

MINUTES OF THE Senate Committee on Financial Institutions and Insurance.

The meeting was called to order by Chairperson Dick Bond at 9:09 a.m. on February 23, 1995 in Room 529-S of the Capitol.

All members were present.

Committee staff present: Dr. William Wolff, Legislative Research Department
Fred Carman, Revisor of Statutes
June Kossover, Committee Secretary

Conferees appearing before the committee: William Sneed, American Investors Life Insurance Company
Anita Larson, Security Benefit Group of Companies
Tom Wilder, Kansas Department of Insurance
Brad Smoot, American Insurance Association

Others attending: See attached list

Senator Corbin moved to approve the minutes of the meeting of February 22 as submitted. Senator Clark seconded the motion; the motion carried.

The hearing was reopened on **SB 274**, concerning the removal of trustees and appointment of successors in certain situations. This bill was originally heard in committee on February 21 and was referred to Senator Steffes and the interested parties, Brad Bergman of Midwest Trust Company and Randy Rush of the Trust Division of Kansas Bankers Association, to work out compromise language. Senator Steffes presented the balloon which resulted from the negotiations between the parties. (Attachment #1) The parties were able to resolve their differences except for the language on page 2, lines 2 and 3. The Kansas Bankers Association Trust Division objects to this language and submitted an amendment to delete the original language and add language to require courts to follow any provisions in the trust instrument specifying the identity or qualifications of a successor trustee unless deemed to be unreasonable. (Attachment #2) Senator Steffes explained that leaving the original language in would allow the courts to decide whether beneficiaries could move a trust to another institution and give beneficiaries equal footing with stockholders and directors of banks and trust companies.

Senator Emert questioned how widespread this problem might be and observed that a well written trust instrument should take care of the situation. Brad Bergman, Midwest Trust Company, who was a member of the audience, responded that most documents provide that the beneficiary must go wherever the trust is sold. Mr. Bergman also stated that, in his opinion, it is important to deal with this matter before the Riegle Neal Act takes effect in September, 1995.

There being no further discussion, the hearing on **SB 274** was closed. Senator Steffes moved to amend the bill according to the balloon he presented. Senator Emert seconded the motion. The motion carried.

Senator Emert proposed to amend the bill to protect beneficiaries against trustees who embezzle money from the estate. Mr. Carman advised that this legislation should be in a separate section, and the committee agreed. Senator Steffes moved to conceptually amend the bill as proposed by Senator Emert. Senator Petty seconded the motion. The motion carried.

Senator Steffes moved to pass **SB 274** favorably as amended; Senator Corbin seconded the motion. The motion carried.

The chairman opened the hearing on **SB 345**, relating to life insurance company investments in financial futures contracts. William Sneed, American Investors Life Insurance Company, testified as a proponent of this legislation, stating that the purpose of the bill is to insert the latest language developed by the National Association of Insurance Commissioners Model Investment Code. (Attachment #3) The bill will allow any domestic life insurance company to invest, subject to review by the Kansas Insurance Department, in financial instruments which provide "hedging" transactions and certain income generating transactions.

Anita Larson, Security Benefit Group, also appeared as a proponent of **SB 345**, stating that her company supports this bill because it allows insurers to diversify and reduce their risks, especially interest rate risk. (Attachment #4)

Tom Wilder, Kansas Insurance Department, presented an amendment to Section (c)(1) on page 4 of the bill. (Attachment #5) This amendment would set limits on investment purchases and clarify record keeping requirements.

CONTINUATION SHEET

MINUTES OF THE Senate Committee on Financial Institutions & Insurance, Room 529-S Statehouse, on February 23, 1995.

Senator Lee made a motion to amend the bill as suggested by the Kansas Insurance Department. Senator Corbin seconded the motion; the motion carried.

Senator Corbin moved to pass **SB 345** favorably as amended. Senator Steffes seconded the motion. The motion carried.

The hearing was opened on **SB 288**, concerning product liability reporting requirements. Brad Smoot, American Insurance Association, informed the committee that passage of this legislation would reduce paperwork and simplify antiquated reporting requirements. (Attachment #6)

Tom Wilder, State Insurance Department, testified that the Insurance Department did not need these reports and had no requests for the information contained therein. Mr. Wilder requested that KSA 40-1132 and KSA 40-1133 be repealed. (Attachment #7)

Senator Corbin moved to conceptually amend **SB 288** as requested by Mr. Wilder, or to draft a substitute bill at the discretion of the Revisor of Statutes, and to pass favorably as amended. Senator Steffes seconded the motion. The motion carried.

The committee adjourned at 10:02 a.m.

SENATE BILL No. 274

By Committee on Financial Institutions and Insurance

2-10

9 AN ACT concerning removal of trustees and appointment of successors;
10 amending K.S.A. 58-2412 and repealing the existing section.

trusts;

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

12 Section 1. K.S.A. 58-2412 is hereby amended to read as follows: 58-
13 2412. Trustees having violated or attempted to violate any express trust,
14 or becoming insolvent, or of whose solvency or that of their sureties there
15 is reasonable doubt, or for other cause, in the discretion of the court
16 having jurisdiction, may, on petition of any person interested, after hear-
17 ing, be removed by such court, and all vacancies in express trusteeships
18 may be filled by such court. (a) When a trustee is or becomes an inca-
19 pacitated person, becomes insolvent or there is reasonable doubt as to the
20 solvency of the trustee or the trustee's surety, or is otherwise incapable of
21 performing the duties of the trustee, the trustee may be removed.

22 (b) When a trustee has violated or attempted to violate any express
23 trustee or fails or refuses to perform any of the duties imposed upon the
24 trustee by law, by the provisions of the trust instrument or by any lawful
25 order of the court, the trustee may be removed and such trustee's com-
26 pensation may be reduced or forfeited, in the discretion of the court.

trust

or for any other cause

27 (c) If, upon petition of the trustee or any beneficiary of a trust re-
28 questing appointment of a specific successor trustee, the court having
29 jurisdiction over a trust finds that:

30 (1) Appointment of such requested successor trustee or trustees would
31 not jeopardize the purpose of the trust;

32 (2) either all the beneficiaries of such trust consent in writing to ap-
33 pointment of such requested successor or successors or the court deter-
34 mines the appointment of such requested successor or successors will not
35 adversely affect the beneficiaries who have not consented; and

36 (3) the proper administration of the trust and the trustee's relation-
37 ship with the beneficiaries have been adversely affected by a transfer of
38 control, change of management or transfer of the principal office location
39 for the delivery of trustee services of a corporate trustee.

trust

40 The court, after due notice to all persons, or the representatives of persons
41 having an interest in the trust may appoint such requested successor or
42 successors as trustee, regardless of the absence of any provision in the

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2/23/95
Attachment #1

1 *st instrument for removal of trustee or appointment of successor trustee*
2 *or the existence of any limitation in the trust instrument regarding the*
3 *identity or qualifications of a successor trustee. For this purpose, all ben-*
4 *eficiaries of such trust shall include all the current and future benefi-*
5 *aries, whether vested or contingent, but any such beneficiary who is un-*
6 *born or a minor may be represented (i) by any ancestor who is also a*
7 *beneficiary or (ii) otherwise by a guardian ad litem appointed by the*
8 *court, for the purpose of receiving notice or consenting, and permissible*
9 *appointees under a power of appointment contained in the trust are not*
10 *included.*

11 Sec. 2. K.S.A. 58-2412 is hereby repealed.

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

1-2

(d) Exit, transfer or termination fees for transfer to a successor fiduciary or distribution to beneficiaries, made under this section, shall not exceed three months' regular trustee's fees plus costs, or other reasonable fees as approved by the court.

Session of 1995

SENATE BILL No. 274

By Committee on Financial Institutions and Insurance

2-10

9 AN ACT concerning removal of trustees and appointment of successors;
10 amending K.S.A. 58-2412 and repealing the existing section.

11
12 *Be it enacted by the Legislature of the State of Kansas:*

13 Section 1. K.S.A. 58-2412 is hereby amended to read as follows: 58-
14 2412. Trustees having violated or attempted to violate any express trust,
15 or becoming insolvent, or of whose solvency or that of their sureties there
16 is reasonable doubt, or for other cause, in the discretion of the court
17 having jurisdiction, may, on petition of any person interested, after hear-
18 ing, be removed by such court, and all vacancies in express trusteeships
19 may be filled by such court. (a) When a trustee is or becomes an inca-
20 pacitated person, becomes insolvent or there is reasonable doubt as to the
21 solvency of the trustee or the trustee's surety, or is otherwise incapable of
22 performing the duties of the trustee, the trustee may be removed.

23 (b) When a trustee has violated or attempted to violate any express
24 trustee or fails or refuses to perform any of the duties imposed upon the
25 trustee by law, by the provisions of the trust instrument or by any lawful
26 order of the court, the trustee may be removed and such trustee's com-
27 pensation may be reduced or forfeited, in the discretion of the court.

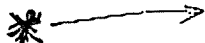
28 (c) If, upon petition of the trustee or any beneficiary of a trust re-
29 questing appointment of a specific successor trustee, the court having
30 jurisdiction over a trust finds that:

31 (1) Appointment of such requested successor trustee or trustees would
32 not jeopardize the purpose of the trust;

33 (2) either all the beneficiaries of such trust consent in writing to ap-
34 pointment of such requested successor or successors or the court deter-
35 mines the appointment of such requested successor or successors will not
36 adversely affect the beneficiaries who have not consented; and

37 (3) the proper administration of the trust and the trustee's relation-
38 ship with the beneficiaries have been adversely affected by a transfer of
39 control, change of management or transfer of the principal office location
40 for the delivery of trustee services of a corporate trustee.

41 The court, after due notice to all persons, or the representatives of persons
42 having an interest in the trust may appoint such requested successor or
43 successors as trustee, regardless of the absence of any provision in the



Senate 7/1/95
2/23/95
Attachment #2

SB 274

2

- 1 trust instrument for removal of trustee or appointment of successor trustee.
2 ~~or the existence of any limitation in the trust instrument regarding the~~
3 ~~identity or qualifications of a successor trustee.~~ For this purpose, all ben-
4 eficiaries of such trust shall include all the current and future benefi-
5 aries, whether vested or contingent, but any such beneficiary who is un-
6 born or a minor may be represented (i) by any ancestor who is also a
7 beneficiary or (ii) otherwise by a guardian ad litem appointed by the
8 court, for the purpose of receiving notice or consenting, and permissible
9 appointees under a power of appointment contained in the trust are not
10 included.
11 Sec. 2. K.S.A. 58-2412 is hereby repealed.
12 Sec. 3. This act shall take effect and be in force from and after its
13 publication in the statute book.

Insert:

- ** The court, in making such appointment, shall ^{Follow} ~~abide by~~ any provisions
in the trust instrument specifying the identity or qualifications of
a successor trustee, unless the court deems such provisions to be
unreasonable.

- * or if the existing cause for removal of a trustee, then

MEMORANDUM

TO: The Honorable Dick Bond, Chairman
Senate Financial Institutions and Insurance Committee

FROM: William W. Sneed, Legislative Counsel
American Investors Life Insurance Company

DATE: February 23, 1995

RE: S.B. 345

Mr. Chairman, Members of the Committee: My name is Bill Sneed and I represent American Investors Life Insurance Company. American Investors is a wholly-owned subsidiary of AmVestors Financial Corporation. American Investors is an insurance company predominantly active in the annuity business and is a domestic insurer within the State of Kansas.

S.B. 345 is an amendment to K.S.A. 40-2b25. You will note that the bill strikes all current language found in K.S.A. 40-2b25 and replaces it with all new language. As I will explain later in my testimony, it was determined to be more straightforward to insert all new language. If we were to strike and insert new language throughout the current statute it would become rather confusing, and it is our belief that those activities currently allowed under K.S.A. 40-2b25 will continue to be allowed, along with some additional investment authority.

The purpose of this bill is to insert the latest language developed by the National Association of Insurance Commissioners ("NAIC") Model Investment Code on this particular subject. Currently, the Model Investment Code is being redrafted by the NAIC. The provisions that deal directly with S.B. 345 have been agreed upon, but other areas of the Investment Code have not been concluded, and it is anticipated that the earliest the entire model bill will be completed will be

*Senate File
2/23/95
Attachment #3*

sometime toward the end of 1995. We believe that the authority granted under S.B. 345 is needed by Kansas insurers, and as such, we are requesting that this particular provision of the model legislation be enacted at this time.

In a nutshell, this proposal will allow any domestic life insurance company to invest, subject to review by the Kansas Insurance Department and statutory restrictions, in financial instruments which provide hedging transactions and certain income generation transactions. In essence, this bill allows an insurance company to invest in financial instruments which provide safeguards from interest rate volatility.

My client provides interest-sensitive insurance products to its customers. These products provide an interest rate which must be closely matched to the interest my client receives on its investments. Until recently, the economy has found itself in a downward trend on interest rates. As such, the need for this type of investment has not been of great urgency. However, we now find ourselves with an interest rate upswing, and it is because of that upswing that my client wishes to invest in these types of products so as to minimize its risk from substantial increases and/or decreases in interest rates.

I have attached illustrations which go through the various types of financial instruments that would be allowed under this Act. Suffice to say we believe these illustrations demonstrate that the investment in these financial instruments provides a type of "insurance" for the insurance company, and as such, creates protection for our consumers, the policyholders.

Obviously, investing in these types of securities takes a specialized investment manager. To that end, the model law requires that the insurance company must be able to

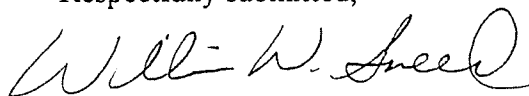
demonstrate to the Commissioner of Insurance the intended characteristics of the financial instrument, along with the ongoing effectiveness of the investment.

Additionally, subsection (c) of the bill limits the amount a domestic insurance company may invest of its portfolio in these types of investments. Thus, you will have ongoing review by the Insurance Department of these investments prior to and during the course of holding the investments, along with the overall cap that is instituted in S.B. 345. Finally, in our rush to finalize our proposal, we inadvertently left out a definition. Attached to my testimony is a balloon which inserts the definition for "underlying interest," which we respectfully request be amended into the bill on page four after line 23.

Again, we appreciate the Committee's allowing us to present testimony as a proponent of this bill. We believe the proposal provides greater flexibility to its domestic insurance companies, and at the same time, creates additional safeguards for various investments that insurance companies may make that may be interest-sensitive.

Thank you very much, and we respectfully request your favorable treatment of S.B. 345.

Respectfully submitted,



William W. Sneed

1 (8) "Hedging transaction" means a financial instrument transaction
2 which is entered into and maintained to reduce:

3 (A) The risk of a change in the value, yield, price, cash flow or quan-
4 tity of assets or liabilities which the insurer has acquired or incurred or
5 anticipates acquiring or incurring; or

6 (B) the currency exchange-rate risk or the degree of exposure as to
7 assets or liabilities which an insurer has acquired or incurred or antici-
8 pates acquiring or incurring.

9 (9) "Income generation transaction" means a financial instrument
10 transaction involving the writing of covered call options which is intended
11 to generate income or enhance return.

12 (10) "Option" means an agreement giving the buyer the right to buy
13 or receive, sell or deliver, enter into, extend or terminate, or effect a cash
14 settlement based on the actual or expected price, level, performance or
15 value of one or more underlying interests.

16 (11) "Potential exposure" means:
17 (A) As to a futures position, the amount of the initial margin required
18 for that position; or

19 (B) as to swaps, collars and forwards, .5% times the notional amount
20 times the square root of the remaining years to maturity.

21 (12) "Swap" means an agreement to exchange for net payments at
22 one or more times based on the actual or expected price, level, perform-
23 ance or value of one or more underlying interests.

24 ~~(13)~~ "Warrants" means an option to purchase or sell the underlying
25 securities or investments at a given price and time or at a series of prices
26 and times outlined in the warrant agreement. Warrants may be issued
27 alone or in connection with the sale of other securities, as part of a merger
28 or recapitalization agreement, or to facilitate divestiture of the securities
29 of another corporation.

30 (c) A life insurance company may enter into financial instrument
31 transactions for the purpose of hedging except that the transaction shall
32 not cause any of the following limits to be exceeded:

33 (1) The aggregate statement value of options, caps, floors and war-
34 rants not attached to any other security or investment purchase in hedging
35 transactions may not exceed 7.5% of the life insurance company's admit-
36 ted assets;

37 (2) the aggregate statement value of options, caps and floors written
38 in hedging transactions may not exceed 3% of the life insurance company's
39 admitted assets; and

40 (3) the aggregate potential exposure of collars, swaps, forwards and
41 futures used in hedging transactions may not exceed 5% of the life insur-
42 ance company's admitted assets.

43 (d) A life insurance company may enter into the following types of

(13) "Underlying interest" means the assets, other interests, or a combination thereof, underlying a Financial Instrument, such as any one or more securities, currencies, rates, indices, commodities or Financial Instruments.

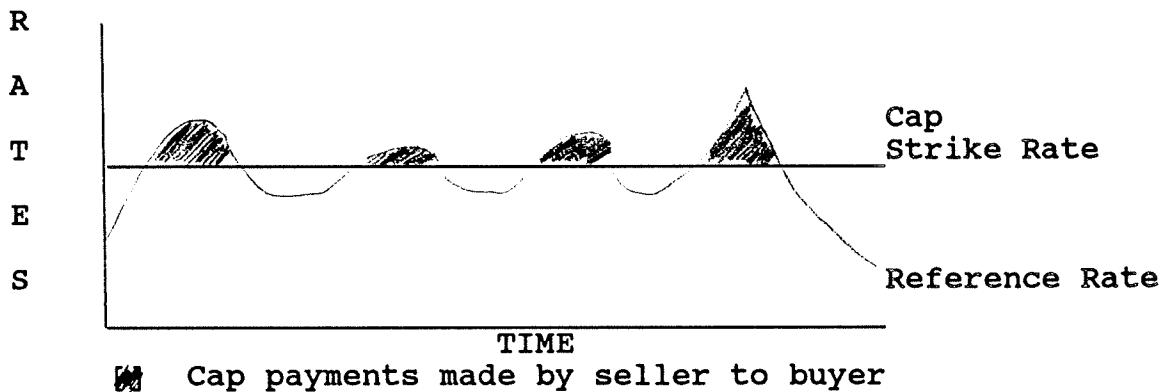
(14)

CAPS

Definition- A Cap is an agreement between a seller (writer) and a buyer (holder), obliging the seller to make payments to the buyer, for each reset period that the reference rate exceeds the strike rate. Payments are determined by taking the notional amount times the difference between the reference rate and the strike rate. Cap payments cannot be negative.

Use: Caps are interest rate hedges that protect the holder during periods of rising interest rates by providing increasing income as rates increase above the Cap strike rate.

RANDOM RATE MODEL



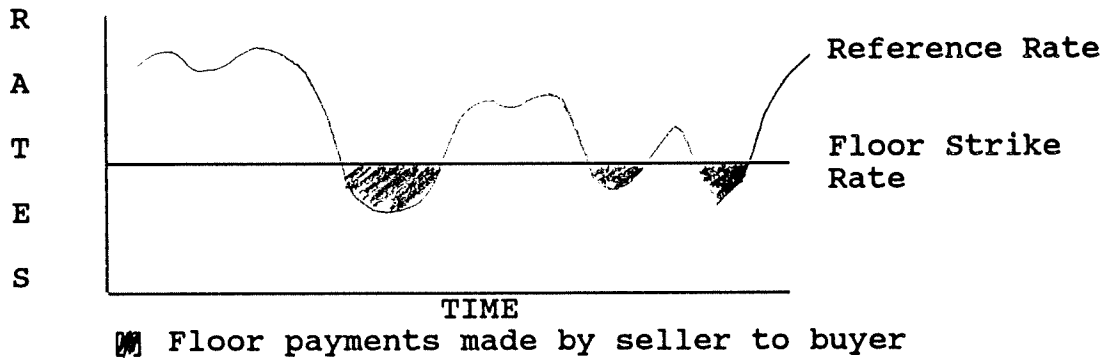
(1)

FLOORS

Definition- A Floor is an agreement between a seller (writer) and a buyer (holder), obliging the seller to make payments to the buyer, for each reset period that the strike rate exceeds the reference rate. Payments are determined by taking the notional amount times the difference between the strike rate and the reference rate. Floor payments cannot go negative.

Use: Floors are interest rate hedges that protect the holder during periods of falling interest rates by providing increasing income as rates decrease beneath the Floor strike rate.

RANDOM RATE MODEL

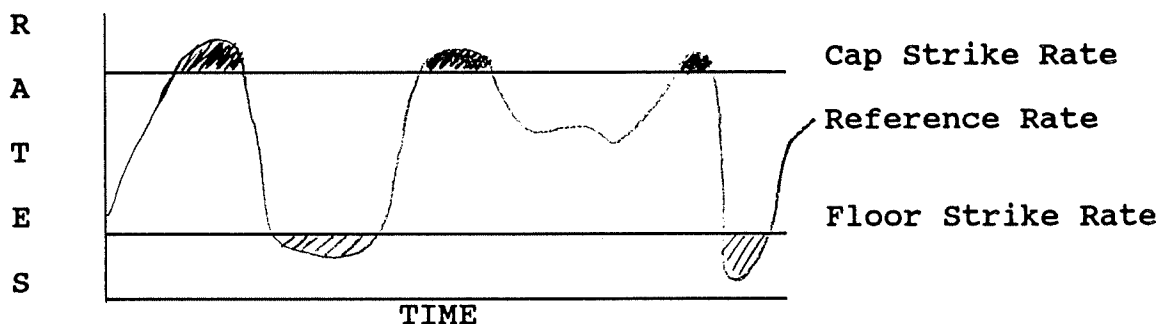


COLLAR

Definition- A Collar is an agreement between a seller (writer) and a buyer (holder), obliging the seller to make payments to the buyer for each reset period in which the reference rate exceeds the Cap strike rate, and the buyer to make payments to the seller each reset period the Floor strike rate exceeds the reference rate. The holder of a Collar is a buyer of a Cap and a seller of a Floor.

Use: Collars are interest rate hedges which provide increasing income as rates rise, and decreasing income as rates fall. When the reference rate is between the Cap strike rate and the Floor strike rate, income is unchanged.

RANDOM RATE MODEL

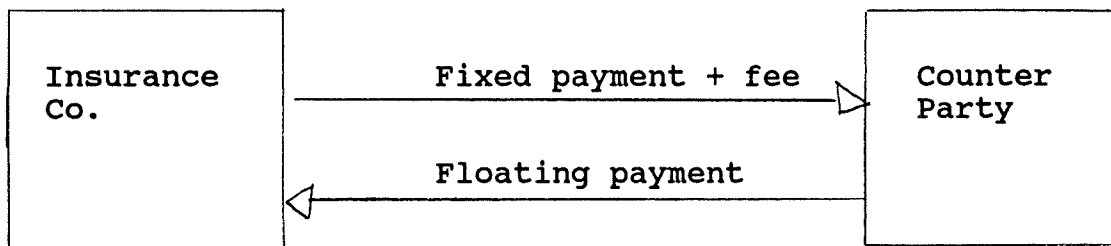


- ▨ Collar income (payment made by seller to buyer)
- ▧ Collar expense (payment made by buyer to seller)

SWAPS

Definition- An interest rate Swap is an agreement between two parties in which the parties exchange coupons or interest payments based on a notional amount. Most interest rate Swaps involve the exchange of fixed coupon payments for floating coupon payments. However, floating-to-floating interest rate Swaps are not unusual. The following illustration assumes a fixed-to-floating Swap.

SWAP DIAGRAM



Use: Swaps are used to convert fixed rate assets into floating rate assets. This would typically be done when a company has floating rate liabilities. They may also be used to convert floating rate assets into fixed rate assets.



**The Security Benefit
Group of Companies**

Security Benefit Life Insurance Company
Security Benefit Group, Inc.
Security Distributors, Inc.
Security Management Company

700 Harrison St.
Topeka, Kansas 66636-0001
(913) 295-3000

February 23, 1995

Subj: Senate Bill 345
Life Insurance Company Investments
Financial Futures, etc.

Dear Chairman and Committee Members:

The Security Benefit Group of Companies is a diversified financial services organization offering life insurance, mutual funds, annuities and retirement plans. The parent company, Security Benefit Life Insurance Company, has been in business over 100 years. The Security Benefit Group of Companies has over \$4 billion in assets under management and employs approximately 550 Kansans. We support Senate Bill 345.

Senate Bill 345 would specifically authorize life insurance companies to invest assets in financial instruments such as options, financial futures and swaps. Currently, K.S.A. 40-2b25 allows insurance companies to invest in financial futures. Although Senate Bill 345 proposes to repeal K.S.A. 40-2b25, it would allow life insurers to continue to invest in financial futures, plus grant additional authority to invest in other financial instruments.

Senate Bill 345 will assist life insurance companies in reducing and managing risk. Due to customer sophistication and demand, the products issued by life insurance companies are becoming more complex. These products often entail the crediting of a current competitive rate of interest and provide the customer with significant flexibility. Life insurers must carefully match their liabilities with the assets they have invested. This is called asset/liability management.

Insurers analyze and project their potential liabilities, and then structure their investment portfolio accordingly. Senate Bill 345 will provide a valuable tool in structuring our portfolio of assets to match our liabilities.

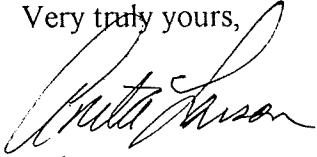
Senate Bill 345 is substantially similar to the Model Investment Law being considered by the National Association of Insurance Commissioners. Although the Model Investment Law has not been adopted, it reflects the recognition of the industry and regulators that investments in financial instruments are useful and necessary tools.

We support Senate Bill 345 because it allows insurers to diversify and "hedge" or reduce their risks, especially interest rate risk. We urge you to act favorably on Senate Bill 345.

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Attachment #4

Thank you for your time and consideration. I would be happy to address your questions and concerns.

Very truly yours,

A handwritten signature in black ink, appearing to read "Anita Larson". The signature is fluid and cursive, with a large initial "A" and "L".

Anita Larson
Assistant Counsel
Security Benefit Group, Inc.

Kansas Insurance Department

Kathleen Sebelius, Commissioner

420 S.W. 9th

Topeka, Kansas 66612-1678 (913) 296-3071

To: Senate Financial Institutions and Insurance Committee

From: Tom Wilder, Director of Governmental Relations
Kansas Department of Insurance

Re: S.B. 345 (Investment in Futures Contracts)

Date: February 23, 1995

The Kansas Department of Insurance supports Senate Bill 345 which provides life insurance companies with more flexibility in managing their investment portfolio. The legislation would replace the existing statute (K.S.A. 40-2b25) which allows life insurance companies to invest in financial futures contracts as part of a hedging transaction tied to a specific asset or group of assets. Senate Bill 345 would permit life insurance companies to invest in additional types of financial futures contracts.

The Department of insurance does believe, however, that the bill should be amended to provide additional limitations on the ability of life insurance companies to invest in these financial instruments. Paragraph (c) (1) of S.B. 345 sets limits investments in options, caps, floors and warrants which are not specifically attached to any other security or investment to 7.5% of a company's admitted assets. The Department believes the limitation on these types of financial futures contracts should be 110% of the excess of the insurance company's capital and surplus over the statutory minimum capital and surplus requirements. This change would provide additional safeguards on the investment by a life insurance company in financial futures contracts which are not tied to a specific asset. A copy of a proposed amendment is attached to this testimony.

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Attachment #5*

In addition, the Department of Insurance would request that subsection (d) of the current law (K.S.A. 40-2b25) be retained. That subsection requires insurers to set up documented policies and procedures and record keeping systems for the investment in financial futures contracts prior to engaging in such transactions. With these two changes, the Department of Insurance supports the favorable passage of S.B. 345.

Proposed amendment to S.B. 345

Amendment language in bold type.

(c) A life insurance company may enter into financial instrument transactions for the purpose of hedging except that the transaction shall not cause any of the following limits to be exceeded:

(1) The aggregate statement value of options, caps, floors and warrants not attached to any other security or investment purchase in hedging transactions may not exceed ~~7.5% of the life insurance company's admitted assets~~ **110% of the excess of such insurer's capital and surplus as shown on the company's last annual or quarterly report filed with the commissioner of insurance over the minimum requirements of a new stock or mutual company to qualify for a certificate of authority to write the kind of insurance which the insurer is authorized to write;**

BRAD SMOOT

ATTORNEY AT LAW

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MERCANTILE BANK BUILDING
SUITE 808
TOPEKA, KANSAS 66612
(913) 233-0016
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**STATEMENT OF BRAD SMOOT, LEGISLATIVE COUNSEL
FOR THE AMERICAN INSURANCE ASSOCIATION,
PRESENTED TO THE KANSAS SENATE
FINANCIAL INSTITUTIONS AND INSURANCE COMMITTEE
REGARDING 1995 SENATE BILL 288, FEBRUARY 23, 1995**

Mr. Chairman and Members of the Committee:

I am Brad Smoot, Legislative Counsel for the American Insurance Association (AIA), a trade association representing more than 200 companies providing a variety of insurance products to Kansans and across the nation.

Senate Bill 288 was introduced by this committee at our request. As drafted, the bill would reduce a liability insurance carrier's current obligation to report product liability premium, loss and reserve experience to the Kansas Insurance Department as required by K.S.A. 40-1132. Enacted in the early 1980's, this law requires carriers to cumulatively and repetitively report data on policies dating back to 1977. To the best of our knowledge this information is rarely, if ever, used by the Insurance Department or the public.

Our amendments would permit carriers to file the information by insurance company groups (page 1, lines 17-18) and file only the latest policy year (page 1, line 24 and 33). To the best of our knowledge, much of this information is kept elsewhere in some form by rating organizations or individual carriers and, thus, is accessible to the Insurance Department as the need requires. Like 1994 House Bill 3041, which reduced reporting requirements for professional liability insurance carriers, S 288 will help reduce administrative costs.

We understand that the Kansas Insurance Department supports the concept of S 288 but has an amendment which might more fully accomplish the bill's objectives. Thank you.

*Senate 7/41
2/23/95
Attachment #6*

Kansas Insurance Department

Kathleen Sebelius, Commissioner

420 S.W. 9th

Topeka, Kansas 66612-1678 (913) 296-3071

To: Senate Financial Institutions and Insurance Committee

From: Tom Wilder, Director of Governmental Relations
Kansas Department of Insurance

Date: February 21, 1995

Re: Senate Bill 288 (Product Liability Reports)

The Kansas Department of Insurance supports S.B. 288 but believes the legislation does not go far enough to eliminate an unnecessary paperwork burden on insurance companies that do business in this state. The proposal amends K.S.A. 40-1132 which requires insurers to report certain product liability claim information on a yearly basis to the Department. Senate Bill 288 would allow companies to submit claims information for the latest policy year instead of data which tracks product claims since the 1977 policy year. The Department of Insurance believes the information which is collected from insurance companies is already submitted by insurers in a somewhat different format to the rating organizations such as Insurance Services Office ("ISO") and it is no longer necessary for the same data to be submitted to the Department.

It is important to understand the history of K.S.A. 40-1132 and a companion statute K.S.A. 40-1133 which were first enacted in 1983 during a time when product liability insurance was expensive and difficult to obtain in Kansas. The Kansas Legislature decided to require property and casualty companies to report to the Department of Insurance each year information on the dollar amount and number of product liability claims submitted to the company for the current policy year and for each policy year starting with 1977. Companies are also required to provide data on the amount of reserves and loss expenses for each claim. This information has

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Attachment #7*

been collected by the Department since the effective date of the statute in 1983. A copy of the report form sent to insurance companies each year and the report which is generated from that data is attached to this testimony. Insurance companies must report this data on May 1 each year and the statute **requires an administrative penalty of \$1,000.00** if a report is late together with an additional \$1,000.00 fine each month the report is not filed. This is the harshest statutory civil penalty which can be levied against a company for failure to report statistical data to the Department and the Department can not waive the fine.

The data collected by the Department was designed to be provided for the use of the public and the information is not generally used for internal agency purposes such as setting rates or investigating the business operations of a company. The insurers who do business in Kansas report a multitude of information to the Department and the product claim information required by K.S.A. 40-1132 can be obtained by the Insurance Department if necessary directly from the companies or from one of the rating organizations. The statute has been in place since 1983 and in that time **only one person has requested a copy of the Insurance Department report.**

The Department of Insurance believes K.S.A. 40-1132 and K.S.A. 40-1133 should be repealed. This Committee should eliminate unnecessary reporting of claims data which is not needed by the Insurance Department. This data is currently collected by rating organizations and can be obtained if necessary from the companies directly. The Department of Insurance recommends Senate Bill 288 be amended or a substitute bill passed to repeal K.S.A. 40-1132 and K.S.A. 40-1133.