

**40-2111. Apportionment or assignment of risk for certain insurance; filing of plan; requirements; governing board of plan, membership, meetings, terms of office and duties; accident and sickness insurance report.** (a) Every insurer authorized to issue a policy of accident and sickness insurance as defined in K.S.A. 40-2201, and amendments thereto, or undertaking to transact in the state of Kansas the kinds of insurance specified in subsection (a), (b) or (c) of K.S.A. 40-901, and amendments thereto, or subsection (b) or (c) of K.S.A. 40-1102, and amendments thereto, and every rating organization which makes rates for such insurance, shall at the discretion of the commissioner of insurance, cooperate in the preparation of and submission to the commissioner and participate in a plan or plans for the equitable apportionment among insurers of applicants for insurance who are, in good faith, entitled to such kinds of insurance, or subdivisions or combinations thereof, but who are unable to procure the same through ordinary methods. This section shall not apply to the kinds of insurance specified in K.S.A. 40-2102 and 40-2108, and amendments thereto.

(b) Such plan or plans shall provide:

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

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

(3) the extent of liability which each insurer shall be required to assume; and

(4) a method whereby applicants for insurance, insureds, agents and insurers may have a hearing on grievances and the right of appeal of the commissioner.

For every such plan or plans, there shall be a governing board, to be appointed by the commissioner of insurance, which shall meet at least annually to review and prescribe operating rules, and which shall consist of the following members:

(A) Seven members who shall be appointed as follows: Three members shall be representatives of foreign insurance companies, two members shall be representatives of domestic insurance companies and two members shall be licensed independent insurance agents. Such members shall be appointed for a term of three years, except that the initial appointment shall include two members appointed for a two-year term and two members appointed for a one-year term, as designated by the commissioner; and

(B) Two members representative of the general public interest, with such members to be appointed for a term of two years.

(c) With regard to accident and sickness insurance, prior to the implementation of a plan under this section: (1) Every insurer shall report to the commissioner at such time as the commissioner may require, on a form prescribed by the commissioner, information concerning each instance of declination of insurance coverage, termination of insurance coverage and offering to insure at higher than standard rates, with respect to the type of insurance proposed to be provided under this section; (2) the commissioner shall report to the governor and to the legislature, no later than the commencement of the 1988 regular session of the Kansas legislature, data obtained under the provisions of this section along with a proposed plan, including an analysis of the cost impact thereof, developed in accordance with this section; (3) the legislature shall have an opportunity to review the data and comment on whether there is a need for implementation of the plan; and (4) approval by the legislature must be obtained.

**History:** L. 1969, ch. 238, § 1; L. 1986, ch. 178, § 1; July 1.