

HOUSE BILL No. 2139

By Committee on Insurance

2-3

1 AN ACT concerning insurance; relating to rates and rate modifications
2 for workers compensation insurance; amending K.S.A. 40-2109 and
3 repealing the existing section.
4

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

6 Section 1. K.S.A. 40-2109 is hereby amended to read as follows: 40-
7 2109. Every insurer undertaking to transact in this state the business of
8 either workers compensation or employer's liability insurance or both,
9 and every rating organization which files rates for such insurance shall
10 cooperate in the preparation and submission to the commissioner of
11 insurance of a plan or plans, for the equitable apportionment among
12 insurers of applicants for insurance who are in good faith, entitled to but
13 who are unable to procure through ordinary methods, such insurance.
14 Such plan or plans shall provide:

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

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

20 (c) a method whereby applicants for insurance, insured and insurers
21 may have a hearing on grievances and the right of appeal to the
22 commissioner;

23 (d) for every such plan or plans, there shall be a governing board to
24 be appointed by the commissioner of insurance which shall meet at least
25 annually to review and prescribe operating rules, and which shall consist
26 of the following members:

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

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

1 The commissioner shall review the plan as soon as reasonably
2 possible after filing in order to determine whether it meets the
3 requirements set forth in subsections (a) and (c) above. As soon as
4 reasonably possible after the plan has been filed the commissioner shall
5 in writing approve or disapprove the same, except that any plan shall be
6 deemed approved unless disapproved within 45 days. Subsequent to the
7 waiting period the commissioner may disapprove any plan on the ground
8 that it does not meet the requirements set forth in subsections (a), (b) and
9 (c) above, but only after a hearing held upon not less than 10 days' written
10 notice to every insurer and rating organization affected specifying the
11 matter to be considered at such hearing, and only by an order specifying
12 in what respect the commissioner finds that such plan fails to meet such
13 requirements and stating when within a reasonable period thereafter such
14 plan shall be deemed no longer effective. Such order shall not affect any
15 assignment made or policy issued or made prior to the expiration of the
16 period set forth in such order. Amendments to such plan or plans shall be
17 prepared, and filed and reviewed in the same manner as herein provided
18 with respect to the original plan or plans.

19 If no plan meeting the standards set forth in subsections (a), (b) and
20 (c) is submitted to the commissioner within the period stated in any order,
21 disapproving an existing plan the commissioner shall, if necessary to
22 carry out the purpose of this section after hearing, prepare and
23 promulgate a plan meeting such requirements. When such plan or plans
24 or amendments thereto have been approved or promulgated, no insurer
25 shall thereafter issue a policy of workers compensation or employer's
26 liability insurance or undertake to transact such business in this state
27 unless such insurer shall participate in such an approved or promulgated
28 plan. If, after a hearing conducted in accordance with the provisions of
29 the Kansas administrative procedure act, the commissioner finds that any
30 activity or practice of any insurer or rating organization in connection
31 with the operation of such plan or plans is unfair or unreasonable or
32 otherwise inconsistent with the provisions of this section the
33 commissioner may issue a written order specifying in what respects such
34 activity or practice is unfair or unreasonable or otherwise inconsistent
35 with the provisions of this section and requiring discontinuance of such
36 activity or practice.

37 (e) The commissioner shall approve rates and rate modifications for
38 each plan that provides workers compensation insurance pursuant to this
39 section which, over a period of time, but no later than January 1, 1997,
40 will reduce the assessments levied by the plan to less than 10%. If the
41 commissioner finds that the percentage of the total Kansas workers
42 compensation premium volume written by the plan has not decreased
43 below 20% of the total amount of such premium volume by December

1 ~~31, 1998, the provisions of this subsection shall no longer apply and the~~
2 ~~commissioner may cause the governing board of the plan to file new rates~~
3 ~~and rate modifications pursuant to this section. Notwithstanding the~~
4 ~~foregoing provisions of this subsection, the commissioner shall not~~
5 ~~approve rates or rating plans which produce rates or premiums for risks~~
6 ~~with less than \$2,250 annual premium that are higher than those which~~
7 ~~would be applied to such risks in the voluntary market, except that this.~~
8 *This* provision shall not prohibit the application of surcharges, experience
9 modifications or other rating variables based on the claims experience of
10 individual risks.

11 Sec. 2. K.S.A. 40-2109 is hereby repealed.

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