

HOUSE BILL No. 2984

By Committee on Judiciary

2-15

AN ACT concerning insurance; relating to disasters resulting from war or terrorism; life insurance, proof and presumption of death; health insurance, prior approval requirement waiver; amending K.S.A. 40-420 and 40-447 and repealing the existing sections.

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

New Section 1. Notwithstanding the provisions of any law to the contrary, in occurrences of disasters resulting from an act of war or an act of terrorism, any health insurance policy coverage provision requiring prior approval of a primary care physician or other prior approval procedures before the insured will be deemed to be fully covered shall be waived, regardless of whether treatment is received within the coverage area. This section shall not be subject to the requirements of K.S.A. 40-2248, 40-2249 and 40-2249a, and amendments thereto. As used in this section, "terrorism" means the commission of, the attempt to commit any felony with the intent to intimidate or coerce a civilian population, influence the policy of a unit of government or affect the conduct of a unit of government.

Sec. 2. K.S.A. 40-420 is hereby amended to read as follows: 40-420. No life insurance company authorized to transact the business of insurance in this state shall issue or deliver in this state any policy of life insurance other than industrial insurance, annuities and pure endowments with or without return of premiums or of premiums and interest unless the same shall contain in substance the following provisions:

(1) A provision that all premiums after the first shall be payable in advance, either at the home office of the company or to an agent of the company, and that the insured is entitled to a grace period of not less than 30 days within which time the payment of any premium after the first may be made, during which period of grace the policy shall continue in full force. In case the policy becomes a claim during the grace period, the amount of any overdue premium and any remaining unpaid installments of the annual premium for the policy year of death may be deducted in any settlement under the policy.

(2) A provision that, except as otherwise expressly provided by law, the policy together with the application, if a copy thereof be endorsed

1 upon or attached to the policy, shall constitute the entire contract be-
2 tween the parties and shall be incontestable after it has been in force
3 during the lifetime of the insured for a period of not more than two years
4 from its date, except for nonpayment of premiums and except for viola-
5 tions of the conditions, if any, relating to naval or military service, or to
6 aeronautics and, except also at the option of the company, with respect
7 to provisions relative to benefits in the event of total and permanent
8 disability and provisions which grant additional insurance specifically
9 against death by accident or by accidental means; that all statements made
10 by the insured shall, in the absence of fraud, be deemed representations
11 and not warranties; and that no such statement or statements shall be
12 used in defense of a claim under the policy unless contained in a written
13 application, and unless a copy of such statement or statements be en-
14 dorsed upon or attached to the policy when issued.

15 (3) A provision that if it shall be found at any time before final set-
16 tlement under the policy, that the age of the insured or the age of any
17 other person considered in determining the premium has been misstated,
18 the amount payable under the policy shall be such as the premium would
19 have purchased at the correct age or ages, according to the company's
20 published rate at date of issue.

21 (4) A provision that the policy shall participate in the surplus of the
22 company, and any policy containing provision for the payment of a divi-
23 dend at the end of the first or second policy year, and annually thereafter,
24 may also provide that the dividends payable at the end of the first and
25 second policy year shall be paid subject to the payment of the premiums
26 for the next ensuing year; and the insured under any annual dividend
27 policy shall have the right each year to have the dividend arising from
28 such participation paid in cash, and if the policy shall provide other div-
29 idend options, it shall further provide which of the options shall be ef-
30 fective if the insured shall not elect any such other option on or before
31 the expiration of the period of grace allowed for the payment of the
32 premium. This provision shall not apply to any form of paid-up insurance,
33 temporary insurance or pure endowment insurance, issued or granted in
34 exchange for lapsed or surrendered policies, or to nonparticipating
35 policies.

36 (5) Except as provided in K.S.A. 40-420a through 40-420d, inclusive,
37 and amendments thereto, a provision that after the premium shall have
38 been paid for three years, the company at any time, while the policy is in
39 force, will advance, on proper assignment or pledge of the policy and on
40 the sole security thereof, at a specified rate of interest not to exceed 8%
41 per annum, a sum equal to, or at the option of the insured less than, the
42 amount required by K.S.A. 40-429, and amendments thereto, under the
43 conditions specified thereby; and that the company will deduct from such

1 loan value any existing indebtedness on the policy not already deducted
2 in determining such value and any unpaid balance of the premium for
3 the current policy year, and may collect interest in advance on the loan
4 to the end of the current policy year. This provision shall not be required
5 in term insurance, nor shall it apply to temporary insurance or pure en-
6 dowment insurance, issued or granted in exchange for lapsed or surren-
7 dered policies. The policy may further provide that if the interest on the
8 loan is not paid when due, it shall be added to the existing loan, and shall
9 bear interest at the same rate.

10 (6) A provision for nonforfeiture benefits and cash surrender values
11 in accordance with the requirements of subsection (a) of K.S.A. 40-427,
12 or K.S.A. 40-428, and amendments thereto.

13 (7) A provision specifying the options to which the policyholder is
14 entitled in the event of default in a premium payment.

15 (8) A table showing in figures the loan values and the options available
16 under the policy each year upon default in premium payments during at
17 least the first 20 years of the policy, or during the premium-paying period
18 if less than 20 years.

19 (9) A provision that if in event of default in premium payments the
20 value of the policy shall have been applied to the purchase of other in-
21 surance as provided in this section, and if such insurance shall be in force
22 and the original policy shall not have been surrendered to the company
23 and canceled, the policy may be reinstated within three years from such
24 default, upon evidence of insurability satisfactory to the company and
25 payment of arrears of premiums and the payment or reinstatement of any
26 other indebtedness to the company upon its policy, with interest on its
27 premium at the rate of not exceeding 6% per annum payable annually
28 and with interest on the indebtedness at a rate as provided in K.S.A. 40-
29 420a through 40-420d, inclusive, and amendments thereto, and that such
30 reinstated policy shall be contestable only on account of fraud or misrep-
31 resentation of material facts pertaining to the reinstatement; for the same
32 period of time after reinstatement as provided in the policy with respect
33 to original issue.

34 (10) A provision that when a policy shall become a claim by the death
35 of the insured, settlement shall be made upon receipt of due proof of
36 death. *In occurrences of disasters resulting from an act of terrorism or an*
37 *act of war, a sworn affidavit given by the beneficiary attesting to the fact*
38 *that the insured has been missing for at least 30 days and is presumed*
39 *dead due to such disaster shall be accepted as due proof of death.*

40 (11) A table showing the amount of installments, if any, in which the
41 policy may provide its proceeds may be payable.

42 (12) Title on the face and on the back of the policy, briefly describing
43 its form.

1 (13) A provision with respect to the company's obligation to refund
2 unearned premiums upon cancellation of a term life insurance policy as
3 defined in accordance with the requirements of K.S.A. 40-419a, and
4 amendments thereto, except this provision is required to be printed only
5 in term life insurance policies with an original issue date after the effective
6 date of this act.

7 Any of the foregoing provisions or portions thereof not applicable to
8 single-premium or nonparticipating or term policies shall to that extent
9 not be incorporated therein; and any such policy may be issued or deliv-
10 ered in this state which in the opinion of the insurance commissioner
11 contains provisions on any one or more of the several foregoing require-
12 ments more favorable to the policyholder than hereinbefore required.
13 The provisions of this section shall not apply to policies of reinsurance,
14 or to policies issued or granted in exchange for lapsed or surrendered
15 policies, or to policies of group insurance.

16 Sec. 3. K.S.A. 40-447 is hereby amended to read as follows: 40-447.

17 (a) Notwithstanding any other provision of law, each insurer admitted to
18 transact life insurance in the state of Kansas which fails or refuses to pay
19 the proceeds of, or payments under, any policy of life insurance issued
20 by it within 10 days after the date of receipt of due proof of death in the
21 manner and form requested by the policy, *which shall include a pre-*
22 *sumption of death in occurrences of disasters resulting from an act of war*
23 *or an act of terrorism as provided in K.S.A. 40-420, and amendments*
24 *thereto*, shall pay interest on any moneys payable and unpaid after the
25 expiration of such 10-day period at an annual rate of not less than the
26 current rate of interest on death proceeds left on deposit with the insurer
27 plus 1% computed from the date of said receipt.

28 (b) Nothing in this section shall be construed to allow any insurer
29 admitted to transact life insurance in this state to withhold payment of
30 money payable under a life insurance policy to any beneficiary for a period
31 longer than reasonably necessary to transmit such payment.

32 (c) In any case in which interest on the proceeds of, or payments
33 under, any policy of life insurance becomes payable pursuant to subsec-
34 tion (a), the insurer shall notify the named beneficiary or beneficiaries at
35 their last known address that interest will be paid on the proceeds of, or
36 payments under, such policy from the date of receipt of due proof of
37 death of the named insured. Such notice shall specify the rate of interest
38 to be paid.

39 (d) This section shall not require the payment of interest in any case
40 in which the beneficiary elects in writing delivered to the insurer to re-
41 ceive the proceeds of, or payments under, the policy by any means other
42 than a lump sum payment thereof.

43 (e) The commissioner of insurance may adopt such rules and regu-

1 lations necessary to provide for the enforcement and administration of
2 this act.

3 Sec. 4. K.S.A. 40-420 and 40-447 are hereby repealed.

4 Sec. 5. This act shall take effect and be in force from and after its
5 publication in the statute book.

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