

SENATE BILL No. 397

By Committee on Financial Institutions and Insurance

1-25

1 AN ACT concerning insurance; relating to title insurance, title agents and
2 title insurers; eliminating annual controlled business reporting
3 requirements; amending K.S.A. 2023 Supp. 40-2404 and repealing the
4 existing section.

5
6 *Be it enacted by the Legislature of the State of Kansas:*

7 Section 1. K.S.A. 2023 Supp. 40-2404 is hereby amended to read as
8 follows: 40-2404. The following are hereby defined as unfair methods of
9 competition and unfair or deceptive acts or practices in the business of
10 insurance:

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

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

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

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

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

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

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

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

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

32 (2) *False information and advertising generally.* Making, publishing,
33 disseminating, circulating or placing before the public, or causing, directly
34 or indirectly, to be made, published, disseminated, circulated or placed
35 before the public, in a newspaper, magazine or other publication, or in the
36 form of a notice, circular, pamphlet, letter or poster, or over any radio or

1 television station, or in any other way, an advertisement, announcement or
2 statement containing any assertion, misrepresentation or statement with
3 respect to the business of insurance or with respect to any person in the
4 conduct of such person's insurance business, that is untrue, deceptive or
5 misleading.

6 (3) *Defamation.* Making, publishing, disseminating or circulating,
7 directly or indirectly, or aiding, abetting or encouraging the making,
8 publishing, disseminating or circulating of any oral or written statement or
9 any pamphlet, circular, article or literature that is false, or maliciously
10 critical of or derogatory to the financial condition of any person, and that
11 is calculated to injure such person.

12 (4) *Boycott, coercion and intimidation.* Entering into any agreement
13 to commit, or by any concerted action committing, any act of boycott,
14 coercion or intimidation resulting in or tending to result in unreasonable
15 restraint of the business of insurance, or by any act of boycott, coercion or
16 intimidation monopolizing or attempting to monopolize any part of the
17 business of insurance.

18 (5) *False statements and entries.* (a) Knowingly filing with any
19 supervisory or other public official, or knowingly making, publishing,
20 disseminating, circulating or delivering to any person, or placing before
21 the public, or knowingly causing directly or indirectly, to be made,
22 published, disseminated, circulated, delivered to any person, or placed
23 before the public, any false material statement of fact as to the financial
24 condition of a person.

25 (b) Knowingly making any false entry of a material fact in any book,
26 report or statement of any person or knowingly omitting to make a true
27 entry of any material fact pertaining to the business of such person in any
28 book, report or statement of such person.

29 (6) *Stock operations and advisory board contracts.* Issuing or
30 delivering or permitting agents, officers or employees to issue or deliver,
31 agency company stock or other capital stock, or benefit certificates or
32 shares in any common-law corporation, or securities or any special or
33 advisory board contracts or other contracts of any kind promising returns
34 and profits as an inducement to insurance. Nothing herein shall prohibit
35 the acts permitted by K.S.A. 40-232, and amendments thereto.

36 (7) *Unfair discrimination.* (a) Making or permitting any unfair
37 discrimination between individuals of the same class and equal expectation
38 of life in the rates charged for any contract of life insurance or life annuity
39 or in the dividends or other benefits payable thereon, or in any other of the
40 terms and conditions of such contract.

41 (b) Making or permitting any unfair discrimination between
42 individuals of the same class and of essentially the same hazard in the
43 amount of premium, policy fees or rates charged for any policy or contract

1 of accident or health insurance or in the benefits payable thereunder, or in
2 any of the terms or conditions of such contract, or in any other manner
3 whatever.

4 (c) Refusing to insure, or refusing to continue to insure, or limiting
5 the amount, extent or kind of coverage available to an individual, or
6 charging an individual a different rate for the same coverage solely
7 because of blindness or partial blindness. With respect to all other
8 conditions, including the underlying cause of the blindness or partial
9 blindness, persons who are blind or partially blind shall be subject to the
10 same standards of sound actuarial principles or actual or reasonably
11 anticipated experience as are sighted persons. Refusal to insure includes
12 denial by an insurer of disability insurance coverage on the grounds that
13 the policy defines "disability" as being presumed in the event that the
14 insured loses such person's eyesight. However, an insurer may exclude
15 from coverage disabilities consisting solely of blindness or partial
16 blindness when such condition existed at the time the policy was issued.

17 (d) Refusing to insure, or refusing to continue to insure, or limiting
18 the amount, extent or kind of coverage available for accident and health
19 and life insurance to an applicant who is the proposed insured or charge a
20 different rate for the same coverage or excluding or limiting coverage for
21 losses or denying a claim incurred by an insured as a result of abuse based
22 on the fact that the applicant who is the proposed insured is, has been, or
23 may be the subject of domestic abuse, except as provided in subsection (7)
24 (d)(v). "Abuse" as used in this paragraph means one or more acts defined
25 in K.S.A. 60-3102, and amendments thereto, between family members,
26 current or former household members, or current or former intimate
27 partners.

28 (i) An insurer may not ask an applicant for life or accident and health
29 insurance who is the proposed insured if the individual is, has been or may
30 be the subject of domestic abuse or seeks, has sought or had reason to seek
31 medical or psychological treatment or counseling specifically for abuse,
32 protection from abuse or shelter from abuse.

33 (ii) Nothing in this section shall be construed to prohibit a person
34 from declining to issue an insurance policy insuring the life of an
35 individual who is, has been or has the potential to be the subject of abuse if
36 the perpetrator of the abuse is the applicant or would be the owner of the
37 insurance policy.

38 (iii) No insurer that issues a life or accident and health policy to an
39 individual who is, has been or may be the subject of domestic abuse shall
40 be subject to civil or criminal liability for the death or any injuries suffered
41 by that individual as a result of domestic abuse.

42 (iv) No person shall refuse to insure, refuse to continue to insure,
43 limit the amount, extent or kind of coverage available to an individual or

1 charge a different rate for the same coverage solely because of physical or
2 mental condition, except where the refusal, limitation or rate differential is
3 based on sound actuarial principles.

4 (v) Nothing in this section shall be construed to prohibit a person
5 from underwriting or rating a risk on the basis of a preexisting physical or
6 mental condition, even if such condition has been caused by abuse,
7 provided that:

8 (A) The person routinely underwrites or rates such condition in the
9 same manner with respect to an insured or an applicant who is not a victim
10 of abuse;

11 (B) the fact that an individual is, has been or may be the subject of
12 abuse may not be considered a physical or mental condition; and

13 (C) such underwriting or rating is not used to evade the intent of this
14 section or any other provision of the Kansas insurance code.

15 (vi) Any person who underwrites or rates a risk on the basis of
16 preexisting physical or mental condition as set forth in subsection (7)(d)
17 (v), shall treat such underwriting or rating as an adverse underwriting
18 decision pursuant to K.S.A. 40-2,112, and amendments thereto.

19 (vii) The provisions of this paragraph shall apply to all policies of life
20 and accident and health insurance issued in this state after the effective
21 date of this act and all existing contracts that are renewed on or after the
22 effective date of this act.

23 (e) Refusing to insure, or refusing to continue to insure, or limiting
24 the amount, extent or kind of coverage available for life insurance to an
25 individual, or charging an individual a different rate for the same coverage,
26 solely because of such individual's status as a living organ donor. With
27 respect to all other conditions, persons who are living organ donors shall
28 be subject to the same standards of sound actuarial principles or actual or
29 reasonably anticipated experience as are persons who are not organ
30 donors.

31 (8) *Rebates.* (a) Except as otherwise expressly provided by law,
32 knowingly permitting, offering to make or making any contract of life
33 insurance, life annuity or accident and health insurance, or agreement as to
34 such contract other than as plainly expressed in the insurance contract
35 issued thereon; paying, allowing, giving or offering to pay, allow or give,
36 directly or indirectly, as inducement to such insurance, or annuity, any
37 rebate of premiums payable on the contract, any special favor or advantage
38 in the dividends or other benefits thereon, or any valuable consideration or
39 inducement whatever not specified in the contract; or giving, selling,
40 purchasing or offering to give, sell or purchase as inducement to such
41 insurance contract or annuity or in connection therewith, any stocks, bonds
42 or other securities of any insurance company or other corporation,
43 association or partnership, or any dividends or profits accrued thereon, or

1 anything of value whatsoever not specified in the contract.

2 (b) Nothing in subsection (7) or (8)(a) shall be construed as including
3 within the definition of discrimination or rebates any of the following
4 practices:

5 (i) In the case of any contract of life insurance or life annuity, paying
6 bonuses to policyholders or otherwise abating their premiums in whole or
7 in part out of surplus accumulated from nonparticipating insurance. Any
8 such bonuses or abatement of premiums shall be fair and equitable to
9 policyholders and for the best interests of the company and its
10 policyholders;

11 (ii) in the case of life insurance policies issued on the industrial debit
12 plan, making allowance to policyholders who have continuously for a
13 specified period made premium payments directly to an office of the
14 insurer in an amount that fairly represents the saving in collection
15 expenses;

16 (iii) readjustment of the rate of premium for a group insurance policy
17 based on the loss or expense experience thereunder, at the end of the first
18 or any subsequent policy year of insurance thereunder, which may be
19 made retroactive only for such policy year;

20 (iv) engaging in an arrangement that would not violate section 106 of
21 the bank holding company act amendments of 1972, as interpreted by the
22 board of governors of the federal reserve system or section 5(q) of the
23 home owners' loan act;

24 (v) the offer or provision by insurers or producers, by or through
25 employees, affiliates or third-party representatives, of value-added
26 products or services at no or reduced cost when such products or services
27 are not specified in the policy of insurance if the product or service:

28 (A) Relates to the insurance coverage; and

29 (B) is primarily designed to satisfy one or more of the following:

30 (1) Provide loss mitigation or loss control;

31 (2) reduce claim costs or claim settlement costs;

32 (3) provide education about liability risks or risk of loss to persons or
33 property;

34 (4) monitor or assess risk, identify sources of risk or develop
35 strategies for eliminating or reducing risk;

36 (5) enhance health;

37 (6) enhance financial wellness through items such as education or
38 financial planning services;

39 (7) provide post-loss services;

40 (8) (a) incentivize behavioral changes to improve the health or reduce
41 the risk of death or disability of a customer;

42 (b) as used in this section, "customer" means a policyholder, potential
43 policyholder, certificate holder, potential certificate holder, insured,

1 potential insured or applicant; or

2 (9) assist in the administration of the employee or retiree benefit
3 insurance coverage.

4 (C) The cost to the insurer or producer offering the product or service
5 to any given customer shall be reasonable in comparison to such
6 customer's premiums or insurance coverage for the policy class.

7 (D) If the insurer or producer is providing the product or service
8 offered, the insurer or producer shall ensure that the customer is provided
9 with contact information, upon request, to assist the customer with
10 questions regarding the product or service.

11 (E) The commissioner may adopt rules and regulations when
12 implementing the permitted practices set forth in this section to ensure
13 consumer protection. Such rules and regulations, consistent with
14 applicable law, may address, among other issues, consumer data
15 protections and privacy, consumer disclosure and unfair discrimination.

16 (F) The availability of the value-added product or service shall be
17 based on documented objective criteria and offered in a manner that is not
18 unfairly discriminatory. The documented criteria shall be maintained by
19 the insurer or producer and produced upon request by the commissioner.

20 (G) If an insurer or producer does not have sufficient evidence but
21 has a good-faith belief that the product or service meets the criteria in
22 subsection (8)(b)(v)(B), the insurer or producer may provide the product or
23 service in a manner that is not unfairly discriminatory as part of a pilot or
24 testing program for not more than one year. An insurer or producer shall
25 notify the commissioner of such a pilot or testing program offered to
26 consumers in this state prior to launching and may proceed with the
27 program unless the commissioner objects within 21 days of notice.

28 (vi) An insurer or a producer may:

29 (A) Offer or give non-cash gifts, items or services, including meals to
30 or charitable donations on behalf of a customer, in connection with the
31 marketing, sale, purchase or retention of contracts of insurance, as long as
32 the cost does not exceed an amount determined to be reasonable by the
33 commissioner per policy year per term. The offer shall be made in a
34 manner that is not unfairly discriminatory. The customer shall not be
35 required to purchase, continue to purchase or renew a policy in exchange
36 for the gift, item or service.

37 (B) Conduct raffles or drawings to the extent permitted by state law,
38 as long as there is no financial cost to entrants to participate, the drawing
39 or raffle does not obligate participants to purchase insurance, the prizes are
40 not valued in excess of a reasonable amount determined by the
41 commissioner and the drawing or raffle is open to the public. The raffle or
42 drawing shall be offered in a manner that is not unfairly discriminatory.
43 The customer shall not be required to purchase, continue to purchase or

1 renew a policy in exchange for the gift, item or service.

2 (c) An insurer, producer or representative of an insurer or producer
3 shall not offer or provide insurance as an inducement to the purchase of
4 another policy.

5 (9) *Unfair claim settlement practices.* It is an unfair claim settlement
6 practice if any of the following or any rules and regulations pertaining
7 thereto are either committed flagrantly and in conscious disregard of such
8 provisions, or committed with such frequency as to indicate a general
9 business practice:

10 (a) Misrepresenting pertinent facts or insurance policy provisions
11 relating to coverages at issue;

12 (b) failing to acknowledge and act reasonably promptly upon
13 communications with respect to claims arising under insurance policies;

14 (c) failing to adopt and implement reasonable standards for the
15 prompt investigation of claims arising under insurance policies;

16 (d) refusing to pay claims without conducting a reasonable
17 investigation based upon all available information;

18 (e) failing to affirm or deny coverage of claims within a reasonable
19 time after proof of loss statements have been completed;

20 (f) not attempting in good faith to effectuate prompt, fair and
21 equitable settlements of claims in which liability has become reasonably
22 clear;

23 (g) compelling insureds to institute litigation to recover amounts due
24 under an insurance policy by offering substantially less than the amounts
25 ultimately recovered in actions brought by such insureds;

26 (h) attempting to settle a claim for less than the amount to which a
27 reasonable person would have believed that such person was entitled by
28 reference to written or printed advertising material accompanying or made
29 part of an application;

30 (i) attempting to settle claims on the basis of an application that was
31 altered without notice to, or knowledge or consent of the insured;

32 (j) making claims payments to insureds or beneficiaries not
33 accompanied by a statement setting forth the coverage under which
34 payments are being made;

35 (k) making known to insureds or claimants a policy of appealing from
36 arbitration awards in favor of insureds or claimants for the purpose of
37 compelling them to accept settlements or compromises less than the
38 amount awarded in arbitration;

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

1 (m) failing to promptly settle claims, where liability has become
2 reasonably clear, under one portion of the insurance policy coverage in
3 order to influence settlements under other portions of the insurance policy
4 coverage; or

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

8 (10) *Failure to maintain complaint handling procedures.* Failure of
9 any person, who is an insurer on an insurance policy, to maintain a
10 complete record of all the complaints that it has received since the date of
11 its last examination under K.S.A. 40-222, and amendments thereto; but no
12 such records shall be required for complaints received prior to the effective
13 date of this act. The record shall indicate the total number of complaints,
14 their classification by line of insurance, the nature of each complaint, the
15 disposition of the complaints, the date each complaint was originally
16 received by the insurer and the date of final disposition of each complaint.
17 For purposes of this subsection, "complaint" means any written
18 communication primarily expressing a grievance related to the acts and
19 practices set out in this section.

20 (11) *Misrepresentation in insurance applications.* Making false or
21 fraudulent statements or representations on or relative to an application for
22 an insurance policy, for the purpose of obtaining a fee, commission,
23 money or other benefit from any insurer, agent, broker or individual.

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

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

30 (14) *Rebates and other inducements in title insurance.* (a) No title
31 insurance company or title insurance agent, or any officer, employee,
32 attorney, agent or solicitor thereof, may pay, allow or give, or offer to pay,
33 allow or give, directly or indirectly, as an inducement to obtaining any title
34 insurance business, any rebate, reduction or abatement of any rate or
35 charge made incident to the issuance of such insurance, any special favor
36 or advantage not generally available to others of the same classification, or
37 any money, thing of value or other consideration or material inducement.
38 The words "charge made incident to the issuance of such insurance"
39 includes, without limitations, escrow, settlement and closing charges.

40 (b) No insured named in a title insurance policy or contract nor any
41 other person directly or indirectly connected with the transaction involving
42 the issuance of the policy or contract, including, but not limited to,
43 mortgage lender, real estate broker, builder, attorney or any officer,

1 employee, agent representative or solicitor thereof, or any other person
2 may knowingly receive or accept, directly or indirectly, any rebate,
3 reduction or abatement of any charge, or any special favor or advantage or
4 any monetary consideration or inducement referred to in subsection (14)
5 (a).

6 (c) Nothing in this section shall be construed as prohibiting:

7 (i) The payment of reasonable fees for services actually rendered to a
8 title insurance agent in connection with a title insurance transaction;

9 (ii) the payment of an earned commission to a duly appointed title
10 insurance agent for services actually performed in the issuance of the
11 policy of title insurance; or

12 (iii) the payment of reasonable entertainment and advertising
13 expenses.

14 (d) Nothing in this section prohibits the division of rates and charges
15 between or among a title insurance company and its agent, or one or more
16 title insurance companies and one or more title insurance agents, if such
17 division of rates and charges does not constitute an unlawful rebate under
18 the provisions of this section and is not in payment of a forwarding fee or a
19 finder's fee.

20 ~~(e) As used in subsections (14)(c) through (14)(i), unless the context~~
21 ~~otherwise requires:~~

22 ~~(i) "Associate" means any firm, association, organization, partnership,~~
23 ~~business trust, corporation or other legal entity organized for profit in~~
24 ~~which a producer of title business is a director, officer or partner thereof,~~
25 ~~or owner of a financial interest; the spouse or any relative within the~~
26 ~~second degree by blood or marriage of a producer of title business who is a~~
27 ~~natural person; any director, officer or employee of a producer of title~~
28 ~~business or associate; any legal entity that controls, is controlled by, or is~~
29 ~~under common control with a producer of title business or associate; and~~
30 ~~any natural person or legal entity with whom a producer of title business or~~
31 ~~associate has any agreement, arrangement or understanding or pursues any~~
32 ~~course of conduct, the purpose or effect of which is to evade the provisions~~
33 ~~of this section.~~

34 ~~(ii) "Financial interest" means any direct or indirect interest, legal or~~
35 ~~beneficial, where the holder thereof is or will be entitled to 1% or more of~~
36 ~~the net profits or net worth of the entity in which such interest is held.~~
37 ~~Notwithstanding the foregoing, an interest of less than 1% or any other~~
38 ~~type of interest shall constitute a "financial interest" if the primary purpose~~
39 ~~of the acquisition or retention of that interest is the financial benefit to be~~
40 ~~obtained as a consequence of that interest from the referral of title~~
41 ~~business.~~

42 ~~(iii) "Person" means any natural person, partnership, association,~~
43 ~~cooperative, corporation, trust or other legal entity.~~

1 ~~(iv) "Producer of title business" or "producer" means any person,~~
2 ~~including any officer, director or owner of 5% or more of the equity or~~
3 ~~capital or both of any person, engaged in this state in the trade, business,~~
4 ~~occupation or profession of:~~

5 ~~(A) Buying or selling interests in real property;~~

6 ~~(B) making loans secured by interests in real property; or~~

7 ~~(C) acting as broker, agent, representative or attorney for a person~~
8 ~~who buys or sells any interest in real property or who lends or borrows~~
9 ~~money with such interest as security.~~

10 ~~(v) "Refer" means to direct or cause to be directed or to exercise any~~
11 ~~power or influence over the direction of title insurance business, whether~~
12 ~~or not the consent or approval of any other person is sought or obtained~~
13 ~~with respect to the referral.~~

14 ~~(f) No title insurer or title agent may accept any order for, issue a title~~
15 ~~insurance policy to, or provide services to, an applicant if it knows or has~~
16 ~~reason to believe that the applicant was referred to it by any producer of~~
17 ~~title business or by any associate of such producer, where the producer, the~~
18 ~~associate, or both, have a financial interest in the title insurer or title agent~~
19 ~~to which business is referred unless the producer has disclosed to the~~
20 ~~buyer, seller and lender the financial interest of the producer of title~~
21 ~~business or associate referring the title insurance business.~~

22 ~~(g) No title insurer or title agent may accept an order for title~~
23 ~~insurance business, issue a title insurance policy, or receive or retain any~~
24 ~~premium, or charge in connection with any transaction if: (i) The title~~
25 ~~insurer or title agent knows or has reason to believe that the transaction~~
26 ~~will constitute controlled business for that title insurer or title agent; and~~
27 ~~(ii) 70% or more of the closed title orders of that title insurer or title agent~~
28 ~~during the 12 full calendar months immediately preceding the month in~~
29 ~~which the transaction takes place is derived from controlled business. The~~
30 ~~prohibitions contained in this paragraph shall not apply to transactions~~
31 ~~involving real estate located in a county that has a population, as shown by~~
32 ~~the last preceding decennial census, of 10,000 or less.~~

33 ~~(h) Within 90 days following the end of each business year, as~~
34 ~~established by the title insurer or title agent, each title insurer or title agent~~
35 ~~shall file with the department of insurance and any title insurer with which~~
36 ~~the title agent maintains an underwriting agreement, a report executed by~~
37 ~~the title insurer's or title agent's chief executive officer or designee, under~~
38 ~~penalty of perjury, stating the percent of closed title orders originating~~
39 ~~from controlled business. The failure of a title insurer or title agent to~~
40 ~~comply with the requirements of this section, at the discretion of the~~
41 ~~commissioner, shall be grounds for the suspension or revocation of a~~
42 ~~license or other disciplinary action, with the commissioner able to mitigate~~
43 ~~any such disciplinary action if the title insurer or title agent is found to be~~

1 in substantial compliance with competitive behavior as defined by federal
2 housing and urban development statement of policy 1996-2.

3 (i) (1) ~~No title insurer or title agent may accept any title insurance~~
4 ~~order or issue a title insurance policy to any person if it knows or has~~
5 ~~reason to believe that such person was referred to it by any producer of~~
6 ~~title business or by any associate of such producer, where the producer, the~~
7 ~~associate, or both, have a financial interest in the title insurer or title agent~~
8 ~~to which business is referred unless the producer has disclosed in writing~~
9 ~~to the person so referred the fact that such producer or associate has a~~
10 ~~financial interest in the title insurer or title agent, the nature of the~~
11 ~~financial interest and a written estimate of the charge or range of charges~~
12 ~~generally made by the title insurer or agent for the title services. Such~~
13 ~~disclosure shall include language stating that the consumer is not obligated~~
14 ~~to use the title insurer or agent in which the referring producer or associate~~
15 ~~has a financial interest and shall include the names and telephone numbers~~
16 ~~of not less than three other title insurers or agents that operate in the~~
17 ~~county in which the property is located. If fewer than three insurers or~~
18 ~~agents operate in that county, the disclosure shall include all title insurers~~
19 ~~or agents operating in that county. Such written disclosure shall be signed~~
20 ~~by the person so referred and must have occurred prior to any commitment~~
21 ~~having been made to such title insurer or agent.~~

22 (2) ~~No producer of title business or associate of such producer shall~~
23 ~~require, directly or indirectly, as a condition to selling or furnishing any~~
24 ~~other person any loan or extension thereof, credit, sale, property, contract,~~
25 ~~lease or service, that such other person shall purchase title insurance of any~~
26 ~~kind through any title agent or title insurer if such producer has a financial~~
27 ~~interest in such title agent or title insurer.~~

28 (3) ~~No title insurer or title agent may accept any title insurance order~~
29 ~~or issue a title insurance policy to any person it knows or has reason to~~
30 ~~believe that the name of the title company was pre-printed in the sales~~
31 ~~contract, prior to the buyer or seller selecting that title company.~~

32 (4) ~~Nothing in this paragraph shall prohibit any producer of title~~
33 ~~business or associate of such producer from referring title business to any~~
34 ~~title insurer or title agent of such producer's or associate's choice, and, if~~
35 ~~such producer or associate of such producer has any financial interest in~~
36 ~~the title insurer, from receiving income, profits or dividends produced or~~
37 ~~realized from such financial interest, so long as:~~

38 (a) ~~Such financial interest is disclosed to the purchaser of the title~~
39 ~~insurance in accordance with paragraphs (i)(1) through (i)(4);~~

40 (b) ~~the payment of income, profits or dividends is not in exchange for~~
41 ~~the referral of business; and~~

42 (c) ~~the receipt of income, profits or dividends constitutes only a return~~
43 ~~on the investment of the producer or associate.~~

1 ~~(5) Any producer of title business or associate of such producer who~~
2 ~~violates the provisions of paragraphs (i)(2) through (i)(4), or any title~~
3 ~~insurer or title agent who accepts an order for title insurance knowing that~~
4 ~~it is in violation of paragraphs (i)(2) through (i)(4), in addition to any other~~
5 ~~action that may be taken by the commissioner of insurance, shall be~~
6 ~~subject to a fine by the commissioner in an amount equal to five times the~~
7 ~~premium for the title insurance and, if licensed pursuant to K.S.A. 58-3034~~
8 ~~et seq., and amendments thereto, shall be deemed to have committed a~~
9 ~~prohibited act pursuant to K.S.A. 58-3602, and amendments thereto, and~~
10 ~~shall be liable to the purchaser of such title insurance in an amount equal~~
11 ~~to the premium for the title insurance.~~

12 ~~(6) Any title insurer or title agent that is a competitor of any title~~
13 ~~insurer or title agent that, subsequent to the effective date of this act, has~~
14 ~~violated or is violating the provisions of this paragraph, shall have a cause~~
15 ~~of action against such title insurer or title agent and, upon establishing the~~
16 ~~existence of a violation of any such provision, shall be entitled, in addition~~
17 ~~to any other damages or remedies provided by law, to such equitable or~~
18 ~~injunctive relief as the court deems proper. In any such action under this~~
19 ~~subsection, the court may award to the successful party the court costs of~~
20 ~~the action together with reasonable attorney fees.~~

21 ~~(7) The commissioner shall also require each title agent to provide~~
22 ~~core title services as required by the real estate settlement procedures act.~~

23 ~~(j) (e) The commissioner shall adopt any rules and regulations~~
24 ~~necessary to carry out the provisions of this act.~~

25 ~~(15) *Disclosure of nonpublic personal information.* (a) No person~~
26 ~~shall disclose any nonpublic personal information contrary to the~~
27 ~~provisions of title V of the Gramm-Leach-Bliley act of 1999 (public law~~
28 ~~106-102). The commissioner may adopt rules and regulations necessary to~~
29 ~~carry out this subsection. Such rules and regulations shall be consistent~~
30 ~~with and not more restrictive than the model regulation adopted on~~
31 ~~September 26, 2000, by the national association of insurance~~
32 ~~commissioners entitled "Privacy of consumer financial and health~~
33 ~~information regulation".~~

34 ~~(b) Nothing in this subsection shall be deemed or construed to~~
35 ~~authorize the promulgation or adoption of any regulation that preempts,~~
36 ~~supersedes or is inconsistent with any provision of Kansas law concerning~~
37 ~~requirements for notification of, or obtaining consent from, a parent,~~
38 ~~guardian or other legal custodian of a minor relating to any matter~~
39 ~~pertaining to the health and medical treatment for such minor.~~

40 Sec. 2. K.S.A. 2023 Supp. 40-2404 is hereby repealed.

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