

As Amended by House Committee

Session of 2008

HOUSE BILL No. 2690

By Committee on Insurance and Financial Institutions

1-25

10 AN ACT concerning insurance; relating to the accrual of dividends and
11 interest during deferment periods in certain insurance policies;
12 amending K.S.A. 40-428 and repealing the existing section.
13

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

15 Section 1. K.S.A. 40-428 is hereby amended to read as follows: 40-
16 428. (a) In the case of policies issued on or after the operative date of
17 this section, as defined in subsection (d-1), (d-2), (d-3) or (i), no policy
18 of life insurance, except as stated in subsection (h) shall be delivered or
19 issued for delivery in this state unless it shall contain in substance the
20 following provisions, or corresponding provisions which in the opinion of
21 the commissioner of insurance are at least as favorable to the defaulting
22 or surrendering policyholder as are the minimum requirements herein-
23 after specified and are essentially in compliance with subsection (g) of
24 this section.

25 (i) In the event of default in any premium payment, the company will
26 grant, upon proper request not later than 60 days after the due date of
27 the premium in default, a paid-up nonforfeiture benefit on a plan stipu-
28 lated in the policy, effective as of such due date, of such amount as may
29 be hereinafter specified.

30 In lieu of such stipulated paid-up nonforfeiture benefit, the company
31 may substitute, upon proper request not later than 60 days after the due
32 date of the premium in default, an actuarially equivalent alternative paid-
33 up nonforfeiture benefit which provides a greater amount or longer pe-
34 riod of death benefits or, if applicable, a greater amount or earlier pay-
35 ment of endowment benefits.

36 (ii) Upon surrender of the policy within 60 days after the due date of
37 any premium payment in default after premiums have been paid for at
38 least three full years in the case of ordinary insurance or five full years in
39 the case of industrial insurance, the company will pay, in lieu of any paid-
40 up nonforfeiture benefit, a cash surrender value of such amount as may
41 be hereinafter specified.

42 (iii) A specified paid-up nonforfeiture benefit shall become effective
43 as specified in the policy unless the person entitled to make such election

1 elects another available option not later than 60 days after the due date
2 of the premium in default.

3 (iv) If the policy shall have become paid-up by completion of all pre-
4 mium payments or if it is continued under any paid-up nonforfeiture
5 benefit which became effective on or after the third policy anniversary in
6 the case of ordinary insurance or the fifth policy anniversary in the case
7 of industrial insurance, the company will pay, upon surrender of the policy
8 within 30 days after any policy anniversary, a cash surrender value of such
9 amount as may be hereinafter specified.

10 (v) In the case of policies which cause on a basis guaranteed in the
11 policy unscheduled changes in benefits or premiums, or which provide
12 an option for changes in benefits or premiums other than a change to a
13 new policy, a statement of the mortality table, interest rate, and method
14 used in calculating cash surrender values and the paid-up nonforfeiture
15 benefits available under the policy. In the case of all other policies, a
16 statement of the mortality table and interest rate used in calculating the
17 cash surrender values and the paid-up nonforfeiture benefits available
18 under the policy, together with a table showing the cash surrender value,
19 if any, and paid-up nonforfeiture benefit, if any, available under the policy
20 on each policy anniversary either during the first 20 policy years or during
21 the term of the policy, whichever is shorter, such values and benefits to
22 be calculated upon the assumption that there are no dividends or paid-
23 up additions credited to the policy and that there is no indebtedness to
24 the company on the policy.

25 (vi) A statement that the cash surrender values and the paid-up non-
26 forfeiture benefits available under the policy are not less than the mini-
27 mum values and benefits required by or pursuant to any statute of the
28 state in which the policy is delivered; and an explanation of the manner
29 in which the cash surrender values and the paid-up nonforfeiture benefits
30 are altered by the existence of any paid-up additions credited to the policy
31 or any indebtedness to the company on the policy; if a detailed statement
32 of the method of computation of the values and benefits shown in the
33 policy is not stated therein, a statement that such method of computation
34 has been filed with the insurance supervisory official of the state in which
35 the policy is delivered; and, a statement of the method to be used in
36 calculating the cash surrender value and paid-up nonforfeiture benefit
37 available under the policy on any policy anniversary beyond the last an-
38 niversary for which such values and benefits are consecutively shown in
39 the policy.

40 Any of the foregoing provisions or portions thereof not applicable by
41 reason of the plan of insurance may, to the extent inapplicable, be omitted
42 from the policy with the consent of the insurance commissioner.

43 The company shall reserve the right to defer the payment of any cash

1 surrender value for a period of six months after demand therefor with
2 surrender of the policy. *During such period of deferment, any interest or*
3 *dividends that would be applicable* **accrue** *in the absence of a surrender*
4 *of the policy shall continue to accrue* **until such surrender value is paid.**

5 (b) Any cash surrender value available under the policy in the event
6 of default in a premium payment due on any policy anniversary, whether
7 or not required by subsection (a), shall be an amount not less than the
8 excess, if any, of the present value, on such anniversary, of the future
9 guaranteed benefits which would have been provided for by the policy,
10 including any existing paid-up additions, if there had been no default,
11 over the sum of: (i) The then present value of the adjusted premiums as
12 defined in subsections (d), (d-1), (d-2) and (d-3), corresponding to pre-
13 miums which would have fallen due on and after such anniversary; and
14 (ii) the amount of any indebtedness to the company on the policy.

15 For any policy issued on or after the operative date of subsection (d-
16 3) as defined therein, which provides supplemental life insurance or an-
17 nuity benefits at the option of the insured and for an identifiable addi-
18 tional premium by rider or supplemental policy provision, the cash
19 surrender value referred to in the first paragraph of this subsection shall
20 be an amount not less than the sum of the cash surrender value as defined
21 in such paragraph for an otherwise similar policy issued at the same age
22 without such rider or supplemental policy provision and the cash surren-
23 der value as defined in such paragraph for a policy which provides only
24 the benefits otherwise provided by such rider or supplemental policy
25 provision.

26 For any family policy issued on or after the operative date of subsection
27 (d-3) as defined therein, which defines a primary insured and provides
28 term insurance on the life of the spouse of the primary insured expiring
29 before the spouse's age 71, the cash surrender value referred to in the
30 first paragraph of this subsection shall be an amount not less than the
31 sum of the cash surrender value as defined in such paragraph for an
32 otherwise similar policy issued at the same age without such term insur-
33 ance on the life of the spouse and the cash surrender value as defined in
34 such paragraph for a policy which provides only the benefits otherwise
35 provided by such term insurance on the life of the spouse.

36 Any cash surrender value available within 30 days after any policy an-
37 niversary under any policy paid-up by completion of all premium pay-
38 ments or any policy continued under any paid-up nonforfeiture benefit,
39 whether or not required by subsection (a), shall be an amount not less
40 than the present value, on such anniversary, of the future guaranteed
41 benefits provided for by the policy, including any existing paid-up addi-
42 tions, decreased by any indebtedness to the company on the policy.

43 (c) Any paid-up nonforfeiture benefit available under the policy in

1 the event of default in a premium payment due on any policy anniversary
2 shall be such that its present value as of such anniversary shall be at least
3 equal to the cash surrender value then provided for by the policy, or, if
4 none is provided for, that cash surrender value which would have been
5 required by this section in the absence of the condition that premiums
6 shall have been paid for at least a specified period.

7 (d) This subsection (d) shall not apply to policies issued on and after
8 the operative date of subsection (d-3), as defined therein. Except as pro-
9 vided in the third paragraph of this subsection, the adjusted premiums
10 for any policy shall be calculated on an annual basis and shall be such
11 uniform percentage of the respective premiums specified in the policy
12 for each policy year, excluding amounts stated in the policy as extra pre-
13 miums to cover impairments or special hazards, that the present value,
14 at the date of issue of the policy, of all such adjusted premiums shall be
15 equal to the sum of: (i) The then present value of the future guaranteed
16 benefits provided for by the policy; (ii) two percent of the amount of
17 insurance, if the insurance be uniform in amount, or of the equivalent
18 uniform amount, as hereinafter defined, if the amount of insurance varies
19 with duration of the policy; (iii) forty percent of the adjusted premium
20 for the first policy year; (iv) twenty-five percent of either the adjusted
21 premium for the first policy year or the adjusted premium for a whole
22 life policy of the same uniform or equivalent uniform amount with uni-
23 form premiums for the whole life issued at the same age for the same
24 amount of insurance, whichever is less. In applying the percentages spec-
25 ified in (iii) and (iv) above, no adjusted premium shall be deemed to
26 exceed 4% of the amount of insurance or uniform amount equivalent
27 thereto. The date of issue of a policy for the purpose of this subsection
28 shall be the date as of which the rated age of the insured is determined.

29 In the case of a policy providing an amount of insurance varying with
30 duration of the policy, the equivalent uniform amount thereof for the
31 purpose of this subsection shall be deemed to be the uniform amount of
32 insurance provided by an otherwise similar policy, containing the same
33 endowment benefit or benefits, if any, issued at the same age and for the
34 same term, the amount of which does not vary with duration and the
35 benefits under which have the same present value at the date of issue as
36 the benefits under the policy. In the case of a policy issued at an age less
37 than 10 years the equivalent uniform amount of insurance may be based
38 upon the amount of insurance after age 10.

39 The adjusted premiums for any policy providing term insurance ben-
40 efits by rider or supplemental policy provision shall be equal to (a) the
41 adjusted premiums for an otherwise similar policy issued at the same age
42 without such term insurance benefits, increased, during the period for
43 which premiums for such term insurance benefits are payable, by (b) the

1 adjusted premiums for such term insurance, the foregoing items (a) and
2 (b) being calculated separately and as specified in the first two paragraphs
3 of this subsection except that, for the purposes of (ii), (iii) and (iv) of the
4 first such paragraph, the amount of insurance or equivalent uniform
5 amount of insurance used in the calculation of the adjusted premiums
6 referred to in (b) shall be equal to the excess of the corresponding amount
7 determined for the entire policy over the amount used in the calculation
8 of the adjusted premiums in (a).

9 Except as otherwise provided in subsections (d-1) and (d-2), all ad-
10 justed premiums and present values referred to in this section shall for
11 all policies of ordinary insurance be calculated on the basis of the com-
12 missioners' 1941 standard ordinary mortality table. For any category of
13 ordinary insurance issued on female risks, adjusted premiums and present
14 values may be calculated, according to an age not more than three years
15 younger than the actual age of the insured. Such calculations for all pol-
16 icies of industrial insurance shall be made on the basis of the 1941 stan-
17 dard industrial mortality table. All calculations shall be made on the basis
18 of the rate of interest, not exceeding $3\frac{1}{2}\%$ per annum, specified in the
19 policy for calculating cash surrender values and paid-up nonforfeiture
20 benefits. In calculating the present value of any paid-up term insurance
21 with accompanying pure endowment, if any, offered as a nonforfeiture
22 benefit, the rates of mortality assumed may be not more than 130% of
23 the rates of mortality according to such applicable table. If the rate of
24 mortality used exceeds 100% the rate shall be stated in the policy. For
25 insurance issued on a substandard basis, the calculation of any such ad-
26 justed premiums and present values may be based on such other table of
27 mortality as may be specified by the company and approved by the com-
28 missioner of insurance.

29 (d-1) This subsection (d-1) shall not apply to ordinary policies issued
30 on or after the operative date of subsection (d-3), as defined therein. In
31 the case of ordinary policies issued on or after the operative date of this
32 subsection (d-1) as defined herein, all adjusted premiums, as defined in
33 subsection (d), and present values referred to in this section shall be
34 calculated on the basis of the commissioners' 1958 standard ordinary mor-
35 tality table and the rate of interest specified in the policy for calculating
36 cash surrender values and paid-up nonforfeiture benefits. Such rate of
37 interest shall not exceed $3\frac{1}{2}\%$ per annum, except that a rate of interest
38 not exceeding 4% per annum may be used for policies issued on or after
39 July 1, 1973, and prior to July 1, 1978, and a rate of interest not exceeding
40 $5\frac{1}{2}\%$ per annum may be used for policies issued on or after July 1, 1978,
41 except that for any single premium whole life or endowment insurance
42 policy a rate of interest not exceeding $6\frac{1}{2}\%$ per annum may be used. For
43 any category of ordinary insurance issued on female risks, adjusted pre-

1 miums and present values may be calculated according to an age not more
2 than six years younger than the actual age of the insured. In calculating
3 the present value of any paid-up term insurance with accompanying pure
4 endowment, if any, offered as a nonforfeiture benefit, the rates of mor-
5 tality assumed may be not more than those shown in the commissioners'
6 1958 extended term insurance table. For insurance issued on a substan-
7 dard basis, the calculation of any such adjusted premiums and present
8 values may be based on such other table of mortality as may be specified
9 by the company and approved by the commissioner.

10 After the effective date of this subsection (d-1), any company may file
11 with the commissioner a written notice of its election to comply with the
12 provisions of this subsection after a specified date. After the filing of such
13 notice, then upon such specified date (which shall be the operative date
14 of this subsection for such company), this subsection shall become op-
15 erative with respect to the ordinary policies thereafter issued by such
16 company. Any company, having filed such notice of election to comply
17 with this subsection, and desiring to withdraw from such election as to
18 future policies may file with the commissioner of insurance a written
19 notice of such withdrawal after a specified date, and of its intention to
20 value all its future policies in accordance with the provisions of law ap-
21 plicable to the basis used prior to such election and to provide nonfor-
22 feiture benefits and cash surrender values in future policies as required
23 for the basis used prior to such election.

24 (d-2) This subsection (d-2) shall not apply to industrial policies issued
25 on or after the operative date of subsection (d-3), as defined therein. In
26 the case of industrial policies issued on or after the operative date of this
27 subsection (d-2) as defined herein, all adjusted premiums and present
28 values referred to in this section shall be calculated on the basis of the
29 commissioners' 1961 standard industrial mortality table and the rate of
30 interest specified in the policy for calculating cash surrender values and
31 paid-up nonforfeiture benefits. Such rate of interest shall not exceed
32 3½% per annum, except that a rate of interest not exceeding 4% per
33 annum may be used for policies issued on or after July 1, 1973, and prior
34 to July 1, 1978, and a rate of interest not exceeding 5½% per annum may
35 be used for policies issued on or after July 1, 1978, except that for any
36 single premium whole life or endowment insurance policy a rate of in-
37 terest not exceeding 6½% per annum may be used. In calculating the
38 present value of any paid-up term insurance with accompanying pure
39 endowment, if any, offered as a nonforfeiture benefit, the rates of mor-
40 tality assumed may be not more than those shown in the commissioners'
41 1961 industrial extended term insurance table. For insurance issued on
42 a substandard basis, the calculations of such adjusted premiums and pres-
43 ent values may be based on such other table of mortality as may be spec-

1 ified by the company and approved by the commissioner.

2 After the effective date of this subsection (d-2), any company may file
3 with the commissioner a written notice of its election to comply with the
4 provisions of this subsection after a specified date. After the filing of such
5 notice, then upon such specified date (which shall be the operative date
6 of this subsection for such company), this subsection shall become op-
7 erative with respect to the industrial policies thereafter issued by such
8 company. Any company having filed such notice of election to comply
9 with this subsection, and desiring to withdraw from such election as to
10 future policies may file with the commissioner of insurance a written
11 notice of such withdrawal after a specified date, and of its intention to
12 value all its future policies in accordance with provisions of law applicable
13 to the basis used prior to such elections and to provide nonforfeiture
14 benefits and cash surrender values in future policies as required for the
15 basis used prior to such election.

16 (d-3) (1) This subsection shall apply to all policies issued on or after
17 the operative date of this subsection (d-3), as defined herein. Except as
18 provided in the seventh paragraph of this subsection, the adjusted pre-
19 miums for any policy shall be calculated on an annual basis and shall be
20 such uniform percentage of the respective premiums specified in the
21 policy for each policy year, excluding amounts payable as extra premiums
22 to cover impairments or special hazards and also excluding any uniform
23 annual contract charge or policy fee specified in the policy in a statement
24 of the method to be used in calculating the cash surrender values and
25 paid-up nonforfeiture benefits, that the present value, at the date of issue
26 of the policy, of all adjusted premiums shall be equal to the sum of: (i)
27 The then present value of the future guaranteed benefits provided for by
28 the policy; (ii) one percent of either the amount of insurance, if the in-
29 surance be uniform in amount, or the average amount of insurance at the
30 beginning of each of the first 10 policy years; and (iii) one hundred
31 twenty-five percent of the nonforfeiture net level premium as hereinafter
32 defined. In applying the percentage specified in (iii) above, no nonfor-
33 feiture net level premium shall be deemed to exceed 4% of either the
34 amount of insurance, if the insurance be uniform in amount, or the av-
35 erage amount of insurance at the beginning of each of the first 10 policy
36 years. The date of issue of a policy for the purpose of this subsection shall
37 be the date as of which the rated age of the insured is determined.

38 (2) The nonforfeiture net level premium shall be equal to the present
39 value, at the date of issue of the policy, of the guaranteed benefits pro-
40 vided for by the policy divided by the present value, at the date of issue
41 of the policy, of an annuity of one per annum payable on the date of issue
42 of the policy and on each anniversary of such policy on which a premium
43 falls due.

1 (3) In the case of policies which cause on a basis guaranteed in the
2 policy unscheduled changes in benefits or premiums, or which provide
3 an option for changes in benefits or premiums other than a change to a
4 new policy, the adjusted premiums and present values shall initially be
5 calculated on the assumption that future benefits and premiums do not
6 change from those stipulated at the date of issue of the policy. At the
7 time of any such change in the benefits or premiums the future adjusted
8 premiums, nonforfeiture net level premiums and present values shall be
9 recalculated on the assumption that future benefits and premiums do not
10 change from those stipulated by the policy immediately after the change.

11 (4) Except as otherwise provided in the seventh paragraph of this
12 subsection, the recalculated future adjusted premiums for any such policy
13 shall be such uniform percentage of the respective future premiums spec-
14 ified in the policy for each policy year, excluding amounts payable as extra
15 premiums to cover impairments and special hazards, and also excluding
16 any uniform annual contract charge or policy fee specified in the policy
17 in a statement of the method to be used in calculating the cash surrender
18 values and paid-up nonforfeiture benefits, that the present value, at the
19 time of change to the newly defined benefits or premiums, of all such
20 future adjusted premiums shall be equal to the excess of (A) the sum of
21 (i) the then present value of the then future guaranteed benefits provided
22 for by the policy and (ii) the additional expense allowance, if any, over
23 (B) the then cash surrender value, if any, or present value of any paid-up
24 nonforfeiture benefit under the policy.

25 (5) The additional expense allowance, at the time of the change to
26 the newly defined benefits or premiums, shall be the sum of: (i) One
27 percent of the excess, if positive, of the average amount of insurance at
28 the beginning of each of the first 10 policy years subsequent to the change
29 over the average amount of insurance prior to the change at the beginning
30 of each of the first 10 policy years subsequent to the time of the most
31 recent previous change, or, if there has been no previous change, the date
32 of issue of the policy; and (ii) one hundred twenty-five percent of the
33 increase, if positive, in the nonforfeiture net level premium.

34 (6) The recalculated nonforfeiture net level premium shall be equal
35 to the result obtained by dividing (A) by (B) where (A) equals the sum
36 of: (i) The nonforfeiture net level premium applicable prior to the change
37 times the present value of an annuity of one per annum payable on each
38 anniversary of the policy on or subsequent to the date of the change on
39 which a premium would have fallen due had the change not occurred;
40 and (ii) the present value of the increase in future guaranteed benefits
41 provided for by the policy, and

42 (B) Equals the present value of an annuity of one per annum payable
43 on each anniversary of the policy on or subsequent to the date of change

1 on which a premium falls due.

2 (7) Notwithstanding any other provisions of this subsection to the
3 contrary, in the case of a policy issued on a substandard basis which
4 provides reduced graded amounts of insurance so that, in each policy
5 year, such policy has the same tabular mortality cost as an otherwise
6 similar policy issued on the standard basis which provides higher uniform
7 amounts of insurance, adjusted premiums and present values for such
8 substandard policy may be calculated as if it were issued to provide such
9 higher uniform amounts of insurance on the standard basis.

10 (8) All adjusted premiums and present values referred to in this sec-
11 tion shall for all policies of ordinary insurance be calculated on the basis
12 of: (i) The commissioners' 1980 standard ordinary mortality table; or (ii)
13 at the election of the company for any one or more specified plans of life
14 insurance, the commissioners' 1980 standard ordinary mortality table with
15 ten-year select mortality factors; shall for all policies of industrial insur-
16 ance be calculated on the basis of the commissioners' 1961 standard in-
17 dustrial mortality table; and shall for all policies issued in a particular
18 calendar year be calculated on the basis of a rate of interest not exceeding
19 the nonforfeiture interest rate as defined in this subsection for policies
20 issued in that calendar year. Except:

21 (A) At the option of the company, calculations for all policies issued
22 in a particular calendar year may be made on the basis of a rate of interest
23 not exceeding the nonforfeiture interest rate, as defined in this subsec-
24 tion, for policies issued in the immediately preceding calendar year.

25 (B) Under any paid-up nonforfeiture benefit, including any paid-up
26 dividend additions, any cash surrender value available, whether or not
27 required by subsection (a), shall be calculated on the basis of the mortality
28 table and rate of interest used in determining the amount of such paid-
29 up nonforfeiture benefit and paid-up dividend additions, if any.

30 (C) A company may calculate the amount of any guaranteed paid-up
31 nonforfeiture benefit including any paid-up additions under the policy on
32 the basis of an interest rate no lower than that specified in the policy for
33 calculating cash surrender values.

34 (D) In calculating the present value of any paid-up term insurance
35 with accompanying pure endowment, if any, offered as a nonforfeiture
36 benefit, the rates of mortality assumed may be not more than those shown
37 in the commissioners' 1980 extended term insurance table for policies of
38 ordinary insurance and not more than the commissioners' 1961 industrial
39 extended term insurance table for policies of industrial insurance.

40 (E) For insurance issued on a substandard basis, the calculation of
41 any such adjusted premiums and present values may be based on appro-
42 priate modifications of the aforementioned tables.

43 (F) Any ordinary mortality tables, adopted after 1980 by the national

1 association of insurance commissioners, that are approved by regulation
2 promulgated by the commissioner for use in determining the minimum
3 nonforfeiture standard may be substituted for the commissioners' 1980
4 standard ordinary mortality table with or without ten-year select mortality
5 factors or for the commissioners' 1980 extended term insurance table.

6 (G) Any industrial mortality tables, adopted after 1980 by the national
7 association of insurance commissioners, that are approved by regulation
8 promulgated by the commissioner for use in determining the minimum
9 nonforfeiture standard may be substituted for the commissioners' 1961
10 standard industrial mortality table or the commissioners' 1961 industrial
11 extended term insurance table.

12 (9) The nonforfeiture interest rate per annum for any policy issued
13 in a particular calendar year shall be equal to 125% of the calendar year
14 statutory valuation interest rate for such policy as defined in the standard
15 valuation law, rounded to the nearer $\frac{1}{4}\%$.

16 (10) Notwithstanding any other provision of this code to the contrary,
17 any refiling of nonforfeiture values or their methods of computation for
18 any previously approved policy form which involves only a change in the
19 interest rate or mortality table used to compute nonforfeiture values shall
20 not require refiling of any other provisions of that policy form.

21 (11) After the effective date of this subsection (d-3), any company
22 may file with the commissioner a written notice of its election to comply
23 with the provisions of this subsection after a specified date before January
24 1, 1989, which shall be the operative date of this subsection for such
25 company. If a company makes no such election, the operative date of this
26 subsection for such company shall be January 1, 1989.

27 (e) In the case of any plan of life insurance which provides for future
28 premium determination, the amounts of which are to be determined by
29 the insurance company based on then estimates of future experience, or
30 in the case of any plan of life insurance which is of such a nature that
31 minimum values cannot be determined by the methods described in sub-
32 sections (a), (b), (c), (d), (d-1), (d-2) or (d-3) herein, then:

33 (1) The commissioner must be satisfied that the benefits provided
34 under the plan are substantially as favorable to policyholders and insureds
35 as the minimum benefits otherwise required by subsections (a), (b), (c),
36 (d), (d-1), (d-2) or (d-3) herein;

37 (2) the commissioner must be satisfied that the benefits and the pat-
38 tern of premiums of that plan are not such as to mislead prospective
39 policyholders or insureds;

40 (3) the cash surrender values and paid-up nonforfeiture benefits pro-
41 vided by such plan must not be less than the minimum values and benefits
42 required for the plan computed by a method consistent with the princi-
43 ples of this standard nonforfeiture law, as determined by regulations

1 promulgated by the commissioner.

2 (f) Any cash surrender value and any paid-up nonforfeiture benefit,
3 available under any such policy in the event of default in the payment of
4 any premium due at any time other than on the policy anniversary, shall
5 be calculated with allowance for the lapse of time and the payment of
6 fractional premiums beyond the beginning of the policy year in which the
7 default occurs. All values referred to in subsections (b), (c), (d), (d-1), (d-
8 2) and (d-3) may be calculated upon the assumption that any death benefit
9 is payable at the end of the policy year of death. The net value of any
10 paid-up additions, other than paid-up term additions, shall be not less
11 than the amounts used to provide such additions. Notwithstanding the
12 provisions of subsection (b), additional benefits payable: (i) In the event
13 of death or dismemberment by accident or accidental means; (ii) in the
14 event of total and permanent disability; (iii) as reversionary annuity or
15 deferred reversionary annuity benefits; (iv) as term insurance benefits
16 provided by a rider or supplemental policy provision to which, if issued
17 as a separate policy, this section would not apply; (v) as term insurance
18 on the life of a child or on the lives of children provided in a policy on
19 the life of a parent of a child, if such term insurance expires before the
20 child's age is 26, is uniform in amount after the child's age is one, and
21 has not become paid-up by reason of the death of a parent of the child;
22 and (vi) as other policy benefits additional to life insurance and endow-
23 ment benefits, and premiums for all such additional benefits, shall be
24 disregarded in ascertaining cash surrender values and nonforfeiture ben-
25 efits required by this section, and no such additional benefits shall be
26 required to be included in any paid-up nonforfeiture benefits.

27 (g) This subsection, in addition to all other applicable subsections of
28 this section, shall apply to all policies issued on or after January 1, 1986.
29 Any cash surrender value available under the policy in the event of default
30 in a premium payment due on any policy anniversary shall be in an
31 amount which does not differ by more than .2% of either the amount of
32 insurance, if the insurance be uniform in amount, or the average amount
33 of insurance at the beginning of each of the first 10 policy years, from
34 the sum of: (a) The greater of zero and the basic cash value hereinafter
35 specified; and (b) the present value of any existing paid-up additions less
36 the amount of any indebtedness to the company under the policy.

37 The basic cash value shall be equal to the present value, on such an-
38 niversary, of the future guaranteed benefits which would have been pro-
39 vided for by the policy, excluding any existing paid-up additions and be-
40 fore deduction of any indebtedness to the company, if there had been no
41 default, less the then present value of the nonforfeiture factors, as here-
42 inafter defined, corresponding to premiums which would have fallen due
43 on and after such anniversary. The effects on the basic cash value of

1 supplemental life insurance or annuity benefits or of family coverage, as
2 described in subsection (b) or (d), whichever is applicable, shall be the
3 same as are the effects specified in subsection (b) or (d), whichever is
4 applicable on the cash surrender values defined in that subsection.

5 The nonforfeiture factor for each policy year shall be an amount equal
6 to a percentage of the adjusted premium for the policy year, as defined
7 in subsection (d) or (d-3), whichever is applicable. Except as is required
8 by the next succeeding sentence of this paragraph, such percentage:

9 (a) Must be the same percentage for each policy year between the
10 second policy anniversary and the later of: (i) The fifth policy anniversary;
11 and (ii) the first policy anniversary at which there is available under the
12 policy a cash surrender value in an amount, before including any paid-up
13 additions and before deducting any indebtedness, of at least .2% of either
14 the amount of insurance, if the insurance be uniform in amount, or the
15 average amount of insurance at the beginning of each of the first 10 policy
16 years; and

17 (b) must be such that no percentage after the later of the two policy
18 anniversaries specified in the preceding item (a) may apply to fewer than
19 five consecutive policy years.

20 No basic cash value may be less than the value which would be obtained
21 if the adjusted premiums for the policy, as defined in subsection (d) or
22 (d-3), whichever is applicable, were substituted for the nonforfeiture fac-
23 tors in the calculation of the basic cash value.

24 All adjusted premiums and present values referred to in this subsection
25 shall for a particular policy be calculated on the same mortality and in-
26 terest bases as are used in demonstrating the policy's compliance with
27 the other sections of this act. The cash surrender values referred to in
28 this subsection shall include any endowment benefits provided for by the
29 policy.

30 Any cash surrender value available other than in the event of default
31 in a premium payment due on a policy anniversary, and the amount of
32 any paid-up nonforfeiture benefit available under the policy in the event
33 of default in a premium payment shall be determined in manners con-
34 sistent with the manners specified for determining the analogous mini-
35 mum amounts in subsections (a), (b), (c), (d-3), and (f). The amounts of
36 any cash surrender values and of any paid-up nonforfeiture benefits
37 granted in connection with additional benefits such as those listed as items
38 (i) through (vi) in subsection (f) shall conform with the principles of this
39 subsection (g).

40 (h) This section shall not apply to any of the following: (1) Reinsur-
41 ance; (2) group insurance; (3) pure endowment; (4) annuity or reversion-
42 ary annuity contract; (5) term policy of uniform amount, which provides
43 no guaranteed nonforfeiture or endowment benefits, or renewal thereof,

1 of 20 years or less expiring before age 71, for which uniform premiums
2 are payable during the entire term of the policy; (6) term policy of de-
3 creasing amount, which provides no guaranteed nonforfeiture or endow-
4 ment benefits, on which each adjusted premium calculated as specified
5 in subsections (d), (d-1), (d-2) and (d-3), is less than the adjusted premium
6 so calculated, on a term policy of uniform amount, or renewal thereof,
7 which provides no guaranteed nonforfeiture or endowment benefits, is-
8 sued at the same age and for the same initial amount of insurance and
9 for a term of 20 years or less expiring before age 71, for which uniform
10 premiums are payable during the entire term of the policy; (7) policy,
11 which provides no guaranteed nonforfeiture or endowment benefits, for
12 which no cash surrender value, if any, or present value of any paid-up
13 nonforfeiture benefit, at the beginning of any policy year, calculated as
14 specified in subsections (b), (c), (d), (d-1), (d-2) and (d-3), exceeds 2½%
15 of the amount of insurance at the beginning of the same policy year; nor
16 (8) policy which shall be delivered outside this state through an agent or
17 other representative of the company issuing the policy.

18 For purposes of determining the applicability of this section, the age
19 at expiry for a joint term life insurance policy shall be the age at expiry
20 of the oldest life.

21 (i) After the effective date of this act, any company may file with the
22 commissioner of insurance a written notice of its election to comply with
23 the provisions of this section other than as provided in subsections (d-1),
24 (d-2), (d-3), (e) and (g) after a specified date. After the filing of such
25 notice, then upon such specified date (which shall be the operative date
26 for such company) such provisions shall become operative with respect
27 to all policies thereafter issued by such company.

28 (j) Any company, having filed written notices as provided in the pre-
29 ceding subsection (i), and desiring to withdraw from such election as to
30 future policies may file with the commissioner of insurance a written
31 notice of such withdrawal after a specified date, and of its intention to
32 value all its future policies in accordance with the provisions of subsection
33 (b) of K.S.A. 40-409, and amendments thereto, and to provide nonfor-
34 feiture benefits and cash surrender values in future policies in accordance
35 with K.S.A. 40-427. After the filing of such withdrawal notice, then upon
36 such specified date, subsection (b) of K.S.A. 40-409, and amendments
37 thereto, and K.S.A. 40-427 shall become operative with respect to all
38 policies thereafter issued by such company in this state.

39 Sec. 2. K.S.A. 40-428 is hereby repealed.

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