

As Amended by House Committee

Session of 2025

HOUSE BILL No. 2043

By Committee on Insurance

Requested by Eric Turek, Kansas Insurance Department

1-21

Proposed Amendment to HB 2043
For Senate Committee on Financial Institutions and Insurance
Prepared by Eileen Ma
Office of Revisor of Statutes

AN ACT concerning insurance; relating to unfair and deceptive acts or practices; requiring agents and insurers to respond to inquiries from the commissioner of insurance within 14 calendar days; authorizing certain rebate pilot programs to exceed one year in duration; amending K.S.A. 2024 Supp. 40-2404 and 40-4909 and repealing the existing sections.

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

Section 1. K.S.A. 2024 Supp. 40-2404 is hereby amended to read as follows: 40-2404. The following are hereby defined as unfair methods of competition and unfair or deceptive acts or practices in the business of insurance:

(1) *Misrepresentations and false advertising of insurance policies.* Making, issuing, circulating or causing to be made, issued or circulated, any estimate, illustration, circular, statement, sales presentation, omission or comparison that:

(a) Misrepresents the benefits, advantages, conditions or terms of any insurance policy;

(b) misrepresents the dividends or share of the surplus to be received on any insurance policy;

(c) makes any false or misleading statements as to the dividends or share of surplus previously paid on any insurance policy;

(d) is misleading or is a misrepresentation as to the financial condition of any person, or as to the legal reserve system upon which any life insurer operates;

(e) uses any name or title of any insurance policy or class of insurance policies misrepresenting the true nature thereof;

(f) is a misrepresentation for the purpose of inducing or tending to induce the lapse, forfeiture, exchange, conversion or surrender of any insurance policy;

(g) is a misrepresentation for the purpose of effecting a pledge or assignment of or effecting a loan against any insurance policy; or

(h) misrepresents any insurance policy as being shares of stock.

(2) *False information and advertising generally.* Making, publishing, disseminating, circulating or placing before the public, or causing, directly or indirectly, to be made, published, disseminated, circulated or placed

1 compelling them to accept settlements or compromises less than the
2 amount awarded in arbitration;

3 (l) delaying the investigation or payment of claims by requiring an
4 insured, claimant or the physician of either to submit a preliminary claim
5 report and then requiring the subsequent submission of formal proof of
6 loss forms, both of which submissions contain substantially the same
7 information;

8 (m) failing to promptly settle claims, where liability has become
9 reasonably clear, under one portion of the insurance policy coverage in
10 order to influence settlements under other portions of the insurance policy
11 coverage; or

12 (n) failing to promptly provide a reasonable explanation of the basis
13 in the insurance policy in relation to the facts or applicable law for denial
14 of a claim or for the offer of a compromise settlement.

15 (10) *Failure to respond to an inquiry. An insurer's failing, upon*
16 *receipt of any to respond to an inquiry from the insurance department*
17 *concerning a complaint or inquiry related to a particular matter, within 14*
18 *calendar days of receipt of such inquiry to furnish the department with an*
19 *adequate response to such inquiry.*

20 (11) *Failure to maintain complaint handling procedures.* Failure of
21 any person, who is an insurer on an insurance policy, to maintain a
22 complete record of all the complaints that it has received since the date of
23 its last examination under K.S.A. 40-222, and amendments thereto; ~~but,~~
24 *except that* no such records shall be required for complaints received prior
25 to the effective date of this act. The record shall indicate the total number
26 of complaints, their classification by line of insurance, the nature of each
27 complaint, the disposition of the complaints, the date each complaint was
28 originally received by the insurer and the date of final disposition of each
29 complaint. For purposes of this ~~subsection~~ *section*, "complaint" means any
30 written communication primarily expressing a grievance related to the acts
31 and practices set out in this section.

32 ~~(11)~~(12) *Misrepresentation in insurance applications.* Making false
33 or fraudulent statements or representations on or relative to an application
34 for an insurance policy, for the purpose of obtaining a fee, commission,
35 money or other benefit from any insurer, agent, broker or individual.

36 ~~(12)~~(13) *Statutory violations.* Any violation of any of the provisions
37 of K.S.A. 40-216, 40-276a, 40-2,155 or 40-1515, and amendments thereto.

38 ~~(13)~~(14) *Disclosure of information relating to adverse underwriting*
39 *decisions and refund of premiums.* Failing to comply with the provisions of
40 K.S.A. 40-2,112, and amendments thereto, within the time prescribed in
41 such section.

42 ~~(14)~~(15) *Rebates and other inducements in title insurance.* (a) No title
43 insurance company or title insurance agent, or any officer, employee,

upon receipt of any inquiry from the insurance department concerning a complaint or inquiry from the insurance department concerning a complaint or inquiry related to a particular matter, within 14 calendar days of receipt of such inquiry to furnish the department with an adequate response to such inquiry.

(13) failed to comply with any administrative or court order imposing a child support obligation upon the applicant or license holder;

(14) failed to pay any state income tax or comply with any administrative or court order directing payment of state income tax;

(15) except as otherwise permitted by law, rebated the whole or any part of any insurance premium or offered in connection with the presentation of any contract of insurance any other inducement not contained in the contract of insurance;

(16) made any misleading representation or incomplete comparison of policies to any person for the purposes of inducing or tending to induce such person to lapse, forfeit or surrender such person's insurance then in force; and

(17) failed to respond to an inquiry from the commissioner within ~~15 business days, or failed to respond to an inquiry within 14 calendar days from the commissioner concerning a complaint, as defined in K.S.A. 40-2404, and amendments thereto, or an inquiry related to a particular matter.~~

(b) In addition, the commissioner may deny, suspend, revoke or refuse renewal of any license issued under this act if the commissioner finds that the interests of the insurer or the insurable interests of the public are not properly served under such license.

(c) (1) When considering whether to deny, suspend, revoke or refuse to renew the application of an individual who has been convicted of a misdemeanor or felony, the commissioner shall consider the:

- (A) Applicant's age at the time of the conduct;
- (B) recency of the conduct;
- (C) reliability of the information concerning the conduct;
- (D) seriousness of the conduct;
- (E) factors underlying the conduct;
- (F) cumulative effect of the conduct or information;
- (G) evidence of rehabilitation;
- (H) applicant's social contributions since the conduct;
- (I) applicant's candor in the application process; and
- (J) materiality of any omissions or misrepresentations.

(2) In determining whether to reinstate or grant to an applicant a license that has been revoked, the commissioner shall consider the:

- (A) Present moral fitness of the applicant;
- (B) demonstrated consciousness by the applicant of the wrongful conduct and disrepute that the conduct has brought to the insurance profession;
- (C) extent of the applicant's rehabilitation;
- (D) seriousness of the original conduct;
- (E) applicant's conduct subsequent to discipline;

15 business days, or failed to respond to an inquiry within 14 calendar days from the commissioner concerning a complaint, as defined in K.S.A. 40-2404, and amendments thereto,