

SENATE BILL No. 24

By Committee on Financial Institutions and Insurance

1-16

1 AN ACT concerning insurance; relating to risk-based capital requirements
2 for certain insurance companies; amending K.S.A. 2012 Supp. 40-2c01
3 and 40-2c05 and repealing the existing sections.
4

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

6 Section 1. K.S.A. 2012 Supp. 40-2c01 is hereby amended to read as
7 follows: 40-2c01. As used in this act:

8 (a) "Adjusted RBC report" means an RBC report which has been
9 adjusted by the commissioner in accordance with K.S.A. 40-2c04, and
10 amendments thereto.

11 (b) "Corrective order" means an order issued by the commissioner
12 specifying corrective actions which the commissioner has determined are
13 required to address a RBC level event.

14 (c) "Domestic insurer" means any insurance company or risk
15 retention group which is licensed and organized in this state.

16 (d) "Foreign insurer" means any insurance company or risk retention
17 group not domiciled in this state which is licensed or registered to do
18 business in this state pursuant to article 41 of chapter 40 of the Kansas
19 Statutes Annotated or K.S.A. 40-209, and amendments thereto.

20 (e) "NAIC" means the national association of insurance
21 commissioners.

22 (f) "Life and health insurer" means any insurance company licensed
23 under article 4 or 5 of chapter 40 of the Kansas Statutes Annotated, *and*
24 *amendments thereto*, or a licensed property and casualty insurer writing
25 only accident and health insurance.

26 (g) "Property and casualty insurer" means any insurance company
27 licensed under articles 9, 10, 11, 12, 12a, 15 or 16 of chapter 40 of the
28 Kansas Statutes Annotated, *and amendmets thereto*, but shall not include
29 monoline mortgage guaranty insurers, financial guaranty insurers and title
30 insurers.

31 (h) "Negative trend" means, with respect to a life and health insurer, a
32 negative trend over a period of time, as determined in accordance with the
33 "trend test calculation" included in the RBC instructions defined in
34 subsection (j).

35 (i) "RBC" means risk-based capital.

36 (j) "RBC instructions" mean the risk-based capital instructions

1 promulgated by the NAIC, which are in effect on December 31, ~~2011~~
2 2012, or any later version promulgated by the NAIC as may be adopted by
3 the commissioner under K.S.A. 2012 Supp. 40-2c29, and amendments
4 thereto.

5 (k) "RBC level" means an insurer's company action level RBC,
6 regulatory action level RBC, authorized control level RBC, or mandatory
7 control level RBC where:

8 (1) "Company action level RBC" means, with respect to any insurer,
9 the product of 2.0 and its authorized control level RBC;

10 (2) "regulatory action level RBC" means the product of 1.5 and its
11 authorized control level RBC;

12 (3) "authorized control level RBC" means the number determined
13 under the risk-based capital formula in accordance with the RBC
14 instructions; and

15 (4) "mandatory control level RBC" means the product of .70 and the
16 authorized control level RBC.

17 (l) "RBC plan" means a comprehensive financial plan containing the
18 elements specified in K.S.A. 40-2c06, and amendments thereto. If the
19 commissioner rejects the RBC plan, and it is revised by the insurer, with or
20 without the commissioner's recommendation, the plan shall be called the
21 "revised RBC plan."

22 (m) "RBC report" means the report required by K.S.A. 40-2c02, and
23 amendments thereto.

24 (n) "Total adjusted capital" means the sum of:

25 (1) An insurer's capital and surplus or surplus only if a mutual
26 insurer; and

27 (2) such other items, if any, as the RBC instructions may provide.

28 (o) "Commissioner" means the commissioner of insurance.

29 Sec. 2. K.S.A. 2012 Supp. 40-2c05 is hereby amended to read as
30 follows: 40-2c05. "Company action level event" means any of the
31 following events:

32 (a) The filing of an RBC report by an insurer which indicates that:

33 (1) The insurer's total adjusted capital is greater than or equal to its
34 regulatory action level RBC but less than its company action level RBC;
35 *or*

36 (2) (A) ~~if~~ a life and health insurer has total adjusted capital which is
37 greater than or equal to its company action level RBC but less than the
38 product of its authorized control level RBC and ~~2.5 and also~~ 3.0 *and* has a
39 negative trend; or

40 ~~(B)~~ (B) ~~if~~ a property and casualty insurer has total adjusted capital
41 which is greater than or equal to its company action level RBC but less
42 than the product of its authorized control level RBC and 3.0 ~~and also~~
43 triggers the trend test calculation included in the RBC instructions as

1 defined in K.S.A. 40-2c01, and amendments thereto.

2 (b) The notification by the commissioner to the insurer of an adjusted
3 RBC report that indicates the event described in subsection (a)(1) or (2),
4 unless the insurer challenges the adjusted RBC report pursuant to K.S.A.
5 40-2c19, and amendments thereto, and such challenge has not been
6 rejected by the commissioner.

7 Sec. 3. K.S.A. 2012 Supp. 40-2c01 and 40-2c05 are hereby repealed.

8 Sec. 4. This act shall take effect and be in force from and after its
9 publication in the statute book.
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