

## SENATE BILL No. 442

By Committee on Financial Institutions and Insurance

1-17

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9 AN ACT concerning insurance; relating to foreign insurance companies  
10 doing business in this state; amending K.S.A. 2007 Supp. 40-209 and  
11 repealing the existing section.  
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13 *Be it enacted by the Legislature of the State of Kansas:*

14 Section 1. K.S.A. 2007 Supp. 40-209 is hereby amended to read as  
15 follows: 40-209. (a) Any insurance company organized under the laws of  
16 any other country, state or territory, upon application, may be authorized  
17 to transact business in this state, when possessed of the required amount  
18 of paid-up capital and surplus, or surplus only if a mutual company, and:

19 (1) Has made the deposit required by this code with the department  
20 of insurance of this or any other state in the United States;

21 (2) participates to the extent possible in the insurance regulatory in-  
22 formation system administered by the national association of insurance  
23 commissioners;

24 (3) has submitted an examination report of its financial condition and  
25 affairs which has been conducted by the insurance department of the  
26 state of domicile within five years of the date of application unless the  
27 commissioner determines that an earlier report will satisfy the purpose  
28 of this provision;

29 (4) demonstrates that any majority ownership interests are in sound  
30 financial condition;

31 (5) is not owned, managed or controlled by persons previously con-  
32 victed of criminal activity involving fraud or embezzlement or offenses of  
33 a similar nature;

34 (6) has been in operation at least three years and has been the subject  
35 of an examination of its affairs and financial condition other than its or-  
36 ganizational examination. This requirement does not apply to subsidiary  
37 or affiliate companies with substantially the same management of an ad-  
38 mitted company, a continuing corporation resulting from merger or con-  
39 solidation or a company whose admission is determined by the commis-  
40 sioner to be in the best public interest;

41 (7) the company will not require immediate regulatory attention by  
42 the department upon admission pursuant to K.S.A. 40-222b and amend-  
43 ments thereto.

- 1 (b) The authority shall not be granted, continued or renewed to any  
2 insurance company which is controlled, as such word is defined in sub-  
3 section (c) of K.S.A. 40-3302, and amendments thereto, by another state  
4 of the United States or by a foreign government, or by any political sub-  
5 division of either.
- 6 (c) Every such company shall file a certified copy of its charter or  
7 deed of settlement with the commissioner of insurance, together with a  
8 statement, under oath of the president, vice-president or other chief of-  
9 ficer and the secretary of the company for which they act, stating the  
10 name of the company, the place where located, and the amount of its  
11 capital, with a detailed statement of the facts and items required from  
12 companies organized under the laws of this state and a copy of the last  
13 annual report, if any was made, under any law of the state or country in  
14 which such company was incorporated.
- 15 (d) Upon the application of any such insurance company for a certif-  
16 icate of authority to transact business in this state, the commissioner of  
17 insurance shall be satisfied that the company is possessed of money and  
18 other admitted assets in excess of its liabilities, as herein provided, and  
19 that it has otherwise complied with all the other requirements of this  
20 code. The commissioner shall thereupon issue a certificate of authority  
21 to such company authorizing it to transact the classes of insurance per-  
22 mitted under its articles of incorporation and by the provisions of this  
23 code.
- 24 (e) *The commissioner shall have authority, at any time, to require the*  
25 *applicant to fully disclose the identity of all stockholders, partners, offi-*  
26 *cers, members and employees. In the exercise of the commissioner's dis-*  
27 *cretion, the commissioner may refuse to issue a license to an applicant if*  
28 *the commissioner is not satisfied that any officer, employee, stockholder,*  
29 *partner or member thereof who may materially influence the applicant's*  
30 *conduct:*
- 31 (1) *Has a good business reputation; or*  
32 (2) *is competent and trustworthy and intends to act in good faith.*
- 33 ~~(f)~~ (f) The funds of any such insurance company, in excess of the  
34 minimum paid-up capital required by this code, may at all times be in-  
35 vested in such securities as are or may be authorized by the laws of the  
36 state in which such company is organized or in which it has and maintains  
37 its United States deposit.
- 38 ~~(g)~~ (g) (1) Except as provided in paragraph (2), the commissioner of  
39 insurance may, upon renewal of a certificate of authority waive any of the  
40 above requirements except those relating to assets, capital and surplus.
- 41 (2) The commissioner of insurance may, at the commissioner's dis-  
42 cretion, waive any of the above requirements for prescription drug plan  
43 sponsors as defined by 42 U.S.C. 1395w-151 as in effect on January 1,

1 2006.

2 ~~(g)~~ (h) Whenever any insurance company organized under the laws  
3 of any other country, state or territory is issued a certificate of authority  
4 to transact insurance in this state by the commissioner of insurance pur-  
5 suant to this section, such company shall not be required to comply with  
6 the provisions of the general corporation code relating to foreign corpo-  
7 rations, nor shall any such company be required to file with the secretary  
8 of state its articles of incorporation, charter, bylaws or other documents,  
9 or any amendments thereof, unless specifically required to do so by law.  
10 Sec. 2. K.S.A. 2007 Supp. 40-209 is hereby repealed.  
11 Sec. 3. This act shall take effect and be in force from and after its  
12 publication in the statute book.