

SENATE BILL No. 24

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

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

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

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

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

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

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

(e) “NAIC” means the national association of insurance commissioners.

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

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

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

(i) “RBC” means risk-based capital.

(j) “RBC instructions” mean the risk-based capital instructions promulgated by the NAIC, which are in effect on December 31, ~~2011~~ 2012, or any later version promulgated by the NAIC as may be adopted by the commissioner under K.S.A. 2012 Supp. 40-2c29, and amendments thereto.

(k) “RBC level” means an insurer’s company action level RBC, regulatory action level RBC, authorized control level RBC, or mandatory control level RBC where:

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

(2) “regulatory action level RBC” means the product of 1.5 and its authorized control level RBC;

(3) “authorized control level RBC” means the number determined under the risk-based capital formula in accordance with the RBC instructions; and

(4) “mandatory control level RBC” means the product of .70 and the authorized control level RBC.

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

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

(n) “Total adjusted capital” means the sum of:

(1) An insurer’s capital and surplus or surplus only if a mutual insurer; and

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

(o) “Commissioner” means the commissioner of insurance.

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

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

(1) The insurer’s total adjusted capital is greater than or equal to its

regulatory action level RBC but less than its company action level RBC;  
or

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

~~(B)~~ ~~if~~ a property and casualty insurer has total adjusted capital which is greater than or equal to its company action level RBC but less than the product of its authorized control level RBC and 3.0 and ~~also~~ triggers the trend test calculation included in the RBC instructions as defined in K.S.A. 40-2c01, and amendments thereto.

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

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

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

I hereby certify that the above BILL originated in the  
SENATE, and passed that body

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\_\_\_\_\_  
*President of the Senate.*

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*Secretary of the Senate.*

Passed the HOUSE \_\_\_\_\_

\_\_\_\_\_  
*Speaker of the House.*

\_\_\_\_\_  
*Chief Clerk of the House.*

APPROVED \_\_\_\_\_

\_\_\_\_\_  
*Governor.*