

SENATE BILL No. 322

By Committee on Financial Institutions and Insurance

1-29

1 AN ACT concerning the insurance department service regulation fund;
2 pertaining to assessments on insurance companies; amending K.S.A.
3 2013 Supp. 40-112 and repealing the existing section.
4

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

6 Section 1. K.S.A. 2013 Supp. 40-112 is hereby amended to read as
7 follows: 40-112. (a) For the purpose of maintaining the insurance
8 department and the payment of expenses incident thereto, there is hereby
9 established the insurance department service regulation fund in the state
10 treasury which shall be administered by the commissioner of insurance.
11 All expenditures from the insurance department service regulation fund
12 shall be made in accordance with appropriation acts upon warrants of the
13 director of accounts and reports issued pursuant to vouchers approved by
14 the commissioner of insurance or by a person or persons designated by the
15 commissioner.

16 (b) On and after the effective date of this act, all fees received by the
17 commissioner of insurance pursuant to any statute and 1% of taxes
18 received pursuant to K.S.A. 40-252, and amendments thereto, shall be
19 remitted to the state treasurer in accordance with the provisions of K.S.A.
20 75-4215, and amendments thereto. Upon receipt of each such remittance,
21 the state treasurer shall deposit the entire amount in the state treasury to
22 the credit of the insurance department service regulation fund.

23 (c) Except as otherwise provided by this section, the commissioner of
24 insurance shall make an annual assessment on each group of affiliated
25 insurers whose certificates of authority to do business in this state are in
26 good standing at the time of the assessment. The total amount of all such
27 assessments for a fiscal year shall be equal to the amount sufficient which,
28 ~~when combined with the total amount to be credited to the insurance~~
29 ~~department service regulation fund pursuant to subsection (b) is equal to~~
30 ~~the amount approved by the legislature sufficient to fund the insurance~~
31 ~~company regulation program. The total aggregate amount of all such~~
32 ~~assessments shall not exceed 125% of the total budget approved by the~~
33 ~~legislature to fund the insurance company regulation program for the~~
34 ~~fiscal year immediately preceding the fiscal year for which such~~
35 ~~assessments are made.~~ With respect to each group of affiliated insurers,
36 such assessment shall be in proportion to the amount of total assets of the

1 group of affiliated insurers as reported to the commissioner of insurance
2 pursuant to K.S.A. 40-225, and amendments thereto, ~~for the immediately~~
3 ~~preceding calendar year, shall not be less than \$500 and shall not be more~~
4 ~~than the amount equal to .0000015 of the amount of total assets of the~~
5 ~~group of affiliated insurers or \$25,000, whichever is less. The total~~
6 ~~assessment for any fiscal year shall not increase by any amount greater~~
7 ~~than 15% of the total budget approved by the legislature to fund the~~
8 ~~insurance company regulation program for the fiscal year immediately~~
9 ~~preceding the fiscal year for which the assessment is made. In the event~~
10 ~~the total amount of the assessment would be less than the aggregate~~
11 ~~amount resulting by assessing the \$500 minimum on each insurer, the~~
12 ~~commissioner may establish a lower minimum to be assessed equally on~~
13 ~~each insurer.~~

14 (d) If, by the laws of any state other than Kansas or by the retaliatory
15 laws of any state other than Kansas, any insurer domiciled in Kansas shall
16 be required to pay any fee or tax in such other state of licensure, and the
17 fee or tax is due and payable either because the insurance department
18 service regulation fee imposed by this section on insurers licensed in
19 Kansas and organized or domiciled in such other state is greater than the
20 comparable fee or tax assessed in such other state, or such other state has
21 no comparable fee or tax but requires payment on a retaliatory basis, then
22 to the extent such fee or tax amounts are legally due and are paid in such
23 other state, any insurer domiciled in Kansas may claim a dollar-for-dollar
24 credit for such fees paid against insurer's annual premium taxes due the
25 state of Kansas under K.S.A. 40-252, and amendments thereto, or privilege
26 fee due the state of Kansas under K.S.A. 40-3213, and amendments
27 thereto, but such credit shall only be calculated on the amount which
28 would not have been required to be paid in such other state of licensure in
29 the absence of the existence of the insurance department service regulation
30 fee imposed by this section, and in no event shall the credit permitted by
31 this section exceed 90% of the insurer's annual premium tax or privilege
32 fee due the state of Kansas. The insurance commissioner shall prescribe
33 the forms for reporting such credits.

34 (e) Assessments payable under this section shall be past due if not
35 paid to the insurance department within 45 days of the billing date of such
36 assessment. A penalty equal to 10% of the amount assessed shall be
37 imposed upon any past due payment and the total amount of the
38 assessment and penalty shall bear interest at the rate of 1.5% per month or
39 any portion thereof.

40 (f) When there exists in the insurance department service regulation
41 fund a deficiency which would render such fund temporarily insufficient
42 during any fiscal year to meet the insurance department's funding
43 requirements, the commissioner of insurance shall certify the amount of

1 the insufficiency. Upon receipt of any such certification, the director of
2 accounts and reports shall transfer an amount of moneys equal to the
3 amount so certified from the state general fund to the insurance department
4 service regulation fund. On June 30 of any fiscal year during which an
5 amount or amounts are certified and transferred under this subsection, the
6 director of accounts and reports shall provide for the repayment of the
7 amounts so transferred and shall transfer the amount equal to the total of
8 all such amounts transferred during the fiscal year from the insurance
9 department service regulation fund to the state general fund.

10 (g) Any unexpended balance in the insurance department service
11 regulation fund at the close of a fiscal year shall remain credited to the
12 insurance department service regulation fund for use in the succeeding
13 fiscal year and shall be used to reduce future assessments or to
14 accommodate cash flow demands on the fund.

15 (h) The commissioner of insurance shall exempt the assessment of
16 any insurer which, as of December 31 of the calendar year preceding the
17 assessment, has a surplus of less than two times the minimum amount of
18 surplus required for a certificate of authority on and after May 1, 1994, and
19 which is subject to the premium tax or privilege fee liability imposed on
20 insurers organized under the laws of this state. The commissioner of
21 insurance may also exempt or defer, in whole or in part, the assessment of
22 any other insurer if, in the opinion of the commissioner of insurance,
23 immediate payment of the total assessment would be detrimental to the
24 solvency of the insurer.

25 (i) As used in this section:

26 (1) "Affiliates" or "affiliated" has the meaning ascribed by K.S.A. 40-
27 3302, and amendments thereto;

28 (2) "group" or "group of affiliated insurers" means the affiliated
29 insurers of a group and also includes an individual, unaffiliated insurer;
30 and

31 (3) "insurer" means any insurance company, as defined by K.S.A. 40-
32 201, and amendments thereto, any fraternal benefit society, as defined by
33 K.S.A. 40-738, and amendments thereto, any reciprocal or interinsurance
34 exchange under K.S.A. 40-1601 through 40-1614, and amendments
35 thereto, any mutual insurance company organized to provide health care
36 provider liability insurance under K.S.A. 40-12a01 through 40-12a09, and
37 amendments thereto, any nonprofit dental service corporation under
38 K.S.A. 40-19a01 through 40-19a14, and amendments thereto, any
39 nonprofit medical and hospital service corporation under K.S.A. 40-19c01
40 through 40-19c11, and amendments thereto, any health maintenance
41 organization, as defined by K.S.A. 40-3202, and amendments thereto, or
42 any captive insurance company, as defined by K.S.A. 40-4301, and
43 amendments thereto, which is authorized to do business in Kansas.

1 Sec. 2. K.S.A. 2013 Supp. 40-112 is hereby repealed.

2 Sec. 3. This act shall take effect and be in force from and after its
3 publication in the statute book.