

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
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 suspended or revoked shall be employed by any insurance company doing
2 business in this state either directly, indirectly, as an independent
3 contractor or otherwise to negotiate or effect contracts of insurance,
4 suretyship or indemnity or perform any act toward the solicitation of or
5 transaction of any business of insurance during the period of such
6 suspension or revocation.

7 (i) In lieu of taking any action under subsection (a), the commissioner
8 may:

9 (1) Censure the person; or

10 (2) issue an order imposing an administrative penalty up to a
11 maximum of \$500 for each violation but not to exceed \$2,500 for the same
12 violation occurring within any six consecutive calendar months from the
13 date of the original violation unless such person knew or should have
14 known that the violative act could give rise to disciplinary action under
15 subsection (a). If such person knew or reasonably should have known the
16 violative act could give rise to any disciplinary proceeding authorized by
17 subsection (a), the commissioner may impose a penalty up to a maximum
18 of \$1,000 for each violation but not to exceed \$5,000 for the same
19 violation occurring within any six consecutive calendar months from the
20 date of the imposition of the original administrative penalty.

21 (j) (1) An applicant to whom a license has been denied after a hearing
22 shall not apply for a license again until after the expiration of a period of
23 one year from the date of the commissioner's order.

24 (2) A licensee whose license was revoked shall not apply for a license
25 again until after the expiration of a period of two years from the date of the
26 commissioner's order.

27 Sec. 3. K.S.A. 2024 Supp. 40-2404 and 40-4909 are hereby repealed.

28 Sec. 4. This act shall take effect and be in force from and after its
29 publication in the statute book.

Kansas register