection with and incidental to rental of motor vehicles.
- No insurance may be issued by an auto rental agency unless the rental period of the rental agreement does not exceed 90 consecutive days and brochures and other written material clearly and correctly explaining insurance coverages offered by the agency are available for prospective renters and clear and complete disclosures are provided to prospective renters that such coverage may be duplicative of other insurance owned by the renter, that purchase of insurance coverage is not a condition for renting a motor vehicle and describing the process for filing a claim.

Auto rental agencies employing representatives shall conduct a training program for each representative, providing instruction on the kinds of insurance coverage offered by the agency.

No auto rental agency shall offer or solicit any insurance other than the coverages described in this section without an insurance license. No auto rental employee or auto rental agency shall advertise or otherwise hold themselves out as licensed insurers, insurance agents or insurance brokers.

The commissioner of insurance shall adopt rules and regulations with respect to the scope, subclassification, type and conduct of such examination. Examinations shall be given to applicants at least twice a month in Topeka, Kansas, and at least quarterly in other convenient locations in the state of Kansas. The commissioner shall publish or

arrange for the publication of information and material which applicants can use to prepare for such examination. One or more rating organizations, advisory organizations or other associations may be designated by the commissioner to assist in, or assume responsibility for, distribution of the study manuals to applicants and other interested parties. Persons purchasing the study manual shall be charged a reasonable fee established or approved by the commissioner. In the event the publication and distribution of the study material or the development and conduct of examinations is delegated to private firms, organizations or associations and the state incurs no expense or obligation, the provisions of K.S.A. 75-3738 ~~to through 75-3744, inclusive~~, and amendments thereto, shall not apply. If the commissioner of insurance finds that the individual applicant is trustworthy, competent and has satisfactorily completed the examination, the commissioner shall forthwith issue to the applicant a license as an insurance agent but the issuance of such license shall confer no authority to transact business in this state until the agent has been certified by a company pursuant to K.S.A. 40-241i, and amendments thereto. If such applicant fails to satisfactorily complete the examination, the examination may be retaken following a waiting period of not less than seven days from the date of the last attempt. If the applicant again fails to satisfactorily complete the examination, it may be retaken following another waiting period of not less than seven days from the date of the most recent attempt. ~~Thereafter, the examination may be retaken following a waiting period of not less than six months from the date of the most recent attempt, except that following a waiting period of two years from the date of the applicant's last examination attempt an applicant will be treated as a new applicant and new examination and waiting periods shall apply.~~

Sec. 2. K.S.A. 2020 Supp. 40-4902 is hereby amended to read as follows: 40-4902. As used in this act:

(a) "Approved subject" or "approved course" means any educational presentation involving insurance fundamentals, insurance law, insurance policies and coverage, insurance needs, insurance risk management, insurance agency management or other areas, which is offered in a class, seminar, computer based training, interactive internet training or other similar form of instruction, and ~~which~~ *that* has been approved by the commissioner under this act as expanding skills and knowledge obtained prior to initial licensure under this act or developing new and relevant skills and knowledge in preparation for such licensure.

(b) "Biennial due date" means the ~~date~~ *last day of the birth month* of any licensed insurance agent who is required to complete C.E.C.'s and report the completion of such C.E.C.'s to the commissioner pursuant to this act, except that such due date shall not be earlier than two years from the date of the insurance agent's initial licensure under this act. The biennial due date for a registered business entity shall be the *last day of the month of the* date of initial licensure under this act.

(c) "Biennium" means the period starting with the insurance agent's biennial due date in 2001 and each two-year period thereafter for any insurance agent who was born in an odd-numbered year. For any insurance agent who was born in an even-numbered year, the term shall mean the period starting with the insurance agent's biennial due date in 2002 and each two-year period thereafter. The biennium for a registered business entity shall be the two-year period following such business entity's initial licensure or renewal of such license.

(d) "Broker" means any individual who acts or aids in any manner in negotiating contracts of insurance, or in placing risks or in soliciting or effecting contracts of insurance as an agent for an insured other than

such individual and not as an agent of an insurance company or any other type of insurance carrier. The term "broker" ~~shall does~~ not include: A person working as an officer for an insurance carrier, or in a clerical, administrative or service capacity for an insurance carrier, licensed agent or broker, provided that such person does not solicit contracts of insurance. ~~The term "broker" shall not include, or~~ an attorney-at-law in the performance of such attorney's duties, an insured who places or negotiates the placement of such insured's own insurance, or any employee of an insured engaged in placing or negotiating for placement of insurance for such employee's employer.

(e) "Business entity" means any corporation, association, partnership, limited liability company, limited liability partnership or other legal entity.

(f) "C.E.C." means continuing education credit containing at least 50 minutes of instruction in each clock hour. The term C.E.C. also includes any value, expressed in a whole number of units, assigned by the commissioner to an approved subject.

(g) "Commissioner" means the commissioner of insurance as defined in K.S.A. 40-102, and amendments thereto. The term "commissioner ~~shall~~" also ~~include~~ *includes* any authorized representative or designee of the commissioner.

(h) "Department" means the insurance department established by K.S.A. 40-102, and amendments thereto.

(i) "Home state" means the District of Columbia and any state or territory of the United States in which an insurance agent maintains such agent's principal place of residence or principal place of business and is licensed to act as an insurance agent.

(j) "Inactive agent" means any licensed agent who presents evidence satisfactory to the commissioner ~~which~~ *that* demonstrates that such agent will not do any act toward transacting the business of insurance for ~~not less than two but not more than four~~ years from the date such evidence is received by the commissioner.

(k) "Insurance agent" and "agent" means any person required to be licensed under the provisions of chapter 40 of the Kansas Statutes Annotated, and amendments thereto, to sell, solicit or negotiate insurance. For the purposes of ~~this~~ *the uniform agents licensing act*, whenever the terms "agent" or "broker" appear in chapter 40 of the Kansas Statutes Annotated, and amendments thereto, each term ~~shall mean~~ *means* insurance agent unless the context requires otherwise. "Insurance agent" also includes the terms "insurance producer" or "producer."

(l) "Insurance" means any of the lines of authority specified in ~~subsection (a) of~~ K.S.A. 2020 Supp. 40-4903(a), and amendments thereto.

(m) "Insurance producer" or "producer" means any person licensed under the laws of another state to sell, solicit, or negotiate insurance. For the purposes of this act, the terms "insurance agent" and "agent" ~~shall~~ include an "insurance producer" or "producer" when the context so requires. In the context of a producer database maintained by this state, another state or the NAIC, the term "producer ~~shall include~~" *includes* "agent."

(n) "Insurer" and "insurance company" ~~shall have the meaning ascribed to the term~~ *means the same as* "insurance company" as defined by K.S.A. 40-222c, and amendments thereto.

(o) "License" means a document issued by ~~this state's insurance~~ *the commissioner* authorizing a person to act as an insurance agent for the lines of authority specified in such document.

(p) "Limited line credit insurance" includes credit life, credit disability, credit property, credit unemployment, involuntary

unemployment, mortgage life, mortgage guaranty, mortgage disability, automobile dealer gap insurance and any other form of insurance offered in connection with an extension of credit that is limited to partially or wholly extinguishing that credit obligation that the insurance commissioner determines should be designated a form of limited line credit insurance.

(q) "Limited line credit insurance agent" means a person who sells, solicits or negotiates one or more forms of limited line credit insurance coverage to individuals through a master, corporate, group or individual policy.

(r) "NAIC" means the national association of insurance commissioners.

(s) "Negotiate" means the act of conferring directly with or offering advice directly to any purchaser or prospective purchaser of a particular contract of insurance concerning any of the substantive benefits, terms or conditions of such contract, provided that the person engaged in such act either sells insurance or obtains insurance from insurers for purchasers.

(t) "Person" means an individual or a business entity.

(u) "Sell" means to exchange a contract of insurance by any means, for money or its equivalent, on behalf of an insurance company.

(v) "Solicit" ~~shall include~~ *includes* any attempt to sell insurance or asking or urging a person to apply for any particular kind of insurance from any particular insurance company.

Sec. 3. K.S.A. 2020 Supp. 40-4903 is hereby amended to read as follows: 40-4903. (a) Unless denied licensure pursuant to K.S.A.2020 Supp. 40-4909, and amendments thereto, any person who meets the requirements of K.S.A. 2020 Supp. 40-4905, and amendments thereto, shall be issued an insurance agent license. An insurance agent may receive qualifications for a license in one or more of the following lines of authority:

(1) Life—: Insurance coverage on human lives including benefits of endowment and annuities, and may include benefits in the event of death or dismemberment by accident and benefits for disability income.

(2) Accident and health or sickness—: Insurance coverage for sickness, bodily injury or accidental death and may include benefits for disability income.

(3) Property—: Insurance coverage for the direct or consequential loss or damage to property of every kind.

(4) Casualty—: Insurance coverage against legal liability, including that for death, injury or disability or damage to real or personal property.

(5) Variable life and variable annuity products—: Insurance coverage provided under variable life insurance contracts, variable annuities or any other life insurance or annuity product that reflects the investment experience of a separate account.

(6) Personal lines—: Property and casualty insurance coverage sold primarily to an individual or family for noncommercial purposes.

(7) Credit—: Limited line credit insurance.

(8) Crop insurance—: Limited line insurance for damage to crops from unfavorable weather conditions, fire, lightning, flood, hail, insect infestation, disease or other yield-reducing conditions or any other peril subsidized by the federal crop insurance corporation, including multi-peril crop insurance.

(9) Title insurance—: Limited line insurance that insures titles to property against loss by reason of defective titles or encumbrances.

(10) Travel insurance—: Limited line insurance for personal risks incidental to planned travel, including, but not limited to:

(A) Interruption or cancellation of trip or event;

- (B) loss of baggage or personal effects;
- (C) damages to accommodations or rental vehicles; or
- (D) sickness, accident, disability or death occurring during travel.

Travel insurance does not include major medical plans, ~~which that~~ provide comprehensive medical protection for travelers with trips lasting six months or longer, for example, persons working overseas including military personnel deployed overseas.

(11) Pre-need funeral insurance—: Limited line insurance that allows for the purchase of a life insurance or annuity contract by or on behalf of the insured solely to fund a pre-need contract or arrangement with a funeral home for specific services.

(12) Bail bond insurance—: Limited line insurance that provides surety for a monetary guarantee that an individual released from jail will be present in court at an appointed time.

(13) Self-service storage unit insurance—: Limited line insurance relating to the rental of self-service storage units, including:

(A) Personal effects insurance that provides coverage to renters of storage units at the same facility for the loss of, or damage to, personal effects that occurs at the same facility during the rental period; and

(B) any other coverage that the commissioner may approve as meaningful and appropriate in connection with the rental of storage units. Such insurance may only be issued in accordance with section 1, and amendments thereto.

(14) Any other line of insurance permitted under the provisions of chapter 40 of the Kansas Statutes Annotated, and amendments thereto, and any rules and regulations promulgated thereunder.

(b) Unless suspended, revoked or refused renewal pursuant to K.S.A. 2020 Supp. 40-4909, and amendments thereto, an insurance agent license shall remain in effect as long as:

(1) Education requirements for resident individual agents are met by such insurance agent's biennial due date;

(2) *such insurance agent submits an application for renewal on a form prescribed by the commissioner; and*

(3) *on and after January 1, 2022, such insurance agent pays a biennial renewal application fee of \$4.*

(c) (1) (A) ~~On and after the effective date of this act: (1) July 1, 2001, through December 31, 2021, each licensed insurance agent who is an individual and holds a property or casualty qualification, or both, or a personal lines qualification shall biennially obtain a minimum of 12 C.E.C.s in courses certified as property and casualty which shall include that includes at least one hour of instruction in insurance ethics which also, and may include regulatory compliance. No more than three of the required C.E.C.s shall be in insurance agency management.~~

(B) *On and after January 1, 2022, except as provided in paragraphs (3) through (6), each licensed insurance agent shall biennially obtain a minimum of 18 C.E.C.s that include at least three hours of instruction in insurance ethics that also may include regulatory compliance.*

(2) ~~Each licensed insurance agent who is an individual and holds a life, accident and health, or variable contracts qualification, or any combination thereof, shall biennially complete 12 C.E.C.s in courses certified as life, accident and health, or variable contracts which shall include at least one hour of instruction in insurance ethics which also may include regulatory compliance. No more than three of the required C.E.C.s shall be in insurance agency management.~~ *On and after July 1, 2001, through December 31, 2021, each licensed insurance agent who is an individual and holds a life, accident and health, or variable contracts qualification, or any combination thereof, shall biennially obtain a minimum of 12 C.E.C.s in courses certified as life, accident*

*and health, or variable contracts that include at least one hour of instruction in insurance ethics and may include regulatory compliance.*

(3) Each licensed insurance agent who is an individual and holds only a crop qualification shall biennially obtain a minimum of two C.E.C.s in courses certified as crop C.E.C.s under the property and casualty category.

(4) Each licensed insurance agent who is an individual and is licensed only for title insurance shall biennially obtain a minimum of four C.E.C.s in courses certified by the board of abstract examiners as title C.E.C.s under the property and casualty category.

(5) Each licensed insurance agent who is an individual and holds a life insurance license solely for the purpose of selling pre-need funeral insurance or annuity products shall file a report on or before such agent's biennial due date affirming that such agent transacted no other insurance business during the period covered by the report. ~~Upon request of the commissioner, an agent~~ *and shall provide certification from an officer of each insurance company which that has appointed such agent that the agent transacted no other insurance business during the period covered by the report. Agents who have offered to sell or sold only pre-need funeral insurance are exempt from the requirement to obtain C.E.C.s.*

(6) Each licensed insurance agent who is an individual and holds only a bail bond, *self-service storage unit or travel insurance* qualification is exempt from the requirement to obtain C.E.C.s.

(7) (A) *A licensed insurance agent who is a member of the national guard or any reserve component of the armed services of the United States who serves on active duty for at least 90 consecutive days shall be exempt from the requirement to obtain C.E.C.s during the time that such insurance agent is on active duty.*

(B) *The commissioner shall grant an extension to any licensed insurance agent described in subparagraph (A) until the biennial due date that occurs in the year next succeeding the year in which such active duty ceases.*

~~(d) On and after the effective date of this act, each individual insurance agent who holds a license with both a property or casualty qualification, or both, and a life, accident and health or variable contracts qualification, or any combination thereof, and who earns C.E.C.s from courses certified by the commissioner as qualifying for credit in any class, may apply, at such insurance agent's option, such C.E.C.s toward either the property or casualty continuing education requirement or to the life, accident and health or variable contracts continuing education requirement. However, no C.E.C. shall be applied to satisfy both the biennial property or casualty requirement, or both, and the biennial requirement for life, accident and health or variable contracts, or any combination thereof.~~

~~(e) An instructor of an approved subject shall be entitled to the same C.E.C. as a student completing the study.~~

~~(f)~~(e) (1) An individual insurance agent who has been licensed for more than one year, on or before such insurance agent's biennial due date, shall file a report with the commissioner certifying that such insurance agent has met the continuing education requirements for the previous biennium ending on such insurance agent's biennial due date. Each individual insurance agent shall maintain a record of all courses attended together with a certificate of attendance for the remainder of the biennium in which the courses were attended and the entire next succeeding biennium.

(2) If the required report showing proof of continuing education completion is not received by the commissioner by the individual insurance agent's biennial due date, such individual insurance agent's

qualification and each and every corresponding license shall be suspended automatically for a period of 90 calendar days or until such time as the producer satisfactorily demonstrates completion of the continuing education requirement whichever is sooner. In addition, the commissioner shall assess a penalty of \$100 for each license suspended. If such insurance agent fails to furnish to the commissioner the required proof of continuing education completion and the monetary penalty within 90 calendar days of such insurance agent's biennial due date, such individual insurance agent's qualification and each and every corresponding license shall expire on such insurance agent's biennial due date. If after more than three but less than 12 months from the date the license expired, the insurance agent wants to reinstate such insurance agent's license, such individual shall provide the required proof of continuing education completion and pay a reinstatement fee in the amount of \$100 for each license suspended. If after more than 12 months from the date an insurance agent's license has expired, such insurance agent wants to reinstate such insurance agent's license, such individual shall apply for an insurance agent's license, provide the required proof of continuing education completion and pay a reinstatement fee in the amount of \$100 for each license suspended. Upon receipt of a written application from such insurance agent claiming extreme hardship, the commissioner may waive any penalty imposed under this subsection.

(3) On and after the effective date of this act, any applicant for an individual insurance agent's license who previously held a license ~~which~~ *that* expires on or after June 30, 2001, because of failure to meet continuing education requirements and who seeks to be relicensed shall provide evidence that appropriate C.E.C.s have been completed for the prior biennium.

(4) Upon receipt of a written application from an individual insurance agent, the commissioner, in cases involving medical hardship or military service, may extend the time within which to fulfill the minimum continuing educational requirements for a period of not to exceed 180 days.

(5) This section shall not apply to any inactive insurance agent during the period of such inactivity. For the purposes of this paragraph, "inactive period" or "period of inactivity" ~~shall mean~~ *means* a continuous period of time of ~~not less than two years and~~ not more than four years starting from the date inactive status is granted by the commissioner. Before returning to active status, such inactive insurance agent shall:

(A) File a report with the commissioner certifying that such agent has met the continuing education requirement; and

(B) pay the renewal fee. If the required proof of continuing education completion and the renewal fee is not furnished at the end of the inactive period, such individual insurance agent's qualification and each and every corresponding license shall expire at the end of the period of inactivity. For issuance of a new license, the individual shall apply for a license and pass the required examination.

(6) Any individual who allows such individual's insurance agent license in this state and all other states in which such individual is licensed as an insurance agent to expire for a period of four or more consecutive years, shall apply for a new insurance agent license and pass the required examination.

~~(e)~~(f) (1) Each course, program of study, or subject shall be submitted to and certified by the commissioner in order to qualify for purposes of continuing education.

(2) Each request for certification of any course, program of study or subject shall contain the following information:

- (A) The name of the provider or provider organization;
- (B) the title of such course, program of study or subject;
- (C) the date the course, program of study or subject will be offered;
- (D) the location where the course, program of study or subject will be offered;
- (E) an outline of each course, program of study or subject including a schedule of times when such material will be presented;
- (F) the names and qualifications of instructors;
- (G) the number of C.E.C.s requested;
- (H) a nonrefundable C.E.C. qualification fee in the amount of \$50 per course, program of study or subject or \$250 per year for all courses, programs of study or subjects submitted by a specific provider or provider organization; and
- (I) a nonrefundable annual provider fee of \$100.

(3) Upon receipt of such information, the commissioner shall grant or deny certification of any submitted course, program of study or subject as an approved subject, program of study or course and indicate the number of C.E.C.s that will be recognized for each approved course, program of study or subject. Each approved course, program of study or subject shall be assigned by the commissioner to one or both of the following classes:

- (A) Property and casualty; or
- (B) life insurance, including annuity and variable contracts, and accident and health insurance.

(4) Each course, program of study or subject shall have a value of at least one C.E.C.

(5) (A) Each provider seeking approval of a course, program of study or subject for continuing education credit shall issue or cause to be issued to each person who attends a course, program of study or subject offered by such provider a certificate of attendance. The certificate shall be signed by either the instructor who presents the course, program of study or course or such provider's authorized representative. Each provider shall maintain a list of all individuals who attend courses offered by such provider for continuing education credit for the remainder of the biennium in which the courses are offered and the entire next succeeding biennium.

(B) The commissioner shall accept, without substantive review, any course, program of study or subject submitted by a provider ~~which~~ *that* has been approved by the insurance supervisory authority of any other state or territory accredited by the NAIC. The commissioner may disapprove any individual instructor or provider who has been the subject of disciplinary proceedings or who has otherwise failed to comply with any other state's or territory's laws or regulations.

(6) The commissioner may grant or approve any specific course, program of study or course that has appropriate merit, such as any course, programs of study or course with broad national or regional recognition, without receiving any request for certification. The fee prescribed by subsection ~~(g)~~ (f)(2) shall not apply to any approval granted pursuant to this provision.

(7) The C.E.C. value assigned to any course, program of study or subject, other than a correspondence course, computer based training, interactive internet study training or other course pursued by independent study, shall in no way be contingent upon passage or satisfactory completion of any examination given in connection with such course, program of study or subject. The commissioner shall establish, by rules and regulations criteria for determining acceptability of any method used for verification of the completion of each stage of any computer based or interactive internet study training. Completion



of any computer based training or interactive internet study training shall be verified in accordance with a method approved by the commissioner.

~~(h)~~(g) Upon request, the commissioner shall provide a list of all approved continuing education courses currently available to the public.

~~(i)~~(h) An individual insurance agent who independently studies an insurance course, program of study or subject ~~which~~ *that* is not an agent's examination approved by the commissioner ~~and who passes an independently monitored examination~~, shall receive credit for the C.E.C.s assigned by the commissioner as recognition for the approved subject. No other credit shall be given for independent study.

~~(j)~~(i) Any licensed individual insurance agent who is unable to comply with license renewal procedures due to military service or some other extenuating circumstances may request a waiver of those procedures from the commissioner. Such agent may also request from the commissioner a waiver of any examination requirement or any other fine or sanction imposed for failure to comply with renewal procedures.

Sec. 4. K.S.A. 2020 Supp. 40-4905 is hereby amended to read as follows: 40-4905. (a) Subject to the provisions of K.S.A. 2020 Supp. 40-4904, and amendments thereto, it shall be unlawful for any person to sell, solicit or negotiate any insurance within this state unless such person has been issued a license as an insurance agent in accordance with this act.

(b) Any person applying for a resident insurance agent license shall make application on a form prescribed by the commissioner. The applicant shall declare under penalty of perjury that the statements made in the application are true, correct and complete to the best of the applicant's knowledge and belief. Before approving the application, the commissioner shall determine that the applicant:

- (1) Is at least 18 years of age;
- (2) has not committed any act that is grounds for denial pursuant to this section or suspension or revocation pursuant to K.S.A. 2020 Supp. 40-4909, and amendments thereto;
- (3) has paid a nonrefundable fee in the amount of \$30; and
- (4) has successfully passed the examination for each line of authority for which the applicant has applied.

(c) If the applicant is a business entity, then, *in addition to the requirements of subsection (a)*, the commissioner shall ~~make the following additional determinations in addition to those required by subsection (a)~~:

~~(1) also determine~~ the name and address of a licensed agent who shall be responsible for the business entity's compliance with the insurance laws of this state and the rules and regulations promulgated thereunder;

~~(2) that each officer, director, partner and employee of the business entity who acts as an insurance agent is licensed as an insurance agent;~~

~~(3) that the business entity has disclosed to the department all of its officers, directors and partners whether or not such officers, directors, partners and employees are licensed as insurance agents; and~~

~~(4) that the business entity has disclosed to the department each officer, director, partner and employee who is licensed as an insurance agent.~~

~~(d) Any business entity which acts as an insurance agent and holds a direct agency appointment from an insurance company shall be required to obtain an insurance agent license.~~

~~(e)~~(d) The commissioner may require the applicant to furnish any

document or other material reasonably necessary to verify the information contained in an application.

~~(f)(e)~~ Each insurer that sells, solicits or negotiates any form of limited line credit insurance shall provide a program of instruction that may be approved by the commissioner to each individual employed by or acting on behalf of such insurer to sell, solicit or negotiate limited line credit insurance.

~~(g) (1) Each licensed insurance agent shall notify the commissioner of any officer, director, partner or employee of such insurance agent who:~~

~~(A) Is licensed as an individual insurance agent; and~~

~~(B) was not disclosed in such insurance agent's application for a license or any renewal thereof.~~

~~(2) Each licensed insurance agent shall notify the commissioner of any of its officers, directors, partners or employees who:~~

~~(A) Have terminated such relationship as an officer, director, partner or employee of such insurance agent; and~~

~~(B) has been previously disclosed in such insurance agent's application for a license or any renewal thereof.~~

~~(3) Each licensed insurance agent shall notify the commissioner within 30 working days of occurrence of any event required to be reported under paragraphs (1) or (2) of this subsection. Failure to provide the commissioner with the information required by this subsection shall subject the licensee to a monetary penalty of \$10 per day for each working day the required information is late subject to a maximum of \$50 per person per licensing year.~~

*(f) (1) Each person or entity licensed in this state as an insurance agent shall report the following to the commissioner within 30 calendar days of occurrence:*

*(A) Each disciplinary action on the agent's license or licenses by the insurance regulatory agency of any other state or territory of the United States;*

*(B) each disciplinary action on an occupational license held by the licensee, other than an insurance agent's license, by the appropriate regulatory authority of this or any other jurisdiction;*

*(C) each judgment or injunction entered against the licensee on the basis of a violation of any insurance law or conduct involving fraud, deceit or misrepresentation;*

*(D) all details of any conviction of a misdemeanor or felony other than minor traffic violations. The details shall include the name of the arresting agency, the location and date of the arrest, the nature of the charge or charges, the court in which the case was tried and the disposition rendered by the court;*

*(E) each change of name. If the change of name is effected by court order, a copy of the court order shall be furnished to the commissioner;*

*(F) each change in residence or mailing address, email address or telephone number;*

*(G) each change in the name or address of the agency with which the agent is associated; and*

*(H) each termination of a business relationship with an insurer if the termination is for cause, including the reason for the termination of the business relationship with such insurer.*

*(2) Each person or entity licensed in this state as an insurance agent shall provide to the commissioner, upon request, a current listing of company affiliations and affiliated insurance agents.*

*(3) Each business entity licensed in this state as an insurance agent shall report each change in legal or mailing address, email address and telephone number to the commissioner within 30 days of*

*occurrence.*

(4) *Each business entity licensed in this state as an insurance agent shall report each change in the name and address of the licensed agent who shall be responsible for the business entity's compliance with the insurance laws of this state to the commissioner within 30 days of occurrence.*

(g) Any applicant whose application for a license is denied shall be given an opportunity for a hearing in accordance with the provisions of the Kansas administrative procedure act.

(h) (1) The commissioner may require a person applying for a resident insurance agent license to be fingerprinted and submit to a state and national criminal history record check. The fingerprints shall be used to identify the applicant and to determine whether the applicant has a record of criminal arrests and convictions in this state or other jurisdictions. The commissioner is authorized to submit the fingerprints to the Kansas bureau of investigation and the federal bureau of investigation for a state and national criminal history record check. Local and state law enforcement officers and agencies shall assist the commissioner in the taking and processing of fingerprints of applicants and shall release all records of an applicant's arrests and convictions to the commissioner.

(2) The commissioner may conduct, or have a third party conduct, a background check on a person applying for a resident insurance agent license.

(3) Whenever the commissioner requires fingerprinting, a background check, or both, any associated costs shall be paid by the applicant.

(4) The commissioner may use the information obtained from a background check, fingerprinting and the applicant's criminal history only for purposes of verifying the identification of any applicant and in the official determination of the fitness of the applicant to be issued a license as an insurance agent in accordance with this act.

(5) A person applying for a resident insurance agent license who has been fingerprinted and has submitted to a state and national criminal history record check within the past 12 months in connection with the successful issuance or renewal of any other state-issued license may submit proof of such good standing to the commissioner in lieu of submitting to the fingerprinting and criminal history record checks described in subsections (h)(1) and (h)(2).

Sec. 5. K.S.A. 2020 Supp. 40-4909 is hereby amended to read as follows: 40-4909. (a) The commissioner may deny, suspend, revoke or refuse renewal of any license issued under this act if the commissioner finds that the applicant or license holder has:

(1) Provided incorrect, misleading, incomplete or untrue information in the license application.

(2) Violated:

(A) Any provision of chapter 40 of the Kansas Statutes Annotated, and amendments thereto, or any ~~rule rules~~ and ~~regulation regulations~~ promulgated thereunder;

(B) any subpoena or order of the commissioner;

(C) any insurance law or regulation of another state; or

(D) any subpoena or order issued by the regulatory official for insurance in another state.

(3) Obtained or attempted to obtain a license under this act through misrepresentation or fraud.

(4) Improperly withheld, misappropriated or converted any moneys or properties received in the course of doing insurance business.

(5) Intentionally misrepresented the provisions, terms and

conditions of an actual or proposed insurance contract or application for insurance.

(6) Been convicted of a misdemeanor or felony.

(7) Admitted to or been found to have committed any insurance unfair trade practice or fraud in violation of K.S.A. 40-2404, and amendments thereto.

(8) Used any fraudulent, coercive, or dishonest practice, or demonstrated any incompetence, untrustworthiness or financial irresponsibility in the conduct of business in this state or elsewhere.

(9) Had an insurance agent license, or its equivalent, denied, suspended or revoked in any ~~other~~ state, district or territory.

(10) Forged another person's name to an application for insurance or to any document related to an insurance transaction.

(11) Improperly used notes or any other reference material to complete an examination for an insurance license issued under this act.

(12) Knowingly accepted insurance business from an individual who is not licensed.

(13) Failed to comply with any administrative or court order imposing a child support obligation upon the applicant or license holder.

(14) Failed to pay any state income tax or comply with any administrative or court order directing payment of state income tax.

(15) Rebated the whole or any part of any insurance premium or offered in connection with the presentation of any contract of insurance any other inducement not contained in the contract of insurance.

(16) Made any misleading representation or incomplete comparison of policies to any person for the purposes of inducing or tending to induce such person to lapse, forfeit or surrender such person's insurance then in force.

(17) *Failed to respond to an inquiry from the commissioner within 15 business days.*

(b) In addition, the commissioner may *deny*, suspend, revoke or refuse renewal of any license issued under this act if the commissioner finds that the interests of the insurer or the insurable interests of the public are not properly served under such license.

(c) (1) *When considering whether to deny, suspend, revoke or refuse to renew the application of an individual who has been convicted of a misdemeanor or felony, the commissioner shall consider the:*

- (A) *Applicant's age at the time of the conduct;*
- (B) *recency of the conduct;*
- (C) *reliability of the information concerning the conduct;*
- (D) *seriousness of the conduct;*
- (E) *factors underlying the conduct;*
- (F) *cumulative effect of the conduct or information;*
- (G) *evidence of rehabilitation;*
- (H) *applicant's social contributions since the conduct;*
- (I) *applicant's candor in the application process; and*
- (J) *materiality of any omissions or misrepresentations.*

(2) *In determining whether to reinstate or grant to an applicant a license that has been revoked, the commissioner shall consider the:*

- (A) *Present moral fitness of the applicant;*
- (B) *demonstrated consciousness by the applicant of the wrongful conduct and disrepute that the conduct has brought to the insurance profession;*
- (C) *extent of the applicant's rehabilitation;*
- (D) *seriousness of the original conduct;*
- (E) *applicant's conduct subsequent to discipline;*
- (F) *amount of time that has elapsed since the original discipline;*

*(G) applicant's character, maturity and experience at the time of revocation; and*

*(H) applicant's present competence and skills in the insurance industry.*

*(d)* Any action taken under this section—~~which~~ *that* affects any license or imposes any administrative penalty shall be taken only after notice and an opportunity for a hearing conducted in accordance with the provisions of the Kansas administrative procedures act.

~~(d)~~*(e)* The license of any business entity may be suspended, revoked or refused renewal if the insurance commissioner finds that any violation committed by an individual licensee employed by or acting on behalf of such business entity was known by or should have been known by one or more of the partners, officers or managers acting on behalf of the business entity and:

(1) Such violation was not reported to the insurance commissioner by such business entity; or

(2) such business entity failed to take any corrective action.

~~(e)~~*(f)* None of the following actions shall deprive the commissioner of any jurisdiction or right to institute or proceed with any disciplinary proceeding against such license, to render a decision suspending, revoking or refusing to renew such license, or to establish and make a record of the facts of any violation of law for any lawful purpose:

(1) The imposition of an administrative penalty under this section;

(2) the lapse or suspension of any license issued under this act by operation of law;

(3) the licensee's failure to renew any license issued under this act; or

(4) the licensee's voluntary surrender of any license issued under this act. No such disciplinary proceeding shall be instituted against any licensee after the expiration of two years from the termination of the license.

~~(f)~~*(g)* Whenever the commissioner imposes any administrative penalty or denies, suspends, revokes or refuses renewal of any license pursuant to subsection (a), any costs incurred as a result of conducting an administrative hearing authorized under the provisions of this section shall be assessed against the person who is the subject of the hearing or any business entity represented by such person who is the party to the matters giving rise to the hearing. As used in this subsection, "costs" shall include witness fees, mileage allowances, any costs associated with the reproduction of documents—~~which~~ *that* become a part of the hearing record and the expense of making a record of the hearing.

~~(g)~~*(h)* No person whose license as an agent or broker had been suspended or revoked shall be employed by any insurance company doing business in this state either directly, indirectly, as an independent contractor or otherwise to negotiate or effect contracts of insurance, suretyship or indemnity or perform any act toward the solicitation of or transaction of any business of insurance during the period of such suspension or revocation.

~~(h)~~*(i)* In lieu of taking any action under subsection (a), the commissioner may:

(1) Censure the person; or

(2) issue an order imposing an administrative penalty up to a maximum of \$500 for each violation but not to exceed \$2,500 for the same violation occurring within any six consecutive calendar months from the date of the original violation unless such person knew or should have known that the violative act could give rise to disciplinary action under subsection (a). If such person knew or reasonably should

have known the violative act could give rise to any disciplinary proceeding authorized by subsection (a), the commissioner may impose a penalty up to a maximum of \$1,000 for each violation but not to exceed \$5,000 for the same violation occurring within any six consecutive calendar months from the date of the imposition of the original administrative penalty.

*(j) (1) An applicant to whom a license has been denied after a hearing shall not apply for a license again until after the expiration of a period of one year from the date of the commissioner's order.*

*(2) A licensee whose license was revoked shall not apply for a license again until after the expiration of a period of two years from the date of the commissioner's order.*

Sec. 6. On and after January 1, 2022, K.S.A. 2020 Supp. 40-4912 is hereby amended to read as follows: 40-4912. (a) Any company authorized to transact business in this state may, upon determining that the insurance agent is of good business reputation and, if an individual, has had experience in insurance or will immediately receive a course of instruction in insurance and on the policies and policy forms of such company, appoint such insurance agent as the insurance agent of the company under the license in effect for the insurance agent. The appointment shall be made on a form prescribed by the commissioner. Such form shall be sent to the commissioner within 30 days of the date the company appoints such insurance agent. A nonrefundable appointment or certification fee set forth in K.S.A. 40-252, and amendments thereto, shall be paid in accordance with the billing procedures established by the commissioner. Such procedures shall require payment of the fees annually, based on the number of insurance agents appointed during the calendar year preceding the return. The certification fees required by K.S.A. 40-252, and amendments thereto, shall be due for all insurance agents appointed by the company during the preceding calendar year, irrespective of the number of months the insurance agent was appointed for that year. The certification fee shall not be returned for any reason, and failure of the company to certify an insurance agent within 30 working days of such insurance agent's appointment shall subject the company to a penalty of not more than \$25 per calendar day from the date the appropriate return was required from the date of appointment to the date proper certification is recorded by the insurance department.

~~(b) Certification of other than an individual insurance agent will automatically include each licensed insurance agent who is an officer, director, partner, employee or otherwise legally associated with the corporation, association, partnership or other legal entity appointed by the company. The required annual certification fee shall be paid for each licensed insurance agent certified by the company and the prescribed reporting form shall be returned at the same time the company files its tax returns as required by K.S.A. 40-252, and amendments thereto.~~

~~(e)~~—With respect to insurance on growing crops, evidence satisfactory to the commissioner that the insurance agent is qualified to transact insurance in accordance with standards or procedures established by any branch of the federal government shall be deemed to be the equivalent of certification by a company.

~~(d)~~(c) Duly licensed insurance agents transacting business in accordance with the provisions of article 41 of chapter 40 of the Kansas Statutes Annotated, and amendments thereto, shall be deemed to be certified by a company for the kinds of insurance permitted under the license in effect for the insurance agent.

Sec. 7. K.S.A. 2020 Supp. 40-4915 is hereby amended to read as follows: 40-4915. (a) Notwithstanding the provisions of K.S.A. 2020

Supp. 40-4903 and 40-4906, and amendments thereto, any person who is currently licensed as an insurance agent on the day before the effective date of this act and whose biennial due date occurred during the 24 calendar months immediately preceding the effective date of this act shall be deemed to be licensed as an insurance agent under this act unless such person's license has been suspended, revoked or refused renewal prior to the effective date of this act.

(b) Any person licensed as an insurance agent under the provisions of subsection (a) shall renew such license in accordance with the provisions of this act on or before the first occurrence of such person's biennial due date after the effective date of this act.

(c) *If the required renewal application is not received by the commissioner by the individual insurance agent's biennial due date, such individual insurance agent's qualification and each corresponding license shall be suspended automatically for a period of 90 calendar days or until such time as the agent satisfactorily submits a completed application, whichever occurs first. In addition, the commissioner shall assess a penalty of \$100 for each license suspended. If such insurance agent fails to furnish to the commissioner the required renewal application and the monetary penalty within 90 calendar days of such insurance agent's biennial due date, such individual insurance agent's qualification and each corresponding license shall expire on such insurance agent's biennial due date. If, after more than three but less than 12 months from the date the license expired, the insurance agent desires to reinstate such insurance agent's license, such individual shall provide the required renewal application and pay a reinstatement fee in the amount of \$100 for each license suspended. If, after more than 12 months from the date an insurance agent's license has expired, such insurance agent desires to reinstate such insurance agent's license, such individual shall apply for an insurance agent's license, provide the required proof of continuing education completion and pay a reinstatement fee in the amount of \$100 for each license suspended. Upon receipt of a written application from such insurance agent claiming extreme hardship, the commissioner may waive any penalty imposed under this subsection.*

Sec. 8. K.S.A. 2020 Supp. 40-5505 is hereby amended to read as follows: 40-5505. (a) Before issuing a public adjuster license to an applicant under—~~this~~ *the public adjusters licensing act*, the commissioner shall find that the applicant:

(1) Is eligible to designate this state as the applicant's home state or is a nonresident who is not eligible for a license under K.S.A. 2020 Supp. 40-5508, and amendments thereto;

(2) has not committed any act that is a ground for denial, suspension or revocation of a license as set forth in K.S.A. 2020 Supp. 40-5510, and amendments thereto;

(3) is trustworthy, reliable and of good reputation, evidence of which may be determined by the commissioner;

(4) is financially responsible to exercise the rights and privileges under the license and has provided proof of financial responsibility as required in K.S.A. 2020 Supp. 40-5511, and amendments thereto;

(5) has paid an application fee of \$100; and

(6) maintains an office in the home state with public access during regular business hours or by reasonable appointment.

(b) In addition to satisfying the requirements of subsection (a), an applicant shall:

(1) Be at least 18 years of age; and

(2) have successfully passed the public adjuster examination.

(c) The commissioner may require any documents reasonably necessary to verify the information contained in the application.

(d) (1) *The commissioner may require a person applying for a public adjuster license to be fingerprinted and submit to a state and national criminal history record check or to submit to a background check, or both.*

(A) *The fingerprints shall be used to identify the applicant and to determine whether the applicant has a record of criminal history in this state or another jurisdiction. The commissioner shall submit the fingerprints to the Kansas bureau of investigation and the federal bureau of investigation for a state and national criminal history record check. Local and state law enforcement officers and agencies shall assist the commissioner in the taking and processing of fingerprints of applicants and shall release all records of an applicant's arrests and convictions to the commissioner.*

(B) *The commissioner may conduct or have a third party conduct a background check on a person applying for a public adjuster license.*

(2) *Whenever the commissioner requires fingerprinting or a background check, or both, any associated costs shall be paid by the applicant.*

(3) *The commissioner may use the information obtained from a background check, fingerprinting and the applicant's criminal history only for purposes of verifying the identity of the applicant and in the official determination of the fitness of the applicant to be issued a license as a public adjuster in accordance with the public adjusters licensing act.*

Sec. 9. K.S.A. 2020 Supp. 40-5512 is hereby amended to read as follows: 40-5512. (a) As used in this section:

(1) "Biennial due date" means the *last day of the month of the* date of birth of any public adjuster who is required to complete continuing education credits and report the completion of the continuing education credits to the commissioner, except that such due date shall not be earlier than two years from the date of the public adjuster's initial licensure under this act.

(2) "Biennium" means, for any public adjuster who was born in an odd-numbered year, the two-year period starting with the public adjuster's biennial due date in 2011 and each two-year period thereafter. For any public adjuster who was born in an even-numbered year, such term means the two-year period starting with the public adjuster's biennial due date in 2012 and each two-year period thereafter.

(b) An individual, who holds a public adjuster license and who is not exempt under subsection (d), shall satisfactorily complete a minimum of ~~12~~ 18 hours of continuing education courses, ~~which shall include 11 hours of property/casualty or general continuing education courses and one hour~~ including three hours of ethics, reported on a biennial basis in conjunction with the license renewal cycle. Only continuing education courses approved by the commissioner shall be used to satisfy the requirements of this subsection.

(c) Unless suspended, revoked or refused renewal pursuant to K.S.A. 2020 Supp. 40-5510, and amendments thereto, a public adjuster's license shall remain in effect as long as the education requirements for a resident public adjuster are met by such public adjuster's biennial due date.

(d) The continuing education requirements of this section shall not apply to licensees holding nonresident public adjuster licenses who have met the continuing education requirements of their home state and whose home state gives credit to residents of this state on the same basis.

Sec. 10. K.S.A. 2020 Supp. 40-241, 40-4902, 40-4903, 40-4905, 40-4909, 40-4915, 40-5505 and 40-5512 are hereby repealed.

Sec. 11. On and after January 1, 2022, K.S.A. 2020 Supp. 40-4912



is hereby repealed.

Sec. 12. This act shall take effect and be in force from and after its publication in the statute book.

I hereby certify that the above BILL originated in the SENATE, and passed that body

\_\_\_\_\_

\_\_\_\_\_  
*President of the Senate.*

\_\_\_\_\_  
*Secretary of the Senate.*

Passed the HOUSE \_\_\_\_\_

\_\_\_\_\_  
*Speaker of the House.*

\_\_\_\_\_  
*Chief Clerk of the House.*

APPROVED \_\_\_\_\_

\_\_\_\_\_  
*Governor.*