Session of 2025

HOUSE BILL No. 2351

By Committee on Judiciary

Requested by Joe Molina on behalf of the Kansas Bar Association

2-7

AN ACT concerning arbitration; relating to contracts of insurance; making certain agreements to appraise or arbitrate in contracts of insurance invalid and creating exceptions therefor; amending K.S.A. 5-428 and repealing the existing section.

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

Section 1. K.S.A. 5-428 is hereby amended to read as follows: 5-428. (a) *(1)* An agreement contained in a record to submit to arbitration any existing or subsequent controversy arising between the parties to the agreement is valid, enforceable and irrevocable, except upon a ground that exists at law or in equity for the revocation of a contract*, or as provided in paragraph (2)*.

(2) An agreement contained in a contract of insurance entered into or renewed after July, 1, 2025, to submit to appraisal or arbitration any existing or subsequent controversy arising between the parties to the agreement, except for those contracts between insurance companies, including reinsurance contracts, shall not be valid, enforceable or irrevocable, but shall be regarded as an offer by the insurance company to enter into binding or nonbinding arbitration.

(b) The court shall decide whether an agreement to arbitrate exists or a controversy is subject to an agreement to arbitrate.

(c) An arbitrator shall decide whether a condition precedent to arbitrability has been fulfilled and whether a contract containing a valid agreement to arbitrate is enforceable.

(d) If a party to a judicial proceeding challenges the existence of, or claims that a controversy is not subject to, an agreement to arbitrate, the arbitration proceeding may continue, pending final resolution of the issue by the court, unless the court otherwise orders.

Sec. 2. K.S.A. 5-428 is hereby repealed.

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