

HOUSE BILL No. 2532

By Committee on Insurance

Requested by Eric Turek on behalf of the Kansas Insurance Department

1-18

1 AN ACT concerning insurance; relating to group-funded liability and
2 group-funded workers compensation pools; changing certain reporting
3 requirements; amending K.S.A. 12-2620, 44-584 and 44-590 and
4 repealing the existing sections.
5

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

7 Section 1. K.S.A. 12-2620 is hereby amended to read as follows: 12-
8 2620. (a) All certificates granted hereunder shall be perpetual unless
9 sooner suspended or revoked by the commissioner or the attorney general.

10 (b) Whenever the commissioner shall deem it necessary the
11 commissioner may make, or direct to be made, an examination of the
12 affairs and the financial condition of any pool. Each pool shall submit a
13 certified independent audited financial statement ~~no~~ not later than ~~150~~ 180
14 days after the end of the fiscal year. The financial statement shall include
15 outstanding reserves for claims and for claims incurred but not reported.
16 Each pool shall file reports as to income, expenses and loss data at such
17 times and in such manner as the commissioner shall require. Any pool
18 ~~which~~ that does not use rates developed by an approved rating
19 organization shall file with the commissioner an actuarial certification that
20 such rates are actuarially sound. Whenever it appears to the commissioner
21 from such examination or other satisfactory evidence that the ability to pay
22 current and future claims of any such pool is impaired, or that it is doing
23 business in violation of any of the laws of this state, or that its affairs are in
24 an unsound condition so as to endanger its ability to pay or cause to be
25 paid claims in the amount, manner and time due, the commissioner shall,
26 before filing such report or making the same public, grant such pool upon
27 reasonable notice a hearing, and, if on such hearing the report be
28 confirmed, the commissioner may require any of the actions allowed under
29 K.S.A. 40-222b, and amendments thereto, or suspend the certificate of
30 authority for such pool until its ability to pay current and future claims
31 shall have been fully restored and the laws of the state fully complied with.
32 The commissioner may, if there is an unreasonable delay in restoring the
33 ability to pay claims of such pool and in complying with the law or if
34 rehabilitation or corrective action taken under K.S.A. 40-222b, and
35 amendments thereto, is unsuccessful, revoke the certificate of authority of

1 such pool to do business in this state. Upon revoking any such certificate
2 the commissioner shall communicate the fact to the attorney general,
3 whose duty it shall be to commence and prosecute an action in the proper
4 court to dissolve such pool or to enjoin the same from doing or transacting
5 business in this state. The commissioner of insurance may call a hearing
6 under K.S.A. 40-222b, and amendments thereto, and the provisions thereof
7 shall apply to group-funded pools.

8 (c) On an annual basis, or within 30 days of any change thereto, each
9 pool shall supply to the commissioner the name and qualifications of the
10 designated administrator of the pools and the terms of the specific and
11 aggregate excess insurance contracts of the pool.

12 Sec. 2. K.S.A. 44-584 is hereby amended to read as follows: 44-584.

13 (a) The application for a new certificate shall be signed by the trustees of
14 the trust fund created by the pool. Any application for a renewal of an
15 existing certificate shall meet at least the standards established in K.S.A.
16 44-582(a)(6) through (a)(14), and amendments thereto. After evaluating
17 the application the commissioner shall notify the applicant that the plan
18 submitted is approved or conversely, if the plan submitted is inadequate,
19 the commissioner shall then fully explain to the applicant what additional
20 requirements must be met. If the application is denied, the applicant shall
21 have 15 days to make an application for hearing by the commissioner after
22 service of the denial notice. The hearing shall be conducted in accordance
23 with the provisions of the Kansas administrative procedure act.

24 (b) An approved certificate of authority shall remain in full force and
25 effect until such certificate is suspended or revoked by the commissioner.
26 An existing pool operating under an approved certificate of authority must
27 file with the commissioner, within 120 days following the close of the
28 pool's fiscal year, a current financial statement on a form approved by the
29 commissioner showing the financial ability of the pool to meet its
30 obligations under the worker compensation act and confirmation of
31 specific and aggregate excess insurance as required by law for the pool. If
32 an existing pool's certificate of authority is suspended or revoked, such
33 pool shall have the same rights to a hearing by the commissioner as for
34 applicants for new certificates of authority as set forth in subsection (a).

35 (c) Whenever the commissioner shall deem it necessary the
36 commissioner may make, or direct to be made, an examination of the
37 affairs and financial condition of any pool. Each pool shall submit a
38 certified independent audited financial statement ~~no~~ not later than ~~150~~ 180
39 days after the end of the pool's fiscal year. The financial statement shall
40 include outstanding reserves for claims and for claims incurred but not
41 reported. Each pool shall file payroll records, accident experience and
42 compensation reports and such other reports and statements at such times
43 and in such manner as the commissioner shall require. Whenever it

1 appears to the commissioner from such examination or other satisfactory
2 evidence that the solvency of any such pool is impaired, or that it is doing
3 business in violation of any of the laws of this state, or that its affairs are in
4 an unsound condition so as to endanger its ability to pay or cause to be
5 paid the compensation in the amount, manner and time due as provided for
6 in the Kansas workers compensation act, the commissioner shall, before
7 filing such report or making the same public, grant such pool upon
8 reasonable notice a hearing in accordance with the provisions of the
9 Kansas administrative procedure act, and, if on such hearing the report be
10 confirmed, the commissioner shall suspend the certificate of authority for
11 such pool until its solvency shall have been fully restored and the laws of
12 the state fully complied with. The commissioner may, if there is an
13 unreasonable delay in restoring the solvency of such pool and in
14 complying with the law, revoke the certificate of authority of such pool to
15 do business in this state. Upon revoking any such certificate the
16 commissioner shall communicate the fact to the attorney general, whose
17 duty it shall be to commence and prosecute an action in the proper court to
18 dissolve such pool or to enjoin the same from doing or transacting
19 business in this state. The commissioner of insurance may call a hearing
20 under K.S.A. 40-222b, and amendments thereto, and the provisions shall
21 apply to group workers compensation pools.

22 Sec. 3. K.S.A. 44-590 is hereby amended to read as follows: 44-590.

23 (a) After the inception date of the group-funded workers' compensation
24 pool, prospective new members of the pool shall submit an application for
25 membership to the board of trustees or its administrator. The trustees may
26 approve the application for membership pursuant to the bylaws of the
27 pool. The application for membership and approval shall then be filed with
28 the commissioner. Membership takes effect after approval.

29 (b) Individual members may elect to terminate their participation in a
30 pool or be subject to cancellation by the pool pursuant to the bylaws of the
31 pool. On termination or cancellation of a member, the pool shall ~~notify the~~
32 ~~commissioner within 10 days and shall~~ maintain coverage of each
33 cancelled or terminating member for 30 days ~~after notice to the~~
34 ~~commissioner~~ or until ~~the commissioner~~ *such cancelled or terminating*
35 *member* gives notice that the cancelled or terminating member has
36 procured workers' compensation and employer's liability insurance,
37 whichever occurs first.

38 Sec. 4. K.S.A. 12-2620, 44-584 and 44-590 are hereby repealed.

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