

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 March 7, 1995 in Room 529-S of the Capitol.

Members present were: Senator Clark, Senator Corbin, Senator Emert, Senator Lee, Senator Petty, Senator Praeger, Senator Steffes

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

Conferees appearing before the committee: Ed Mailen, Kansas Insurance Department
William Sneed, American Investors Life Insurance Company
Larry Magill, Kansas Association of Insurance Agents
Patrick Mulvihill, Kansas Insurance Department
David Ross, Kansas Association of Life Underwriters
David Hanson, Kansas Life Association
Tom Wilder, Kansas Insurance Department

Others attending: See attached list

Senator Steffes made a motion, seconded by Senator Clark, to approve the minutes of the meeting of March 6 as submitted. The motion carried.

Larry Magill, Kansas Association of Insurance Agents, requested introduction of a Concurrent Resolution to form a task force to conduct a study of the desirability and anticipated results of implementing and approving a rating system in Kansas that would recognize differences in past and prospective loss experience for windstorm and hailstorm insurance coverage due to the geographic location of insured property. (Attachment #1) Senator Praeger made a motion to introduce the resolution. Senator Steffes seconded the motion; the motion carried.

The chairman opened the hearing on HB 2202, concerning continuing education requirements for insurance agents. Ed Mailen, Kansas Insurance Department, appeared as a proponent of this legislation and explained that it is an attempt to resolve the cyclical nature of continuing education compliance by replacing the common compliance date of March 31 of each odd-numbered year with a compliance date for each agent based upon the agent's birth date. (Attachment #2)

William Sneed, Amvestors Corporation, testified in favor of the bill, stating that it will provide a more efficient program for recertification of agents. (Attachment #3)

Larry Magill, Kansas Association of Insurance Agents, also presented testimony in support of HB 2202. (Attachment #4)

Senator Lee made a motion to pass HB 2202 favorably and place it on the Consent Calendar. Senator Emert seconded the motion; the motion carried.

The hearing was opened on HB 2203, concerning the confidentiality of reports from the National Association of Insurance Commissioners. Patrick Mulvihill, Kansas Insurance Department, testified as a proponent of this legislation, advising the committee that it would amend the Kansas Open Records Act to provide explicitly for the confidentiality of financial analyses ratios and examination synopses obtained by the Insurance Commissioner from the NAIC. (Attachment #5) Mr. Mulvihill stated that without this legislation, the NAIC reports were not available to Kansas Insurance Department because Kansas does not have a law protecting the confidentiality of those reports.

Mr. Carman advised the committee that there is a bill in Judiciary Committee, HB 2013, which deals with the same statute amended by HB 2203.

William Sneed, Amvestors Corporation, testified that his client supports this legislation. (Attachment #6)

CONTINUATION SHEET

MINUTES OF THE Senate Committee on Financial Institutions & Insurance, Room 529-S Statehouse, on March 7, 1995.

There being no other conferees, the hearing was closed. After briefly reviewing **HB 2013**, Senator Emert made a motion to amend **HB 2013**, both the title and provisions, into **HB 2203**. Senator Praeger seconded the motion. The motion carried.

Senator Lee moved to pass **HB 2203** favorably as amended. Senator Emert seconded the motion. The motion carried. Senator Petty will carry this bill on the Senate floor.

The chairman opened the hearing on **HB 2280**, relating to accelerated payment of life and annuity benefits. David Ross, Kansas Association of Life Underwriters, appeared as a proponent of this bill, stating that it would allow policyholders the flexibility to collect accelerated benefits for at-home nursing care. (Attachment #7) In response to Senator Bond's question, Mr. Ross clarified that the provisions must be contained in the policy and cannot be imposed retroactively.,

David Hanson, Kansas Life Association, testified that the language in the bill is, in his opinion, too limiting and presented a balloon amendment to revise the bill to broaden the access to accelerated benefits. (Attachment #8) There followed a brief discussion of the benefits and possible consequences of receiving accelerated benefits.

Tom Wilder, State Insurance Department, testified as a proponent of **HB 2280** (Attachment #9) and requested that the bill be amended as proposed by Mr. Hanson, with a further amendment to line 35 of the balloon, "...as specified in the policy or contract, *subject to such rules and regulations as the insurance commissioner would require.*"

Bill Sneed, Amvestors Corporation, testified in support of this legislation and advised the committee that not all life insurance contracts are designed to provide for accelerated benefits and, therefore, this provision could not be mandated for all life insurance policies. (Attachment #10)

There were no further questions and no other conferees; the hearing was closed. Senator Praeger made a motion to amend the bill as requested by Mr. Hanson and Mr. Wilder. Senator Lee seconded the motion; the motion carried.

Senator Praeger moved to pass the bill favorably as amended. Senator Lee seconded the motion. The motion carried. Senator Praeger will carry **HB 2280** on the Senate floor.

The committee adjourned at 10:00 a.m. The next meeting is scheduled for March 8, 1995.

CONCURRENT RESOLUTION
Territorial Rating for Wind and Hail Insurance

WHEREAS insurance is an essential economic tool to protect the assets of Kansas residents and property owners;

WHEREAS the availability of insurance is inextricably tied to proper, appropriate and reasonable pricing strategies;

WHEREAS insurance covering losses to property caused by natural, weather related events over which neither insureds or insurers have control can have a profound effect on these strategies;

WHEREAS there is extensive evidence that losses caused by such natural events as windstorm and hailstorm occur with greater frequency or strike with greater severity in some areas of Kansas than others;

WHEREAS insurance rating systems which result in different insureds being charged different rates depending on the geographic location of their risk have long been a standard and acceptable means of avoiding unfair rate discrimination with respect to automobile liability, hail on growing crops and other insurance products;

WHEREAS such geographic rating distinctions are not currently recognized in the rates charged for property insurance policies covering loss caused by windstorm or hailstorm to dwellings, outbuildings, or other real property located in this state;

WHEREAS rates charged for property insurance in each of the four states bordering Kansas as well as many others are subject to geographic rating distinctions; and

WHEREAS recognition of variations in loss potential depending on the location of insured property could enhance competition by attracting more sellers to Kansas and to different geographic areas within Kansas:

NOW THEREFORE BE IT RESOLVED by the Senate of the State of Kansas the House of Representatives concurring therein;

That a territorial rating task force be formed consisting of ten members, two appointed by the Governor, two appointed by the President of the Senate, one appointed by the minority leader of the Senate, two appointed by the Speaker of the House, one appointed by the minority leader of the House and two appointed by the Commissioner of Insurance. Task Force members will serve at their own expense. The Commissioner or the Commissioner's appointed representative shall chair the task force. The task force shall conduct a study of the desirability and anticipated results of implementing or approving a rating system in Kansas that would recognize differences in past and prospective loss experience for windstorm and hailstorm insurance coverage due to the geographic location of insured property; or otherwise provide the needed rating flexibility.

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3/7/95
Attachment #1

BE IT FURTHER RESOLVED;

THAT a report containing the results of such study and the Commissioner's recommendations and conclusions emanating therefrom be transmitted to the Speaker of the House of Representatives, the President of the Senate, the Chair of the House Committee on Financial Institutions and Insurance and the Chair of the Senate Committee on Financial Institutions and Insurance no later than the convening of the 1996 Kansas Legislature.

M E M O R A N D U M

TO: Committee on Financial Institutions and Insurance

FROM: Ed Mailen, Supervisor
Agents and Brokers Division
Kansas Insurance Department

SUBJECT: House Bill No. 2202 (AHC)

DATE: March 7, 1995

I am appearing today to present comments regarding House Bill No. 2202 (AHC) which amends K.S.A. 40-240f. As you are aware, that statute prescribes the continuing education requirements of insurance agents doing business in Kansas. Overall, these requirements which have been in place since 1989 are reasonable and not overly burdensome to the industry, and administration has been without many complaints. One major problem, however, from the department's standpoint has been the cyclical nature of the continuing education (CE) compliance work flow. That is, although agents have a two-year period in which to comply, the vast majority delay until the last 90 - 120 days of the biennium to submit their compliance reports. Needless to say, that situation creates extreme hardship on department staff to keep pace with the work load during the last of each biennium even though temporary clerical help is added.

This Bill is an attempt to resolve the cyclical nature of CE compliance by replacing the common compliance date of March 31 of each odd-numbered year with a compliance date for each agent based upon the agent's birth date. This amendment would improve upon the current situation in that current agent compliance would be spread over 1997 and subsequent years, and it accomplishes several objectives as follows:

1. It spreads the 29,000 current agents evenly over the entire two-year period.
2. It provides agents and companies with a date easy to remember.
3. It ensures that new agents have at least two years before they must initially comply.

I will be happy to respond to any questions you may have.

Attachment

Senate 4141
3/7/95
Attachment #2

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: March 7, 1995

RE: H.B. 2202

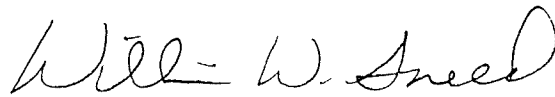
Mr. Chairman, Members of the Committee: My name is Bill Sneed and I represent American Investors Life Insurance Company. American Investors is a wholly-owned subsidiary of AmVestors Financial Corporation. American Investors is an insurance company predominantly active in the annuity business and is a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

H.B. 2202 would be an amendment to K.S.A. 40-240f. K.S.A. 40-240f details the continuing education requirements for insurance agents. My client, who utilizes independent agents, is a supporter of the continuing education requirements for insurance agents. This proposed amendment would eliminate the requirement that all agents be certified on the same date and would revert the requirement to be recertified corresponding with the agent's birth date.

Our review of the bill indicates that this would provide a more efficient program for the recertification, and as such, we support H.B. 2202.

Thus, on behalf of my client, I support H.B. 2202 and respectfully request your favorable consideration.

Respectfully submitted,



William W. Sneed

Testimony on HB 2202
Before the Senate Financial Institutions & Insurance Committee
By: Larry W. Magill, Jr., Executive Vice President
Kansas Association of Insurance Agents
March 7, 1995

Thank you, Mr. Chairman, and members of the committee, for the opportunity to appear today in support of HB 2202 requested by the Kansas Insurance Department. The bill converts the present continuing education system for insurance agents from a common biennial due date of March 31st of each odd numbered year to a two-year requirement tied to an individual agent's birthdate.

We support the measure, which will help the Insurance Department smooth out its present continuing education compliance workload with the other work done by the agents licensing section. It should make the Department more effective and efficient.

Having all agents on the same biennium due date causes staffing problems for the Kansas Association of Insurance Agents as well. Because of the common date, we must schedule an inordinate number of continuing education courses the last four to five months of each biennium. By converting to birth dates, we should be able to offer a constant level of continuing education services to our members while obtaining at least a breakeven attendance. Under the current system, interest in continuing education drops off dramatically after the end of a biennium and then builds gradually towards the end of the next biennium.

The measure should also help our members by spreading out the expense and time away from the office of our members' employees.

(over)

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3/7/95
Attachment #4

We think the measure will also move the focus of continuing education to quality and eliminate Kansas as a target for out-of-state vendors of courses designed to simply provide continuing education hours almost regardless of the quality. Our association sponsors three professional designation programs, the Accredited Adviser in Insurance (AAI), the Certified Insurance Counselor (CIC) and the Certified Insurance Service Representative (CISR). All three have continuing education requirements to maintain the designations and the CIC and CISR courses currently use birth dates as the deadline for meeting these requirements. Agents are used to this system and it works well.

We urge the committee to act favorably on HB 2202. We would be happy to provide additional information or answer any questions the committee may have.



Kathleen Sebelius
Commissioner of Insurance
Kansas Insurance Department

To: Senate Committee on Financial Institutions and Insurance

From: Patrick Mulvihill, Assistant Chief Examiner
Kansas Insurance Department

Re: House Bill No. 2203

Date: March 7, 1995

House Bill No. 2203 is a proposal to amend K.S.A. 1994 Supp. 45-221 which is the "Open Records Act". Subsections 39, 40 and 41 were enacted as amendments to K.S.A. 45-221 during 1994. However, these subsections are once again reflected as proposed amendments in an attempt to bring the statutory references included therein into compliance with the 1994 Supplement to the Kansas Statutes Annotated. The information referenced in subsections 39, 40 and 41 must be kept confidential in accordance with the Accreditation Program of the National Association of Insurance Commissioners (NAIC).

The Kansas Insurance Department is proposing the amendment in subsection 42. The NAIC has developed the Financial Analysis and Solvency Tracking System (FAST) which is a series of financial ratios and scoring system which are used to monitor the solvency of insurance companies. In addition, the NAIC prepares an examination synopsis after conducting a detailed review of a company's financial condition. The NAIC requires all such information to be kept confidential. However, we are unable to obtain this information from the NAIC since we do not have a law which allows us to keep it confidential. Presently, only 5 out of the 55 jurisdictions

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which are members of the NAIC do not have access to this information and Kansas is one of the 5 jurisdictions.

It should be noted that up until 1994, we had access to the examination synopsis information. However, the NAIC will no longer provide us with the information since we do not have a law allowing us to keep it confidential.

The financial information we would like to obtain from the NAIC would greatly enhance our ability to monitor the financial condition of insurance companies by providing us with an early indication as to whether a company is experiencing financial problems.

If you have any questions, please feel free to contact Don Gaskill, Chief Examiner, Kansas Department of Insurance at 296-7821 or myself at 296-7817.

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: March 7, 1995

RE: H.B. 2203

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.

H.B. 2203 is an amendment to K.S.A. 45-221. K.S.A. 45-221 is that portion of the Kansas statutes relating to open records. Specifically, this statute enumerates those records which are not considered under the Open Records Act, and thus, a public agency is not required to disclose this information. Specifically, the amendment would indicate that the material received by the Commissioner of Insurance through the National Association of Insurance Commissioners ("NAIC") relating to specific financial information would not be considered an open record. By virtue of the rules of the NAIC, this information cannot be procured by an Insurance Department if such information could be subject to an open records request. Thus, at the current time our Department cannot receive this information. This information is highly useful, particularly if the Department wishes to utilize it for a preliminary review of a particular company for financial review.

Although it is the general feeling that information procured by state agencies should be made available for public review, this information cannot be acquired without such an amendment.

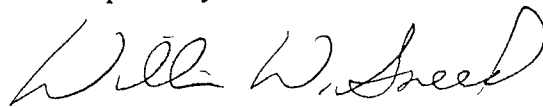
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Further, if after receipt of this information the Kansas Insurance Department wishes to continue its review, the Department has other mechanisms by which to cause an investigation, which could ultimately result in a public hearing. Thus, any resulting information on a "problem" company could be provided to the public after an investigation and public hearing. Therefore, it is our opinion that the public desire for information available to the public would still be satisfied.

Therefore, the proposed amendment does provide our Department with a valuable tool, and it is my client's position that the legislature should enact such a provision.

Thus, on behalf of my client, I support H.B. 2203 and respectfully request your favorable consideration.

Respectfully submitted,



William W. Sneed

Mr. Chairman and members of the committee,

I am David Ross representing the Kansas Association of Life Underwriters. I appear before you today in support for HB2280. HB2280 will permit persons having accelerated benefits riders on their life insurance policies the flexibility to use these benefits for at-home nursing care. Currently, persons having accelerated benefits riders may only utilize these benefits when permanently confined to a nursing care facility. When this statute was passed in 1991, there were very few organizations providing at-home nursing care for people. Since then, the escalating cost for nursing care has prompted the search for at-home alternatives not only because it is less expensive but also because it is more appealing to people.

Accelerated benefits currently permits people to collect from the face amount of their life insurance policy up to 100% while living for terminal illnesses and nursing home care. Some companies charge an additional premium for this benefit while others do not. Your support for HB 2280 will provide policyholders with greater flexibility to address a situation that can financially drain the assets accumulated through-out a persons lifetime.

I urge your support for HB2280.

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Kansas Life Association

OFFICERS:

President
John R. Atchley
Topeka

Vice President
Chuck Blankenship
Topeka

Secretary-Treasurer
Jerry Banaka
Manhattan

L.M. Cornish
General Counsel
900 Merchants Natl. Bank Bldg.
Topeka, Kansas 66612

March 7, 1995

LEGISLATIVE COMMITTEE:

Steve Lobell, Chairman
Topeka

Keith Hawkins
Shawnee Mission

Jerry Banaka
Manhattan

Roger Viola
Topeka

Mark Heitz
Topeka

SENATE FINANCIAL INSTITUTIONS AND INSURANCE COMMITTEE STATEHOUSE TOPEKA, KANSAS

Re: House Bill 2280

Chairman Bond and Members of the Committee:

I am David Hanson and I am here on behalf of the Kansas Life Insurance Association, an association of domestic life insurance companies in the State of Kansas.

We are concerned that the proposed language in House Bill 2280 may be construed as being restrictive of benefit options, rather than permissive. We would suggest amending the bill to clarify the permissive nature of the provisions for accelerating benefits to permit acceleration if the insured is diagnosed as having a medical condition usually requiring confinement in a nursing home or similar facility, even if the insured is not confined in such a facility.

Section "C" of the bill refers to provisions for waiver of surrender "values," which we believe was instead intended to refer to waiver of surrender "charges." We are therefore suggesting changing that reference and allowing such provision to be included

The American Home Life Insurance Co.
Topeka

Blue Cross & Blue Shield of KS
Topeka

Kansas Group Life Insurance Co.
Topeka

Employers Reassurance Corp.
Overland Park

American Investors Life Insurance Co.
Topeka

Kansas Farm Bureau Life Ins. Co.
Manhattan

Security Benefit Life Insurance Co.
Topeka

The Centennial Life Insurance Co.
Mission

The Pyramid Life Insurance Co.
Shawnee Mission

The Victory Life Insurance Co.
Topeka

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3/7/95
Attachment #8

SENATE FINANCIAL INSTITUTIONS
AND INSURANCE COMMITTEE

March 7, 1995

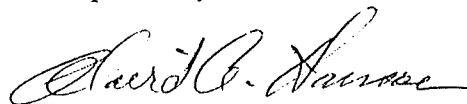
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in other policies, as well as annuity contracts. Our proposed amendment would allow the terms and conditions for waiver of surrender charges to be specified in the policy or contract, rather than limiting it to the situations specified in the bill's current language. For example, if a company was willing to allow a waiver of surrender charges if the annuitant is confined to a hospital for 20 days or more or is diagnosed with coronary artery disease or permanent neurological deficit, the existing language does not appear to allow such waivers.

We believe that permitting companies to offer broader options for allowing accelerated benefits and waivers of surrender charges will allow more flexibility and better benefits to the insureds and their families.

Thank you for your consideration.

Respectfully,



DAVID A. HANSON

DAH:klb

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HOUSE BILL No. 2280

By Committee on Financial Institutions and Insurance

8-3

10 AN ACT relating to insurance; concerning acceleration of life and annuity
11 benefits; amending K.S.A. 40-401 and repealing the existing section.

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

14 Section 1. K.S.A. 40-401 is hereby amended to read as follows: 40-
15 401. Any 10 or more persons, a majority of whom are citizens of this state,
16 may associate in accordance with the provisions of this code and form an
17 incorporated company, upon either the stock or mutual plan, to make
18 insurance upon the lives of persons and every insurance appertaining
19 thereto or connected therewith and to grant, purchase or dispose of an-
20 nuities. Such companies may incorporate in: (a) In their policies provi-
21 sions or conditions for the waiver of premiums or for the granting of an
22 annuity to the insured, or for special surrender values or other benefits
23 in the event the insured shall from any cause become unemployed or
24 totally and permanently disabled. ~~Such policies may also provide;~~ (b) in
25 **their policies provisions** for acceleration of life or annuity benefits in
26 advance of the time they would otherwise be payable subject to such
27 reserve and other regulatory standards as the commissioner may prescribe
28 by rules and regulations; ~~and Any, except that any provision providing~~
29 ~~for acceleration of life or annuity benefits for persons who would be oth-~~
30 ~~erwise permanently confined to a nursing home must provide an option~~
31 ~~permitting care in the person's residence. Any such company may provide;~~
32 (c) in their annuity contracts provisions or conditions for waiver of
33 ~~surrender values if the annuitant or the annuitant's spouse is con-~~
34 ~~finned to a nursing home, adult care facility or long term care fa-~~
35 ~~cility for a period of 90 days or more, is confined to a hospital for~~
36 ~~a period of 30 days or more or is diagnosed with a terminal illness;~~
37 or (d) in their policies provisions for the payment of a larger sum if
38 death is caused by accident than if it results from any other causes.

{ diagnosed as having a medical condition usually requiring continuous confinement for the rest of the person's life in a nursing home or other eligible facility as defined in the policy, may also provide for acceleration of benefits upon diagnosis of such condition even if the person is not confined in a nursing home or similar facility;

{ policies and

{ charges upon terms and conditions as specified in the policy or contract;

39 Prior to the payment of any accelerated benefit, the insurer shall re-
40 ceive from any assignee or irrevocable beneficiary of the policy a signed
41 acknowledgment of concurrence for the payment. For the purposes of
42 this section, "totally and permanently disabled" means disabled contin-
43 uously for a period, such period to be specified in any such provision, of



Kathleen Sebelius
Commissioner of Insurance
Kansas Insurance Department

MEMORANDUM

To: Senate Financial Institutions and Insurance Committee

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

Re: H.B. 2280 (Acceleration of Benefits)

Date: March 7, 1995

House Bill 2280 was amended by the House Financial Institutions and Insurance Committee to include provisions of H.B. 2220 which was introduced by that committee at the request of the Kansas Department of Insurance. The new language in Section (1) (c) amends K.S.A. 40-401 which pertains to the acceleration of benefits under a life insurance or annuity policy. The provision would allow an annuity company to include language in their policies which would waive early surrender penalties if the annuitant or their spouse: (a) is confined to a nursing home, adult care facility or long-term care facility for a period of 90 days or more; (b) is confined to a hospital for 30 days or more; or (c) is diagnosed with a terminal illness.

Currently, an annuity company could include a provision in their policy which allows the policy holder to accelerate the benefits if the annuitant is disabled or becomes unemployed. The new statutory language would allow annuity companies great flexibility in marketing policies. The person purchasing an annuity will be able to obtain a product which will give them access to their money in the event of catastrophic illness.

The Department of Insurance requests the Senate Financial Institutions and Insurance Committee approve House Bill 2280 as amended.

*Senate 7/41
3/7/95*

Attachment # 9

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: March 7, 1995

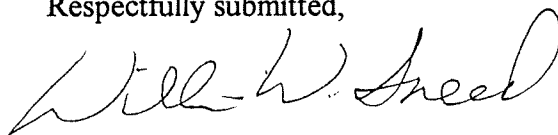
RE: H.B. 2280

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.

H.B. 2280 would be an amendment to K.S.A. 40-401. This statute allows life insurance companies to include policy provisions detailing the criteria for the acceleration of benefits under a particular life or annuity contract. The proposed amendment would eliminate the language from any cause and include the phrase "suffer financial hardship." This is an attempt to broaden the allowable provisions under an acceleration of benefits provisions.

Based upon our review of the proposal, my client supports the proposed amendment and would encourage your Committee to consider this bill for passage.

Respectfully submitted,



William W. Sneed