

MINUTES OF THE SENATE COMMITTEE ON FINANCIAL INSTITUTIONS AND INSURANCE

The meeting was called to order by Sen. Neil H. Arasmith at  
Chairperson

9:00 a.m./~~p.m.~~ on February 14, 1985 in room 529-S of the Capitol.

All members were present except:

Sen. Warren - Excused

Committee staff present:

Bill Wolff, Legislative Research  
Bruce Kinzie, Revisor of Statutes

Conferees appearing before the committee:

Bud Cornish, Kansas Association of Property and Casualty Insurance Agencies  
Ron Todd, Kansas Insurance Department  
Larry Christ, Securities Commissioner's Office  
Don Schnacke, Kansas Independent Oil and Gas Association

The minutes of February 13 were approved.

The meeting began with the request for the introduction of a bill by Bud Cornish, Kansas Association of Property and Casualty Insurance Agencies. (See Attachment I). Mr. Cornish noted that twenty eight states have conversion statutes and some other states permit it under approval of the commissioner.

Sen. Burke made a motion to introduce the bill and refer it back to committee. Sen. Karr seconded the motion, and it carried.

Ron Todd, Kansas Insurance Department, followed with his request for the introduction of four bills. (See Attachments II, III, IV, and V).

Sen. Burke made a motion that the bills be introduced and referred back to committee. Sen. Gordon seconded, and the motion carried.

The chairman called on Larry Christ of the Securities Commissioner's office to give testimony on SB 140 which deals with the exemption from registration certain gas and oil leases. Mr. Christ reminded the committee that this bill had been passed by the Senate last year but had not passed the House due to a calendar oversight on the last day of the session. The bill includes a technical correction which would allow oil and gas operators to use an additional exemption.

Don Schnacke, Kansas Oil and Gas Association, appeared in support of SB 140.

Sen. Reilly made a motion to recommend SB 140 favorably. Sen. Gannon seconded, and the motion carried.

The meeting was adjourned.

SENATE COMMITTEE

ON

FINANCIAL INSTITUTIONS AND INSURANCE

OBSERVERS  
(Please print)

DATE	NAME	ADDRESS	REPRESENTING
2/11/85	Larry Christ	503 Ks. Ave Topeka, Ks	Ks. Securities Comm.
2/14/85	Jimi Ketchum	M. Pherson, Ks	FARMERS Alliance Mutual Ins Co.
	John Petersen	Topeka	KAEG
	DENNIS DEHN	"	SEN. WERTS' INTERN
	STEVE LOBELL	TOPEKA	AMERICAN HOME LIFE
	L M CORNUISH	"	Assoc P/C of Kas
	Don Schwaacke	Topeka	Ks. Indep. Oil & Gas Assn
	Ben Todd	"	Ks Ins Dept
	Wayne Morris	"	Security Benefit Life
	Jim Ellen (Soyl)	Wichita	Ks Credit Union League
	Janel Wright	Topeka	Ks Credit Un League

27-2

AN ACT concerning the conversion of a domestic mutual insurer into a stock insurer; permitting the conversion; and providing the procedures whereby the conversion may be effected.

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

Section 1. A domestic mutual insurer issuing nonassessable policies may be converted into a domestic stock insurer. To that end it may provide and carry out a Plan for such conversion by complying with the requirements of this Act.

Section 2. (a) A resolution shall be adopted by a two-thirds majority of the Board of Directors of the insurer which shall state the reason such conversion would benefit the insurer and be in the best interests of its policyholders. Following adoption of such resolution a detailed Plan of Conversion shall be developed and shall be approved by a two-thirds majority of the Board of Directors.

(b) Such Plan shall be submitted to the Commissioner of Insurance for approval in writing, subject to the provisions of Section 4.

(c) If approved by the Commissioner, the Plan shall be approved by a majority vote of the policyholders voting in person or by proxy at a meeting of the members called for that purpose, pursuant to the bylaws of the insurer.

(d) The Board of Directors by vote of no less than two-thirds of the entire board may, at any time prior to the date of the meeting called pursuant to paragraph 2 (c),: (i) withdraw the Plan if conversion is deemed to no longer be in the best interests of the insurer or its policyholders; or (ii) amend the Plan, provided, however, that no amendment which materially changes the Plan shall take effect unless a hearing is held thereon and such amendment is approved by the Commissioner and the policyholders subject to the same conditions and procedures applicable to the original Plan.

(e) The Plan shall be filed in the office of the Commissioner of Insurance after having been approved as provided above.

Section 3. The Plan of Conversion shall include the following:

(a) A provision to be included in the amended articles of incorporation of the converted insurer to the effect that, for a period not to exceed five years from the final act of conversion, no individual, corporation, firm or affiliated group of individuals, corporations or firms, other than the parent corporation, may own, directly or indirectly, more than 5% of the voting stock of the insurer, unless permitted under the terms of paragraph (e) of this section. As used in this Act, "parent corporation" means the corporation specified in the Plan approved by the Board of Directors, the Commissioner of Insurance, and the policyholders.

(b) A description of any amendments to the insurer's articles of incorporation to effect a conversion from a mutual corporation into a stock corporation. Any other amendments proposed for the articles of incorporation shall be set forth in the Plan.

(c) The establishment of a conversion value, as of the date the Board of Directors approves the Plan. The conversion value shall be equal to the Company's policyholders' surplus, determined in accordance with the statutory method of accounting used in preparing the last Annual Statement filed with the Commissioner of Insurance. The insurer shall submit a list of qualified, disinterested appraisers from which the Commissioner of Insurance shall appoint one or more who shall establish the conversion value in accordance with the above procedure.

(d) The procedure by which each eligible policyholder shall receive a proportionate amount of said conversion value in the manner prescribed herein and in subsection (e). For a fire and casualty insurance company, such

amount shall be based upon net premium paid to the general account of the insurer within three years prior to the date on which the Board of Directors approved the Plan. For a life and health insurance company, such amount shall be based on a reasonable determination of the policyholder's contribution to the insurer's statutory surplus, according to generally accepted actuarial principles and practices; provided, however, that each eligible policyholder shall be entitled to an option for at least one share of stock. An eligible policyholder shall be a policyholder of the insurer on the date of approval of the Plan by the Board of Directors whose policy or policies have been in effect for not less than two out of three years immediately prior to the date the Board of Directors approved the Plan; provided, however, if the insured is a crop hail insurance policyholder then said policyholder shall be eligible if the policy or policies have been in effect for at least 90 days during the 365 days immediately preceding the approval of the Plan by the Board of Directors.

(e) The insurer or any holding company of the insurer shall distribute such proportionate conversion value in the following method:

(1) Each policyholder will be issued an option to purchase stock in the converted company.

(2) The total stated value of the stock to be issued shall be equal to the conversion value as determined in Section 3(c).

(3) The stock option shall provide that the policyholders may purchase the stock at its stated value.

(4) The maximum amount of stock that may be purchased by each policyholder shall be in proportion to the policyholder's share of the conversion value, with the number of shares rounded to the nearest whole number, plus any shares purchased pursuant to purchased stock options, subject to the limitations provided in subsection (e)(9).

(5) Policyholders not exercising their option to purchase the stock shall be entitled to sell such option to any person or corporation, including the parent corporation.

(6) The sale of any such stock option shall transfer to the purchaser all rights in and conditions to the option.

(7) All stock options shall be exercised within 60 days from the date such options are distributed to the policyholders, and the options shall be deemed to expire at the end of such 60 day period.

(8) The converted company or the parent corporation shall purchase all stock options that have not been exercised within 60 days from the date such options are distributed to the policyholders.

(9) The converted company or the parent corporation shall purchase, at the stated value, all stock not purchased pursuant to the stock options, and such purchase must be made within 60 days from the date the stock options expire.

(10) Notwithstanding the provisions of subsection (e)(5) above, for five years from the conversion date, no individual, corporation, firm or affiliated group of individuals, corporations or firms, other than a parent corporation, may own, directly or indirectly, more than five percent of the voting stock of the insurer, unless:

(i) the individual is an eligible policyholder whose proportionate share of the conversion is five percent or more and such individual may not purchase stock totalling more than the individual's proportionate share of the conversion value; or

(ii) the purchase is permitted by the Commissioner and authorized by the converted company's Board of Directors.

The above distribution method shall constitute full payment and discharge of the policyholder's proportionate conversion value, but this provision shall not be held to prohibit the converted company or the parent corporation from including in the Plan provisions for the distribution of any other valuable consideration to policyholders. Notwithstanding any other provision of law, the policyholders shall have no other rights resulting from membership in a mutual insurance company with respect to the insurer.

(f) A statement as to the number of shares to be authorized for the insurer and their value. The paid-in capital and surplus of the converted capital stock insurer shall be in an amount not less than two times the minimum initial paid-in capital and surplus required of a domestic stock insurer doing business as of the same date as the converted company, to transact like kinds of insurance.

(g) Provisions establishing the method by which the initial Board of Directors of the stock insurer will be selected.

Section 4. The Commissioner of Insurance shall examine the Plan submitted pursuant to subsection (b) of Section 2. As a part of the examination the Commissioner of Insurance shall within 30 days after its receipt order a hearing on the Plan and shall give not less than 20 days written notice of the date of hearing to the insurer and give not less than 20 days written notice to eligible policyholders by publication. The Commissioner of Insurance shall approve the Plan in writing within 30 days after any hearing is completed unless the Commissioner of Insurance finds the Plan is unfair or inequitable to policyholders, will cause the insurer to become unable to fulfill its contractual obligations, or is not in accordance with the provisions of this Act. If the Plan is not approved, the Commissioner of Insurance shall notify the insurer in writing within 30 days of the hearing,

setting forth the reasons for disapproval. Any such disapproval shall be subject to judicial review.

Section 5. The meeting called for approval of the Plan by the policyholders prescribed by section 2 shall be called by a majority of the Board of Directors, the Chairman of the Board, or the President. A copy of the Plan and any information the Commissioner deems necessary to policyholder understanding shall accompany the notice.

Section 6. Nothing herein provided shall be deemed to prohibit the insurer's directors, officers, agents or employees from being eligible to purchase stock of the insurer, subject to the provisions of section 3 (e) 9 (i) and (ii).

Section 7. No director, officer, agent or employee of the insurer shall receive any fee, commission or other valuable consideration whatsoever, other than regular salary and compensation, for in any manner aiding, promoting or assisting in the conversion except as set forth in the Plan approved by the Commissioner of Insurance. This provision shall not be deemed to prohibit the payment of reasonable fees and compensation to attorneys at law, accountants, appraisers, actuaries, financial advisers or other similar professionals for services performed in the independent practice of their professions, even though they may also be directors of the insurer.

Section 8. Within 30 days of receipt of the filing of the approved Plan in accordance with subsection (d) of Section 2 and the amended articles of incorporation, the Commissioner of Insurance shall issue a new certificate of authority to the insurer. Notwithstanding the actions of any other jurisdiction, the issuance of such certificate shall be deemed the final act of conversion and the mutual insurer shall concurrently become a stock insurer. The stock insurer shall be a continuation of the mutual insurer and deemed to

have been organized at the time the converted mutual insurer was organized. The conversion shall in no way annul, modify or change any of such insurer's existing suits, rights, contracts or liabilities except as provided in the Plan. The insurer, after conversion, shall exercise all the rights and powers and perform all the duties conferred or imposed by law upon insurers writing the classes of insurance written by it, and shall retain the rights and contracts existing prior to conversion, subject to the effect of the Plan.

Section 9. The directors and officers of the mutual insurer shall serve until new directors and officers have been duly elected and qualified pursuant to the Plan and articles of incorporation or bylaws of the insurer.

Section 10. The offer or sale of securities issued pursuant to the Plan developed and approved in accordance with the provisions of this chapter shall be exempt from the Kansas securities laws.

Section 11. No action challenging the validity of a conversion, or any aspect of it under this Act, may be commenced more than 30 days after the final act of conversion.

In any action challenging the plan of conversion or charging that the directors of the insurer or converted insurer or any other person or persons have acted improperly in connection with any aspect of the conversion, the insurer or converted insurer in whose right such action is brought or the defendant or defendants shall be entitled at any state of the proceedings before final judgment to require the plaintiff or plaintiffs to give security for the reasonable expenses including attorney's fees, which may be incurred by the insurer or converted insurer or by the other parties defendant in connection with such action. The amount of such security may thereafter from time to time be increased or decreased in the discretion of the court having jurisdiction of such action upon a showing that the security provided has or may become inadequate or excessive.

Section 12. The Commissioner shall have the authority to adopt such rules and regulations as may be necessary to carry out the provisions of this act.

Section 13. The Commissioner shall also have the authority to charge and collect from the insurer the actual amount of expenses reasonably incurred by the state in discharge of the Commissioner's duties hereunder.

Section 14. Within twenty-four hours of issuance of the certificate of authority to the converted stock insurer, a certified copy of the amended articles of incorporation of the insurer shall be filed with the Secretary of State.

Section 15. This act shall take effect and be in force from and after its publication in the statute book.

EXPLANATORY MEMORANDUM FOR  
LEGISLATIVE PROPOSAL NO. 3

This proposal is intended to provide statutory guidelines and parameters to the formation and operation of preferred provider organizations in Kansas. Currently, such organizations are not subject to specific statutory provisions. However, nonprofit hospital and/or medical service corporations and health maintenance organizations are required to comply with numerous regulatory requirements. Because all three entities are based on the idea of having a "special" arrangement with a health care provider or providers, we have discovered that a number of "would be" preferred provider organizations actually fall under the provisions of statutes governing prepaid service organizations or HMO's.

This proposal will give preferred provider organizations their own statutory identity. At the same time, the proposal avoids restrictive regulation that would discourage or prevent experimentation and evolution of the PPO concept.

The Senate Financial Institutions and Insurance Committee will be requested to introduce this proposal.

2/14/85  
Attachment II

AN ACT relating to insurance; preferred provider agreements; registration; preferred provider organizations; regulation.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF KANSAS:

1 Section 1. Definitions. As used in this act: (a) "Alternative rates of  
2 payment" means the rate at which or sum for which the provider agrees to perform  
3 specified services. (b) "Insurance company" shall include those entities  
4 authorized to conduct business in Kansas under articles 11, 18, 19, 19(a),  
5 19(b), 19(c) and 32, chapter 40, K.S.A. (c) "Plan beneficiary" means any person  
6 eligible to receive provider services under a plan entered into by a purchaser.  
7 (d) "Preferred provider agreement" means a contractual agreement to provide for  
8 alternative rates of payment in which the provider agrees to accept these  
9 alternative rates of payment and accept reasonable quality, professional and  
10 efficiency standards in return for tangible benefits to the provider. (e)  
11 "Preferred provider organization" means a separate entity established for the  
12 purpose of marketing and administering a preferred provider agreement. (f)  
13 "Provider" means one or more entities which offer health care services. (g)  
14 "Purchaser" means one or more persons, organizations or entities which contract  
15 with providers for the purpose of entering into a preferred provider agreement.  
16 (h) "Tangible benefits" means any reasonable expectation of monetary or  
17 administrative advantage including, but not limited to, an increase in the  
18 number of patients, prompt payment for services or assistance in resource  
19 monitoring procedures.

20 Section 2. Preferred provider agreements, contents. No provider shall act  
21 as a preferred provider without a written preferred provider agreement between  
22 the provider and the purchaser and when applicable between the provider,  
23 purchaser and the preferred provider organization, or other entity authorized to  
24 conduct business under chapter 40, K.S.A. A direct agreement between a provider  
25 and a purchaser will not be required when, (a) an insurance company authorized  
26 to conduct accident and health insurance business in Kansas has obtained a  
27 preferred provider agreement with providers and permits their accident and  
28 health insurance customers to use such services; (b) a preferred provider  
29 organization has entered into a preferred provider agreement, with providers and  
30 offers or permits an insurance company authorized to conduct accident and health  
31 insurance business in Kansas, to offer these preferred provider services to  
32 purchasers covered, or to be covered, by an insurance policy issued by such  
33 insurance company, and pursuant to a written contract between the preferred  
34 provider organization and the insurance company. All written agreements shall be  
35 retained as part of the official records of the provider, the purchaser and when  
36 applicable the preferred provider organization, or other entity authorized to  
37 conduct business under chapter 40, K.S.A. for the duration of the agreement and  
38 five years thereafter. Such written agreements shall contain provisions which  
39 include the requirements of this act insofar as applicable.

40 Sec. 3. Preferred provider agreements, limitations. Preferred provider  
41 agreements may be entered into for the purpose of reducing health care costs and  
42 improving provider efficiency, subject to the following limitations: (a) No  
43 preferred provider agreement shall deny reimbursement to a plan beneficiary  
44 because the plan beneficiary elects to use his own health care provider. (b) No  
45 preferred provider agreement shall preclude any party from entering into other  
46 preferred provider agreements. (c) No preferred provider agreement shall permit  
47 the plan beneficiary to be billed for covered health care costs except amounts  
48 for which the subscriber is contractually responsible. Providers shall hold  
49 purchasers harmless for costs, expenses and liability arising by reason of a  
50 preferred provider organization's unlawful or negligent failure to pay provider  
51 costs on behalf of purchasers when due and payable.

52 Sec. 4. Insurance companies. Subject to the provisions of this act,  
53 insurance companies and other entities authorized to conduct accident and health  
54 insurance business in Kansas under chapter 40, K.S.A. may negotiate and enter  
55 into preferred provider agreements with provider(s) or preferred provider  
56 organizations on behalf of a purchaser(s) insured or to be insured by such  
57 insurance company.

58 Section 5. Preferred provider agreements; permissible provisions. Preferred  
59 provider agreements may provide for (a) Alternative rates of payments for  
60 providers. (b) Resource monitoring to assure quality control for both patient  
61 care and cost effectiveness. (c) Administrative procedures for submitting claims  
62 and paying benefits. (d) Accelerated payment of medical charges. (e) Utilization

63 review procedures, or (f) other provisions that reduce health care costs or  
64 increase medical efficiency for Kansas consumers.

65 Sec. 6. Preferred provider organization. Preferred provider organizations  
66 may be established by providers, purchasers, independent persons or entities, or  
67 organizations operating under the insurance laws, chapter 40, of the state of  
68 Kansas. Preferred provider organizations shall not assume the risk for  
69 indemnifying purchasers or employees of purchasers for covered health care  
70 services or of contracting to provide such services.

71 Sec. 7. Preferred provider organizations; deletion or addition of  
72 providers. A preferred provider agreement shall provide for written notice to  
73 the purchaser upon the addition or deletion of providers to the agreement.

74 Section 8. Books and records of preferred provider organizations; access  
75 for commissioner of insurance. Every preferred provider organization shall  
76 maintain at its principle administrative office for the duration of the written  
77 agreement referred to in section 2 of this act and five years thereafter  
78 adequate books and records of all transactions between it, providers and  
79 purchasers. Such books and records shall be maintained in accordance with  
80 prudent standards of insurance record keeping. The commissioner of insurance  
81 shall have access to such books and records for the purpose of examination,  
82 audit and inspection. Any trade secrets contained therein shall be confidential,  
83 except the commissioner may use such information for proceedings instituted  
84 against the preferred provider organization.

85 Section 9. Disposition of funds held by a preferred provider organization;  
86 records, withdrawals of funds. All monies collected by a preferred provider  
87 organization shall be held by the preferred provider organization in a fiduciary  
88 capacity. Such funds shall be immediately remitted to the person or persons  
89 entitled thereto, or shall be deposited promptly in a bank account established  
90 and maintained by the preferred provider organization. If monies so deposited  
91 have been collected on behalf of or for more than one purchaser, the preferred  
92 provider organization shall maintain records clearly recording the deposits in  
93 and withdrawals from such account on behalf of or for each purchaser. The  
94 preferred provider organization shall keep copies of all such records and, upon  
95 request of a purchaser shall furnish such purchaser with copies of such records  
96 pertaining to deposits and withdrawals on behalf of such purchaser. The  
97 preferred provider organization shall not pay any claim by withdrawal from such  
97 account. Withdrawals from the funds deposited in such account shall be made, as  
99 provided in the written agreement between the preferred provider organization  
100 and the purchaser, for (1) remittance to the provider entitled thereto, (2)  
101 deposit in an account maintained in the name of such purchaser, (3) transfer to  
102 and deposit in a claims paying account, with claims to be paid as provided in  
103 the preferred provider agreement or remittance to the provider entitled thereto.  
104 (4) payment to the preferred provider organization of its commission, fees or  
105 charges, or (5) remittance of returned premiums to the person or persons  
106 entitled thereto.

107 Sec. 10. Certification of a preferred provider organization; procedure,  
108 fees, duties of commissioner of insurance. No person shall act as or hold  
109 himself or herself out to be a preferred provider organization in this state,  
110 unless he or she shall hold a certificate of registration as a preferred  
111 provider organization issued by the commissioner of insurance. Application for  
112 such certificate shall be made to the commissioner on a form prescribed by such  
113 commissioner and shall be accompanied by a filing fee of \$100. Such certificate  
114 may be continued for successive annual periods by notifying the commissioner of  
115 such intent and payment of a \$50 continuation fee. Such certificate shall be  
116 issued or continued by the commissioner to a preferred provider organization  
117 unless the commissioner after due notice and hearing shall have determined that  
118 the preferred provider organization is not competent, trustworthy, financially  
119 responsible or of good personal and business reputation.

120 Section 11. Penalty for violation of act, revocation and suspension of  
121 certificate. (a) Failure to hold the certificate required by section 10 of this  
122 act or to comply with any other provision of this code, shall subject the  
123 preferred provider organization to a fine of not more than \$500 unless such  
124 preferred provider knew or reasonably should have known that such failure was a  
125 violation of this act in which the penalty shall be not more than \$5,000. (b)  
126 After reasonable notice and hearing, the commissioner may impose a penalty as  
127 provided in subsection (a) or revoke or suspend such certificate, upon finding  
128 that either the preferred provider organization violated any of the requirements

129 of this act or the preferred provider organization is not competent,  
130 trustworthy, financially responsible or of good personal and business  
131 reputation.

132 Sec. 12. Construction and relationship to other laws. Nothing in this act  
133 shall relieve any person, organization or insurance company of regulation under  
134 any other insurance law.

135 Sec. 13. This act shall not apply to organizations exempt under K.S.A.  
136 40-202.

137 Sec. 14. This act shall take effect and be in force from and after its  
138 publication in the Kansas Register.

EXPLANATORY MEMORANDUM FOR  
LEGISLATIVE PROPOSAL NO. 5

This proposal simply adds nonprofit dental, nonprofit optometric, nonprofit hospital and medical service corporations; health maintenance organizations and third party administrators to the list of entities that are subject to the unauthorized insurers (commonly called the "mail-order statute"). Accordingly, organizations of this kind domiciled outside of Kansas but doing business in Kansas through the mail would be subject to these Kansas laws.

The Senate Financial Institutions and Insurance Committee will be requested to introduce this proposal.

2/17/85

Attachment III

AN ACT relating to insurance; unauthorized insurers; health maintenance organizations; administrators; nonprofit dental service corporations; nonprofit optometric service corporations; amending K.S.A. 40-2702 and repealing the existing section.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF KANSAS:

1 Section 1. K.S.A. 40-2702 is hereby amended to read as follows: 40-2702.  
 2 (a) As used in this act, unless the context otherwise requires, the term  
 3 "insurer" shall mean and include all corporations, companies, associations,  
 4 societies, fraternal benefit societies, mutual nonprofit hospital service and  
 5 nonprofit medical service companies, partnerships and persons engaged as  
 6 principals in the business of insurance of the kinds enumerated in articles 4,  
 7 5, 6, 7, 11, 18, 19, 19a, 19b, 19c, and 22, 32 and 38 of chapter 40 of the  
 8 Kansas Statutes Annotated, and any amendments thereto, insofar as the business  
 9 of insurance of the kinds enumerated in said articles relate to life and  
 10 accident or sickness. Whenever in this section there is reference to an act  
 11 effected or committed by mail, the venue of such act shall be at the point where  
 12 the matter transmitted by mail is delivered and takes effect.

13  
 14 It shall be unlawful for any insurer to transact insurance business in this  
 15 state, as set forth in subsection (b) of this section, without a certificate of  
 16 authority from the commissioner of insurance: Provided, That this section shall  
 17 not apply to:

18 (1) The lawful transaction of insurance procured by agents under the  
 19 authority of K.S.A. 40-246b, 40-246c and 40-246d, relating to accident and  
 20 sickness insurance;

21 (2) Contracts of reinsurance issued by an insurer not organized under the  
 22 laws of this state;

23 (3) Transactions in this state involving a policy lawfully solicited,  
 24 written and delivered outside of this state, covering only subjects of insurance  
 25 not resident in this state at the time of issuance, and which transactions are  
 26 subsequent to the issuance of such policy;

27 (4) Attorneys acting in the ordinary relation of attorney and client in the  
 28 adjustment of claims or losses;

29 (5) Transactions in this state involving group life and group sickness and  
 30 accident or blanket sickness and accident insurance or group annuities, where  
 31 the master policy of such groups was lawfully issued and delivered in and  
 32 pursuant to the laws of a state in which the insurer was authorized to do an  
 33 insurance business to a group organized for purposes other than the procurement  
 34 of insurance, and where the policyholder is domiciled or otherwise has a bona  
 35 fide residence;

36 (6) Transactions in this state involving any policy of life or accident and  
 37 health insurance or annuity contract issued prior to the effective date of this  
 38 act;

39 (7) Contracts of insurance written by certain lodges, societies, persons  
 40 and associations specified in K.S.A. 40-202; and

41 (8) Any life insurance company organized and operated, without profit to  
 42 any private shareholder or individual, exclusively for the purpose of aiding and  
 43 strengthening educational institutions, organized and operated without profit to  
 44 any private shareholder or individual, by issuing insurance and annuity  
 45 contracts directly from the home office of the company, without insurance agents  
 46 or insurance representatives in this state, only to or for the benefit of such  
 47 institutions and individuals engaged in the services of such institutions; but  
 48 this exemption shall be conditioned upon any such company complying with the  
 49 following requirements:

50 (i) Payment of an annual registration fee of five hundred dollars (\$500);

51 (ii) Filing a copy of the form of any policy or contract issued to Kansas  
 52 residents with the commissioner of insurance;

53 (iii) Filing a copy of its annual statement prepared pursuant to the laws

54 of its state of domicile, as well as such other financial materials as may be  
55 requested, with the commissioner of insurance; and

56 (iv) Providing, in such form as may be prescribed by the commissioner of  
57 insurance, for the appointment of the commissioner of insurance as its true and  
58 lawful attorney upon whom may be served all lawful process in any action or  
59 proceeding against such company arising out of any policy or contract it has  
60 issued to, or which is currently held by, a Kansas citizen, and process so  
61 served against such company shall have the same force and validity as if served  
62 upon the company.

63 (b) Any of the following acts in this state effected by mail or otherwise  
64 by or on behalf of an unauthorized insurer is deemed to constitute the  
65 transaction of an insurance business in this state:

66 (1) The making of or proposing to make, as an insurer, an insurance  
67 contract;

68 (2) The taking or receiving of any application for insurance;

69 (3) The receiving or collection of any premium, commission, membership  
70 fees, assessment, dues or other consideration for any insurance or any part  
71 thereof;

72 (4) The issuance or delivery of contracts of insurance to residents of this  
73 state or to persons authorized to do business in this state;

74 (5) Directly or indirectly acting as an agent for or otherwise representing  
75 or aiding on behalf of another any person or insurer in the solicitation,  
76 negotiation, procurement or effectuation of insurance or renewals thereof, or in  
77 the dissemination of information as to coverage or rates, or forwarding of  
78 applications, or delivery of policies or contracts or investigation or  
79 adjustment of claims or losses, or in the transaction of matters subsequent to  
80 effectuation of the contract and arising out of it or in any other manner  
81 representing or assisting a person or insurer in the transaction of insurance  
82 with respect to subjects of insurance resident in this state: Provided, That  
83 nothing herein shall be construed to prohibit full-time salaried employees of a  
84 corporate insured from acting in the capacity of an insurance manager or buyer  
85 in placing insurance in behalf of such employer;

86 (6) The transaction of any kind of insurance business specifically  
87 recognized as transacting an insurance business within the meaning of the  
88 statutes relating to insurance; or

89 (7) The transacting of or proposing to transact any insurance business, in  
90 substance equivalent to any of the foregoing, in a manner designed to evade the  
91 provisions of this act.

92 (c)(1) The failure of an insurer transacting insurance business in this  
93 state to obtain a certificate of authority from the commissioner of insurance  
94 shall not impair the validity of any act or contract of such insurer, and shall  
95 not prevent such insurer from defending any action at law or suit in equity in  
96 any court of this state; but no insurer transacting insurance business in this  
97 state without a certificate of authority shall be permitted to maintain an  
98 action in any court of this state to enforce any right, claim or demand arising  
99 out of the transaction of such business until such insurer shall have obtained a  
100 certificate of authority.

101 (2) In the event of failure of any such unauthorized insurer to pay any  
102 claim or loss within the provisions of such insurance contract, any person who  
103 assisted or in any manner aided, directly or indirectly, in the procurement of  
104 such insurance contract shall be liable to the insured for the full amount of  
105 the claim or loss in the manner provided by the provisions of such insurance  
106 contract.

107 Sec. 2. K.S.A. 40-2702 is hereby repealed.

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

EXPLANATORY MEMORANDUM FOR  
LEGISLATIVE PROPOSAL NO. 6

This proposal would specifically provide that third party administrators can be subjected to the provisions of the Kansas Unfair Trade Practices Act at the discretion of the Commissioner.

The Senate Financial Institutions and Insurance Committee will be requested to introduce this proposal.

2/14/25  
Attachment IV

LEGISLATIVE PROPOSAL NO. 6

1 AN ACT relating to insurance; administrators; application of K.S.A.  
2 40-2401, et seq.; amending 40-3811 and repealing the existing section.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF KANSAS:

4 Section 1. K.S.A. 40-3811 is hereby amended to read as follows: 40-3811.  
5 (a) Failure to hold the certificate required by K.S.A. 40-3810 or to comply with  
6 K.S.A. 40-3802 or any of the requirements of K.S.A. 40-3803, 40-3805 to 40-3809,  
7 inclusive, shall subject the administrator to a fine of not more than \$500  
8 unless such administrator knew or reasonably should have known that such failure  
9 was a violation of this act in which case the penalty shall be not more than  
10 \$5,000.

11 (b) After reasonable notice and hearing, the commissioner may impose a  
12 penalty as provided in subsection (a) or revoke or suspend such certificate,  
13 upon finding that either the administrator violated any of the requirements of  
14 this act or the administrator is not competent, trustworthy, financially  
15 responsible, or of good personal and business reputation.

16 (c) In lieu of the penalties prescribed above, the commissioner may subject  
17 persons acting as administrators to the provisions of K.S.A. 40-2401 et seq.

18 Sec. 2. K.S.A. 40-3811 is hereby repealed.

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

EXPLANATORY MEMORANDUM FOR  
LEGISLATIVE PROPOSAL NO. 9

This proposal suggests several changes in the life and health insurance guaranty fund act.

First, the proposal would amend the guaranty fund law so that it would apply only to Kansas residents. If a Kansas domestic life insurer became insolvent, this amendment would provide protection to Kansas residents but not residents of other jurisdictions even though they were insured by a Kansas company. Similarly, the law, as amended, would protect Kansas residents with respect to contracts issued by a foreign insurer even though the insurer's state of domicile had no guaranty fund law.

Second, annuity contracts are again proposed to be covered by the life and health guaranty fund. By action of the 1984 legislature, annuity contracts would be removed from coverage effective July 1, 1985; however, this proposal, in effect, suggests a reversal of the 1984 legislative action.

Third, a number of limitations on coverage under the guaranty fund are suggested by this proposal. There seems to be a growing belief that guaranty funds should provide reasonable protection from the adverse results of an insurance company insolvency but that such protection should not be so comprehensive that extraordinary profits from quasi-speculative purchases are guaranteed. The restrictions suggested are intended to accommodate this concept.

Finally, the premium tax offset currently available under both the life and health and property and casualty guaranty fund laws would be subject to a \$5,000,000 per year, per fund limit.

During the past year, various expressions of legislative concern about the guaranty funds, premium tax offsets, exposure of state's general fund, etc., have surfaced. This proposal is designed to address those concerns.

The Senate Financial Institutions and Insurance Committee will be requested to introduce this proposal.

2/14/85

Attachment II

AN ACT relating to insurance; life and health insurance guaranty fund; restrict application to residents; coverage; limitations; maximum offset against premium taxes; amending K.S.A. 40-2906a, 1984 Supp. 40-3003, 40-3008, 40-3013, 40-3016 and repealing the existing sections.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF KANSAS:

1 Section 1. K.S.A. 40-3003 is hereby amended to read as follows: 40-3003.  
 2 (a) This act shall provide coverage, under the policies and contracts specified  
 3 in subsection (b) to persons who are the certificate holders, beneficiaries,  
 4 assignees or payees of persons who are owners of such policies or contracts, or  
 5 are insureds or annuitants under such policies or contracts and who are  
 6 residents of this state.

7 (b) This act shall apply to direct life insurance policies, health  
 8 insurance policies, annuity contracts and contracts supplemental to life and  
 9 health insurance policies and annuity contracts issued by persons authorized to  
 10 transact insurance in this state at any time.

11 (c) This act shall not apply to:

12 (1) Any such policies or contracts, or any part of such policies or  
 13 contracts, under which the risk is borne by the policyholder;

14 (2) Any such policy or contract or part thereof assumed by the impaired  
 15 insurer under a contract of reinsurance, other than reinsurance for which  
 16 assumption certificates have been issued;

17 (3) Any such policy or contract issued by persons transacting business  
 18 pursuant to the provisions of K.S.A. 40-202 and amendments thereto; and

19 ~~(4) Any annuity contracts except with respect to contractual obligations of~~  
 20 ~~impaired insurers for which the association has become liable prior to July 1,~~  
 21 ~~1985.~~

22 Sec. 2. K.S.A. 40-3008 is hereby amended to read as follows: 40-3008. In  
 23 addition to the powers and duties enumerated in other sections of this act:

24 (a) If a domestic insurer is an impaired insurer, the association may,  
 25 prior to an order of liquidation or rehabilitation, and subject to any  
 26 conditions imposed by the association other than those which impair the  
 27 contractual obligations of the impaired insurer, and approved by the impaired  
 28 insurer and the commissioner:

29 (1) Guarantee or reinsure, or cause to be guaranteed, assumed, or  
 30 reinsured, all the covered policies of the impaired insurer;

31 (2) Provide such moneys, pledges, notes, guarantees, or other means as are  
 32 proper to effectuate subsection (1), and assure payment of the contractual  
 33 obligations of the impaired insurer pending action under subsection (1);

34 (3) Loan money to the impaired insurer;

35 (b) If a foreign or alien insurer is an impaired insurer, the association  
 36 may, prior to an order of liquidation, rehabilitation, or conservation, with  
 37 respect to the covered policies of residents and subject to any conditions  
 38 imposed by the association other than those which impair the contractual  
 39 obligations of the impaired insurer, and approved by the impaired insurer and  
 40 the commissioner:

41 (1) Guarantee or reinsure, or cause to be guaranteed, assumed, or  
 42 reinsured, the impaired insurer's covered policies of residents;

43 (2) Provide such moneys, pledges, notes, guarantees or other means as are  
 44 proper to effectuate subsection (1), and assure payment of the impaired  
 45 insurer's contractual obligations to residents pending action under subsection  
 46 (1);

47 (3) Loan money to the impaired insurer;

48 (c) If a domestic insurer is an impaired insurer under an order of

49 liquidation or rehabilitation, the association shall, subject to the approval of  
50 the commissioner:

51 (1) Guarantee, assume or reinsure, or cause to be guaranteed, assumed or  
52 reinsured the covered policies of the impaired insurer;

53 (2) assure payment of the contractual obligations of the impaired insurer,  
54 and

55 (3) provide such moneys, pledges, notes, guarantees, or other means as are  
56 reasonably necessary to discharge such duties.

57 If the association fails to act within a reasonable period of time, the  
58 commissioner shall have the powers and duties of the association, on behalf of  
59 the association, under this act with respect to such domestic impaired insurer.

60 (d) If a foreign or alien insurer is an impaired insurer under an order of  
61 liquidation, rehabilitation, or conservation, the association shall, subject to  
62 the approval of the commissioner:

63 (1) Guarantee, assume, or reinsure or cause to be guaranteed, assumed, or  
64 reinsured the covered policies of residents;

65 (2) Assure payment of the contractual obligations of the impaired insurer  
66 to residents; and

67 (3) Provide such moneys, pledges, notes, guarantees, or other means as are  
68 reasonably necessary to discharge such duties.

69 If the association fails to act within a reasonable period of time, the  
70 commissioner, on behalf of the association, shall have the powers and duties of  
71 the association under this act with respect to such foreign or alien impaired  
72 insurer.

73 (e)(1) In carrying out its duties under subsections (c) and (d), the  
74 association may request that there be imposed policy liens, contract liens,  
75 moratoriums on payments, or other similar means and such liens, moratoriums, or  
76 similar means may be imposed if the commissioner:

77 (A) Finds that the amounts which can be assessed under this act are less  
78 than the amounts needed to assure full and prompt performance of the impaired  
79 insurer's contractual obligations, or that the economic or financial conditions  
80 as they affect member insurers are sufficiently adverse to render the imposition  
81 of policy or contract liens, moratoriums, or similar means to be in the public  
82 interest, and

83 (B) Approves the specific policy liens, contract liens, moratoriums, or  
84 similar means to be used.

85 (2) Before being obligated under subsections (c) and (d) the association  
86 may request that there be imposed temporary moratoriums or liens on payments of  
87 cash values and policy loans and such temporary moratoriums and liens may be  
88 imposed if they are approved by the commissioner.

89 (f) The association shall have no liability under this section for any  
90 covered policy of a foreign or alien insurer whose domiciliary jurisdiction or  
91 state of entry provides by statute or regulation, for residents of this state  
92 protection substantially similar to that provided by this act. ~~for residents of~~  
93 ~~other states.~~

94 (g) The association may render assistance and advise to the commissioner,  
95 upon his request, concerning rehabilitation, payment of claims, continuations of  
96 coverage, or the performance of other contractual obligations of any impaired  
97 insurer.

98 (h) The association shall have standing to appear before any court in this  
99 state with jurisdiction over an impaired insurer concerning which the  
100 association is or may become obligated under this act. Such standing shall  
101 extend to all matters germane to the powers and duties of the association,  
102 including, but not limited to, proposals for reinsuring or guaranteeing the  
103 covered policies of the impaired insurer and the determination of the covered  
104 policies and contractual obligations.

105 (i)(1) Any person receiving benefits under this act shall be deemed to have  
106 assigned his rights under the covered policy to the association to the extent of  
107 the benefits received because of this act whether the benefits are payments of  
108 contractual obligations or continuation of coverage. The association may require  
109 an assignment to it of such rights by any payee, policy or contract owner,  
110 beneficiary, insured or annuitant as a condition precedent to the receipt of any  
111 rights or benefits conferred by this act upon such person. The association shall  
112 be subrogated to these rights against the assets of any impaired insurer.

113 (2) The subrogation rights of the association under this subsection shall  
114 have the same priority against the assets of the impaired insurer as that  
115 possessed by the person entitled to receive benefits under this act.

116 (j) The contractual obligations of the impaired insurer for which the  
117 association becomes or may become liable shall be as great as but no greater  
118 than the contractual obligations of the impaired insurer would have been in the  
119 absence of an impairment unless such obligations are reduced as permitted by  
120 subsection (e) but the association shall ~~have no liability with respect to any~~  
121 ~~portion of a covered policy to the extent that the death benefit coverage on any~~  
122 ~~one life exceeds an aggregate of three hundred thousand dollars (\$300,000). not~~  
123 provide coverage under:

124 (1) any portion of a policy or contract not guaranteed by the insurer, or  
125 under which the risk is borne by the policy or contract holder;

126 (2) any policy or contract or part thereof assumed by the impaired or  
127 insolvent insurer under a contract of reinsurance, other than reinsurance for  
128 which assumption certificate have been issued;

129 (3) any annuity contract which is not annuitized and does not provide  
130 annuity purchase rates contractually guaranteed for ten or more years;

131 (4) any portion of a policy or contract to the extent that it is based:

132 (A) over the period of four years prior to the date on which the  
133 association becomes obligated with respect to such policy or contract, at a rate  
134 of interest which, averaged for the same four year period, exceeds the rate of  
135 interest calculated according to Moody's corporate bond yield average for the  
136 same four year period, and

137 (B) on and after the date on which the association becomes obligated with  
138 respect to such policy or contract, at a rate of interest which exceeds the rate  
139 of interest calculated according to Moody's corporate bond yield average on the  
140 date on which the association becomes obligated with respect to such policy or  
141 contract, minus one percentage point.

142 (5) any plan or program of an employer, association or similar entity to  
143 provide life, health, or annuity benefits to its employees or members to the  
144 extent that such plan or program is self-funded or uninsured, including but not  
145 limited to benefits payable by an employer, association or similar entity under  
146 (i) a multiple employer welfare arrangement as defined in section 514 of the  
147 employee retirement income security act of 1974, as amended; (ii) a minimum  
148 premium group insurance plan; (iii) a stop-loss group insurance plan; or (iv) an  
149 administrative services only contract; and

150 (6) any portion of a policy or contract to the extent that it requires  
151 experience rating dividends or credits, or requires any fees or allowances to  
152 any person, including the policy or contract holder, in connection with the  
153 service to or administration of such policy or contract.

154 (k) The benefits for which the association may become liable shall in no  
155 event exceed the lesser of:

156 (1) the contractual obligations for which the insurer is liable or would  
157 have been liable if it were not an impaired or insolvent insurer, or

158 (2) with respect to any one life: (i) \$300,000 in life insurance death  
159 benefits, but not more than \$100,000 in net cash surrender and net cash  
160 withdrawal values for life insurance; (ii) \$100,000 in health insurance  
161 benefits, including any net cash surrender and net cash withdrawal values; (iii)  
162 \$100,000 in the present value of annuity benefits, including net cash surrender

163 and net cash withdrawal values; and \$300,000 for all life insurance, health  
164 insurance and annuity benefits, including net cash surrender and net cash  
165 withdrawal values.

166 (1) The association may:

167 (1) Enter into such contracts as are necessary or proper to carry out the  
168 provisions and purposes of this act.

169 (2) Sue or be sued, including taking any legal actions necessary or proper  
170 for recovery of any unpaid assessments under K.S.A. 40-3009.

171 (3) Borrow money to effect the purposes of this act. Any notes or other  
172 evidence of indebtedness of the association not in default shall be legal  
173 investments for domestic insurers and may be carried as admitted assets.

174 (4) Employ or retain such persons as are necessary to handle the financial  
175 transactions of the association, and to perform such other functions as become  
176 necessary or proper under this act.

177 (5) Negotiate and contract with any liquidator, rehabilitator, conservator,  
178 or ancillary receiver to carry out the powers and duties of the association.

179 (6) Take such legal action as may be necessary to avoid payment of improper  
180 claims.

181 (7) Exercise, for the purposes of this act and to the extent approved by  
182 the commissioner, the powers of a domestic life or health insurer, but in no  
183 case may the association issue insurance policies or annuity contracts other  
184 than those issued to perform the contractual obligations of the impaired  
185 insurer.

186 Sec. 3. K.S.A. 40-3013 is hereby amended to read as follows: 40-3013. (a)  
187 Nothing in this act shall be construed to reduce the liability for unpaid  
188 assessments of the insureds of an impaired insurer operating under a plan with  
189 assessment liability.

190 (b) Records shall be kept of all negotiations and meetings in which the  
191 association or its representatives are involved to discuss the activities of the  
192 association in carrying out its powers and duties under K.S.A. 40-3008. Records  
193 of such negotiations or meetings shall be made public only upon the termination  
194 of a liquidation, rehabilitation, or conservation proceeding involving the  
195 impaired insurer, upon the termination of the impairment of the insurer, or upon  
196 the order of a court of competent jurisdiction. Nothing in this subsection shall  
197 limit the duty of the association to render a report of its activities under  
198 K.S.A. 40-3014.

199 (c) For the purpose of carrying out its obligations under this act, the  
200 association shall be deemed to be a creditor of the impaired insurer to the  
201 extent of assets attributable to covered policies reduced by any amounts to  
202 which the association is entitled as subrogee pursuant to K.S.A. 40-3008  
203 subsection (h). All assets of the impaired insurer attributable to covered  
204 policies shall be used to continue all covered policies and pay all contractual  
205 obligations of the impaired insurer as required by this act. Assets attributable  
206 to covered policies, as used in this subsection, is that proportion of the  
207 assets which the reserves that should have been established for such policies  
208 bear to the reserve that should have been established for all policies of  
209 insurance written by the impaired insurer.

210 (d)(1) Prior to the termination of any liquidation, rehabilitation, or  
211 conservation proceeding, the court may take into consideration the contributions  
212 of the respective parties, including the association, the shareholders and  
213 policyowners of the impaired insurer, and any other party with a bona fide  
214 interest, in making an equitable distribution of the ownership rights of such  
215 impaired insurer. In such a determination, consideration shall be given to the  
216 welfare of the policyholders of the continuing or successor insurer.

217 (2) No distribution to stockholders, if any, of an impaired insurer shall  
218 be made until and unless the total amount of assessments levied by the  
219 association with respect to such insurer have been fully recovered by the  
220 association.

221 (e) It shall be a prohibited unfair trade practice for any person to make  
222 use in any manner of the protection afforded by this act in the sale of  
223 insurance.

224 (f)(1) If an order for liquidation or rehabilitation of an insurer  
225 domiciled in this state has been entered, the receiver appointed under such  
226 order shall have a right to recover on behalf of the insurer, from any affiliate  
227 that controlled it, the amount of distributions, other than stock dividends paid  
228 by the insurer on its capital stock, made at any time during the five years  
229 preceding the petition for liquidation or rehabilitation subject to the  
230 limitations of subsections (2) to (4).

231 (2) No such dividend shall be recoverable if the insurer shows that when  
232 paid the distribution was lawful and reasonable, and that the insurer did not  
233 know and could not reasonably have known that the distribution might adversely  
234 affect the ability of the insurer to fulfill its contractual obligations.

235 (3) Any person who was an affiliate that controlled the insurer at the time  
236 the distributions were paid shall be liable up to the amount of distributions he  
237 received. Any person who was an affiliate that controlled the insurer at the  
238 time the distributions were declared, shall be liable up to the amount of  
239 distributions he would have received if they had been paid immediately. If two  
240 persons are liable with respect to the same distributions, they shall be jointly  
241 and severally liable.

242 (4) The maximum amount recoverable under this subsection shall be the  
243 amount needed in excess of all other available assets of the impaired insurer to  
244 pay the contractual obligations of the impaired insurer.

245 (5) If any person liable under subsection (3) is insolvent, all its  
246 affiliates that controlled it at the time the dividend was paid, shall be  
247 jointly and severally liable for any resulting deficiency in the amount  
248 recovered from the insolvent affiliate.

249 Sec. 4. K.S.A. 40-3016 is hereby amended to read as follows: 40-3016. (a)  
250 Unless a longer period has been allowed by the commissioner, a member insurer  
251 shall at its option have the right to show a certificate of contribution as an  
252 asset in the form approved by the commissioner pursuant to K.S.A. 40-3009,  
253 subsection (g), at percentages of the original face amount approved by the  
254 commissioner, for calendar years as follows:

255 (1) One hundred percent (100%) for the calendar year of issuance;

256 (2) eighty percent (80%) for the first calendar year after the year of  
257 issuance;

258 (3) sixty percent (60%) for the second calendar year after the year of  
259 issuance;

260 (4) forty percent (40%) for the third calendar year after the year of  
261 issuance;

262 (5) twenty percent (20%) for the fourth calendar year after the year of  
263 issuance.

264 (b) The insurer may offset the amount written off by it in a calendar year  
265 under subsection (a) above, against its premium tax liability to this state  
266 accrued with respect to business transacted in such year but such offset shall  
267 not exceed the insurer's proportionate part of \$5,000,000 in any one year as  
268 determined by the commissioner.  
269

270 (c) Any sums acquired by refund, pursuant to K.S.A. 40-3009, subsection  
271 (f), from the association which have theretofore been written off by  
272 contributing insurers and offset against premium taxes as provided in subsection  
273 (b) above, and is not then needed for purposes of this act, shall be paid by the  
274 association to the commissioner and by him deposited with the state treasurer  
275 for credit to the general fund of this state.

276 Sec. 5. K.S.A. 40-2906a is hereby amended to read as follows: 40-2906a.  
277 (a) Unless a longer period has been allowed by the commissioner, a member  
278 insurer shall at its option have the right to show a certificate of contribution  
279 as an asset in the form approved by the commissioner pursuant to subsection (c)

280 of K.S.A. 40-2906, at percentages of the original face amount approved by the  
281 commissioner, for calendar years as follows:

282 (1) One hundred percent (100%) for the calendar year of issuance;

283 (2) eighty percent (80%) for the first calendar year after the year of  
284 issuance;

285 (3) sixty percent (60%) for the second calendar year after the year of  
286 issuance;

287 (4) forty percent (40%) for the third calendar year after the year of  
288 issuance; and

289 (5) twenty percent (20%) for the fourth calendar year after the year of  
290 issuance.

291 (b) The insurer may offset the amount written off by it in a calendar year  
292 under subsection (a) against its premium tax liability to this state accrued  
293 with respect to business transacted in such year but such offset shall not  
294 exceed the insurer's proportionate part of \$5,000,000 in any one year as  
295 determined by the commissioner.

296 (c) Any sums acquired by refund pursuant to subsection (b) of K.S.A.  
297 40-2906, from the association which have theretofore been written off by  
298 contributing insurers and offset against premium taxes as provided in subsection  
299 (b) of this section, and is not then needed for purposes of this act, shall be  
300 paid by the association to the commissioner to be deposited by the commissioner  
301 with the state treasurer for credit to the state general fund.

302 (d) The provisions of K.S.A. 40-2914 shall not apply to amounts written off  
303 under subsection (a) of this section.

304 Sec. 6. K.S.A. 1984 Supp. 40-3003, 40-3008, 40-3013, 40-3016 and 40-2906a  
305 are hereby repealed.

306 Sec. 7. This act shall take effect and be in force from and after its  
307 publication in the statute book.