

2018 Kansas Statutes

40-3302. Definitions. As used in this act, unless the context otherwise requires:

(a) "Affiliate" of, or person "affiliated" with, a specific person, means a person that directly, or indirectly through one or more intermediaries, controls, is controlled by, or is under common control with, the person specified.

(b) "Commissioner of insurance" means the commissioner of insurance, the commissioner's deputies, or the insurance department, as appropriate.

(c) "Control" including the terms "controlling," "controlled by" and "under common control with," means the possession, direct or indirect, of the power to direct or cause the direction of the management or policies of a person, whether through the ownership of voting securities, by contract other than a commercial contract for goods or nonmanagement services, or otherwise, unless the power is the result of an official position with or corporate office held by the person. Control shall be presumed to exist if any person, directly or indirectly, owns, controls, holds with the power to vote, or holds proxies representing 10% or more of the voting securities of any other person. This presumption may be rebutted by a showing made in the manner provided by subsection (k) of K.S.A. 40-3305, and amendments thereto, that control does not exist in fact. The commissioner of insurance may determine, after a hearing in accordance with the provisions of the Kansas administrative procedure act, that control exists in fact, notwithstanding the absence of a presumption to that effect.

(d) "Enterprise risk" means any activity, circumstance, event or series of events involving one or more affiliates of an insurer that, if not remedied promptly, is likely to have a material adverse effect upon the financial condition or liquidity of the insurer or its insurance holding company system as a whole, including, but not limited to, anything that would cause the insurer's risk-based capital to fall into company action level RBC, as such term is defined in either K.S.A. 40-2c01 et seq., and amendments thereto, or K.S.A. 40-2d01 et seq., and amendments thereto, as appropriate, or would cause the insurer to be in hazardous financial condition as set forth in K.S.A. 40-222b, 40-222c and 40-222d, and amendments thereto.

(e) "Insurance holding company system" means two or more affiliated persons, one or more of which is an insurer.

(f) "Insurer" means any corporation, company, association, society, fraternal benefit society, health maintenance organization, nonprofit medical and hospital service corporation, nonprofit dental service corporation, reciprocal exchange, person or partnership writing contracts of insurance, indemnity or suretyship in this state upon any type of risk or loss except lodges, societies, persons or associations transacting business pursuant to the provisions of K.S.A. 40-202, and amendments thereto.

(g) "Person" means an individual, corporation, a partnership, an association, a joint stock company, a trust, an unincorporated organization, any similar entity or any combination of the foregoing acting in concert.

(h) "Securityholder" of a specified person means one who owns any security of such person, including common stock, preferred stock, debt obligations, and any other security convertible into or evidencing the right to acquire any of the foregoing.

(i) "Subsidiary" of a specified person means an affiliate controlled by such person directly, or indirectly, through one or more intermediaries.

(j) "Voting security" means any security convertible into or evidencing a right to acquire a voting security.

History: L. 1974, ch. 183, § 2; L. 1976, ch. 217, § 1; L. 1988, ch. 356, § 118; L. 1992, ch. 288, § 1; L. 1996, ch. 169, § 15; L. 1997, ch. 166, § 2; L. 2013, ch. 15, § 3; July 1.