

## SENATE BILL No. 321

By Committee on Ways and Means

3-16

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9 AN ACT concerning insurance; relating to the insurance department  
10 service regulation fund; amending K.S.A. 2008 Supp. 40-112 and re-  
11 pealing 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. 2008 Supp. 40-112 is hereby amended to read as  
15 follows: 40-112. (a) For the purpose of maintaining the insurance de-  
16 partment and the payment of expenses incident thereto, there is hereby  
17 established the insurance department service regulation fund in the state  
18 treasury which shall be administered by the commissioner of insurance.  
19 All expenditures from the insurance department service regulation fund  
20 shall be made in accordance with appropriation acts upon warrants of the  
21 director of accounts and reports issued pursuant to vouchers approved  
22 by the commissioner of insurance or by a person or persons designated  
23 by the commissioner.

24 (b) On and after the effective date of this act, all fees received by the  
25 commissioner of insurance pursuant to any statute and 1% of taxes re-  
26 ceived pursuant to K.S.A. 40-252, and amendments thereto, shall be re-  
27 mitted to the state treasurer in accordance with the provisions of K.S.A.  
28 75-4215, and amendments thereto. *For the fiscal year ending June 30,*  
29 *2010, upon receipt of each such remittance, the state treasurer shall de-*  
30 *posit the amount equal to the 1% of taxes received pursuant to K.S.A. 40-*  
31 *252, and amendments thereto, in the state treasury to the credit of the*  
32 *state general fund. For the fiscal year ending June 30, 2011, and each*  
33 *ensuing fiscal year, upon receipt of each such remittance, the state trea-*  
34 *surer shall deposit the entire amount in the state treasury to the credit*  
35 *of the insurance department service regulation fund.*

36 (c) Except as otherwise provided by this section, the commissioner  
37 of insurance shall make an annual assessment on each group of affiliated  
38 insurers whose certificates of authority to do business in this state are in  
39 good standing at the time of the assessment. The total amount of all such  
40 assessments for a fiscal year shall be equal to the amount sufficient which,  
41 when combined with the total amount to be credited to the insurance  
42 department service regulation fund pursuant to subsection (b) is equal to  
43 the amount approved by the legislature to fund the insurance company

1 regulation program. With respect to each group of affiliated insurers, such  
2 assessment shall be in proportion to the amount of total assets of the  
3 group of affiliated insurers as reported to the commissioner of insurance  
4 pursuant to K.S.A. 40-225, and amendments thereto, for the immediately  
5 preceding calendar year, shall not be less than \$500 and shall not be more  
6 than the amount equal to .0000015 of the amount of total assets of the  
7 group of affiliated insurers or \$25,000, whichever is less. The total as-  
8 sessment for any fiscal year shall not increase by any amount greater than  
9 15% of the total budget approved by the legislature to fund the insurance  
10 company regulation program for the fiscal year immediately preceding  
11 the fiscal year for which the assessment is made. In the event the total  
12 amount of the assessment would be less than the aggregate amount re-  
13 sulting by assessing the \$500 minimum on each insurer, the commissioner  
14 may establish a lower minimum to be assessed equally on each insurer.

15 (d) If, by the laws of any state other than Kansas or by the retaliatory  
16 laws of any state other than Kansas, any insurer domiciled in Kansas shall  
17 be required to pay any fee or tax in such other state of licensure, and the  
18 fee or tax is due and payable either because the insurance department  
19 service regulation fee imposed by this section on insurers licensed in  
20 Kansas and organized or domiciled in such other state is greater than the  
21 comparable fee or tax assessed in such other state, or such other state has  
22 no comparable fee or tax but requires payment on a retaliatory basis, then  
23 to the extent such fee or tax amounts are legally due and are paid in such  
24 other state, any insurer domiciled in Kansas may claim a dollar-for-dollar  
25 credit for such fees paid against insurer's annual premium taxes due the  
26 state of Kansas under K.S.A. 40-252, and amendments thereto, or privi-  
27 lege fee due the state of Kansas under K.S.A. 40-3213, and amendments  
28 thereto, but such credit shall only be calculated on the amount which  
29 would not have been required to be paid in such other state of licensure  
30 in the absence of the existence of the insurance department service reg-  
31 ulation fee imposed by this section, and in no event shall the credit per-  
32 mitted by this section exceed 90% of the insurer's annual premium tax  
33 or privilege fee due the state of Kansas. The insurance commissioner shall  
34 prescribe the forms for reporting such credits.

35 (e) Assessments payable under this section shall be past due if not  
36 paid to the insurance department within 45 days of the billing date of  
37 such assessment. A penalty equal to 10% of the amount assessed shall be  
38 imposed upon any past due payment and the total amount of the assess-  
39 ment and penalty shall bear interest at the rate of 1.5% per month or any  
40 portion thereof.

41 (f) When there exists in the insurance department service regulation  
42 fund a deficiency which would render such fund temporarily insufficient  
43 during any fiscal year to meet the insurance department's funding

1 requirements, the commissioner of insurance shall certify the amount of  
2 the insufficiency. Upon receipt of any such certification, the director of  
3 accounts and reports shall transfer an amount of moneys equal to the  
4 amount so certified from the state general fund to the insurance depart-  
5 ment service regulation fund. On June 30 of any fiscal year during which  
6 an amount or amounts are certified and transferred under this subsection,  
7 the director of accounts and reports shall provide for the repayment of  
8 the amounts so transferred and shall transfer the amount equal to the  
9 total of all such amounts transferred during the fiscal year from the in-  
10 surance department service regulation fund to the state general fund.

11 (g) Any unexpended balance in the insurance department service reg-  
12 ulation fund at the close of a fiscal year shall remain credited to the  
13 insurance department service regulation fund for use in the succeeding  
14 fiscal year and shall be used to reduce future assessments or to accom-  
15 modate cash flow demands on the fund.

16 (h) The commissioner of insurance shall exempt the assessment of  
17 any insurer which, as of December 31 of the calendar year preceding the  
18 assessment, has a surplus of less than two times the minimum amount of  
19 surplus required for a certificate of authority on and after May 1, 1994,  
20 and which is subject to the premium tax or privilege fee liability imposed  
21 on insurers organized under the laws of this state. The commissioner of  
22 insurance may also exempt or defer, in whole or in part, the assessment  
23 of any other insurer if, in the opinion of the commissioner of insurance,  
24 immediate payment of the total assessment would be detrimental to the  
25 solvency of the insurer.

26 (i) As used in this section:

27 (1) "Affiliates" or "affiliated" has the meaning ascribed by K.S.A. 40-  
28 3302, and amendments thereto;

29 (2) "group" or "group of affiliated insurers" means the affiliated in-  
30 surers of a group and also includes an individual, unaffiliated insurer; and

31 (3) "insurer" means any insurance company, as defined by K.S.A. 40-  
32 201, and amendments thereto, any fraternal benefit society, as defined  
33 by K.S.A. 40-738, and amendments thereto, any reciprocal or interinsur-  
34 ance exchange under K.S.A. 40-1601 through 40-1614, and amendments  
35 thereto, any mutual insurance company organized to provide health care  
36 provider liability insurance under K.S.A. 40-12a01 through 40-12a09, and  
37 amendments thereto, any nonprofit dental service corporation under  
38 K.S.A. 40-19a01 through 40-19a14, and amendments thereto, any non-  
39 profit medical and hospital service corporation under K.S.A. 40-19c01  
40 through 40-19c11, and amendments thereto, any health maintenance or-  
41 ganization, as defined by K.S.A. 40-3202, and amendments thereto, or  
42 any captive insurance company, as defined by K.S.A. 40-4301, and  
43 amendments thereto, which is authorized to do business in Kansas.

- 1     Sec. 2. K.S.A. 2008 Supp. 40-112 is hereby repealed.
- 2     Sec. 3. This act shall take effect and be in force from and after its
- 3     publication in the statute book.