

Approved: January 21, 1997
Date

MINUTES OF THE Senate Committee on Financial Institutions and Insurance.

The meeting was called to order by Chairperson Don Steffes at 9:00 a.m. on January 15, 1997 in Room 529-S of the Capitol.

All members were present except:

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

Conferees appearing before the committee: Kathleen Sebelius, Insurance Commissioner
Bud Grant, KCCI
Kathy Taylor, KBA

Others attending: See attached list

Bud Grant, representative of the KCCI, asked for the reintroduction of SB 569 concerning the deregulation of finance charges on consumer credit sales (Attachment 1). The bill would allow the seller to contract for and receive a finance charge not exceeding that agreed to by the consumer.

Mr. Grant also requested the introduction of legislation which would increase the purchase price from \$1000 to \$3000 before the security interest would have to be filed (Attachment 2). This would not include the purchase of an automobile.

Senator Corbin moved for the introduction of these proposals. The motion was seconded by Senator Becker. Motion carried.

Kathy Taylor, Kansas Bankers Association, requested that legislation allowing any bank or savings and loan association be legally allowed to disclose customer information to any agency of the United States (Attachment 3).

Senator Prager moved that the request for introduction be granted. The motion was seconded by Senator Barone. Motion carried.

Insurance Commissioner Kathleen Sebelius reviewed the role of the Kansas Insurance Department in oversight duties of the 76 domestic offices based in Kansas as well as the 29,000 licensed insurance agents in the state (Attachment 4). The primary function of the department is to assure the public of the solvency of insurance companies doing business in Kansas and to provide consumer protection through fair pricing and the provision of good insurance products. There is no regulation of the industry at the federal level and such operations are left up to the states. Thirteen states have elected Insurance Commissioners and the rest are appointed. There is a movement through the NAIC to establish similar insurance standards throughout the states. The need for a pooling of funds for natural disasters--earthquake, hurricane, flood, etc., has been discussed.

Commissioner Sebelius reviewed the accomplishments of the department which is a fee funded agency and turns \$90 million of such collections over to the state general fund each year. These fees are generated through the assessments on insurance companies doing business within the state. In their oversight responsibilities, they determine that rates are not discriminatory, excessive, nor inadequate. More flexibility is needed in the rating system. Every rate filing is based on a full review taking into account available data by the Insurance Commissioner, staff and sometimes outside actuaries. Domestic companies are financially reviewed every three years. If problems are suspected they can be monitored more often and required to file reports on a monthly or quarterly basis. Kansas has suffered very few insolvencies (currently dealing with three) but guarantee funds supported by like insurance companies are available.

CONTINUATION SHEET

MINUTES OF THE Senate Committee on Financial Institutions & Insurance, Room 529-S Statehouse, on January 15, 1996.

More than 40% of the people in Kansas carrying health insurance are part of a self-insured company sponsored by a large employer (ERISA). These companies are exempt of Insurance Department regulations but the insurance companies do pay for a Department audit. The recently passed Kassabaum-Kennedy plan (Health Insurance Portability and Availability Act) amends ERISA to include minimum requirements. HCFA monitors such plans but there is no enforcement clause.

Commissioner Sebelius requested the introduction of legislation which:

1. Allows Kansas to regulate health insurance rather than the federal government.
2. Sets standards for the payment of emergency room care by health insurers.
3. Define the term "pre-existing condition" in the long term care arena.
4. Prohibit insurance companies from canceling or non-renewing policies due to the filing of a claim based on windstorm or hailstorm damage in any three year period.
5. Define what information should be included in the Department's annual report.
6. Updates statutes regarding risk-based capital required for insurance companies as suggested by the NAIC.
7. Increases the total amount which can be paid for outside actuarial work.
8. Allows group life purchasers to insure the lives of spouses, their or spouse's children, and their parents or those of their spouse.
9. Makes cash surrender value of a life policy available within 30 days.

Senator Feliciano requested that the entire package from the Insurance Department be introduced into legislation. Motion was seconded by Senator Barone. Motion carried.

Bill Sneed, representing AmVestors Insurance, requested introduction of legislation which would exempt contracts of annuity from the claims of creditors (Attachment 5).

Senator Biggs moved for approval of the request for introduction. Motion was seconded by Senator Becker. Motion carried.

Bill Sneed, speaking on behalf of State Farm Insurance, requested the introduction of legislation which would protect trade secrets, privileged information, and confidential commercial or financial information furnished by or obtained from any insurance company to the Kansas Insurance Department (Attachment 6)

Senator Prager moved for this introduction. Motion was seconded by Senator Clark and motion carried.

The meeting adjourned at 10:02 a.m. The next meeting will be January 16, 1996.

SENATE FINANCIAL INSTITUTIONS & INSURANCE
COMMITTEE GUEST LIST

DATE: 1/15/97

NAME	REPRESENTING
Tom Wilder	Kansas Insurance Dept -
Alan Steppat	Pete McGill & Associates
Bill Sneed	An Vectors
R. Ripsey	AN
Kathy Taylor	KBA
TERRY HOLDREN	CIGNA / STEVE KEARNEY
Jim Gull	KCUA
Joe Schmyer	KCUA
John Ensby	Ks. Domestic Preference Group
Rich Gutierrez	Health Midwest
Burd Sarost.	SCRS
Sheryl Dillard	Health Net
BUD CORRANT	KCC
George Barbee	Barbee & Assoc's / KAFS
Bill Mitchel II	Alliance
Lynnda McLawrence	KS Insurance Dept
Chuck Stones	KBA
Frank Wilkerson	Former's Alliance
Danielle Nee	Gov Office

SENATE BILL No. 569

By Committee on Financial Institutions and Insurance

1-31

9 AN ACT concerning finance charges on consumer credit sales; amending
10 K.S.A. 16a-2-201 and 16a-2-202 and repealing the existing sections.

11

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

13 Section 1. K.S.A. 16a-2-201 is hereby amended to read as follows:
14 16a-2-201. (1) With respect to a consumer credit sale, other than a sale
15 pursuant to open end credit, a seller may contract for and receive a fi-
16 nance charge not exceeding that permitted by this section.

17 (2) The finance charge, calculated according to the actuarial method,
18 may not exceed the equivalent of the following:

19 The total of:

20 (a) Twenty-one percent per year on that part of the unpaid balance
21 of the amount financed which is \$1,000 or less;

22 (b) fourteen and forty-five hundredths percent per year on that part
23 of the unpaid balance of the amount financed which is more than \$1,000.

24 (3) This section does not limit or restrict the manner of calculating
25 the finance charge whether by way of add-on, discount, or otherwise, so
26 long as the rate of the finance charge does not exceed that permitted by
27 this section.

28 (4) For the purposes of this section, the term of a sale agreement
29 commences with the date the credit is granted or, if goods are delivered
30 or services performed 10 days or more after that date, with the date of
31 commencement of delivery or performance.

32 (5) Subject to classifications and differentiations the seller may rea-
33 sonably establish, the seller may make the same finance charge on all
34 amounts financed within a specified range. A finance charge so made
35 does not violate subsection (2) if:

36 (a) When applied to the median amount within each range, it does
37 not exceed the maximum permitted by subsection (2); and

38 (b) when applied to the lowest amount within each range, it does not
39 produce a rate of finance charge exceeding the rate calculated according
40 to paragraph (a) by more than 8% of the rate calculated according to
41 paragraph (a).

42 (6) Notwithstanding subsection (2), the seller may contract for and
43 receive a minimum finance charge of not more than \$5 when the amount

Senate Bill
Attachment 1
Jan 15, 1997

2010-1-15

11 end credit, the parties to the sale may contract for the payment by the
12 buyer of a finance charge not exceeding that permitted in this section.
13 (2) A charge may be made in each billing cycle which is a percentage
14 of an amount no greater than:
15 (a) The average daily balance of the account, which is the sum of the
16 actual amounts outstanding each day during the billing cycle divided by
17 the number of days in the cycle;
18 (b) the unpaid balance of the account on the last day of the billing
19 cycle; or
20 (c) the median amount within a specified range within which the
21 average daily balance of the account or the unpaid balance of the account
22 on the last day of the billing cycle is included. A charge may be made
23 pursuant to this paragraph only if the seller, subject to classifications and
24 differentiations the seller may reasonably establish, makes the same
25 charge on all balances within the specified range and if the percentage
26 when applied to the median amount within the range does not produce
27 a charge exceeding the charge resulting from applying that percentage to
28 the lowest amount within the range by more than 8% of the charge on
29 the median amount.
30 (3) *If the billing cycle is monthly, the charge may not exceed 1.75%*
31 *of that part of the amount pursuant to subsection (2) which is \$1,000 or*
32 *less and 1.2% on that part of this amount which is more than \$1,000. If*
33 *the billing cycle is not monthly, the maximum charge is that percentage*
34 *which bears the same relation to the applicable monthly percentage as*
35 *the number of days in the billing cycle bears to 30. For the purposes of*
36 *this section, a variation of not more than four days from month to month*
37 *is "the last day of the billing cycle." With respect to a consumer credit*
38 *sale made pursuant to open end credit, the parties may contract for and*
39 *the seller or holder may receive a finance charge in an amount not ex-*
40 *ceeding the rate or rates specified in the agreement governing the account.*
41 (4) Notwithstanding subsection (3), if there is an unpaid balance on
42 the date as of which the credit service charge is applied, the seller may
43 contract for and receive a charge not exceeding \$.50 if the billing cycle

84-9-302. When filing is required to perfect security interest; security interests to which filing provisions of this article do not apply; assignment of perfected security interest; national and state central filing provisions; vehicles. (1) A financing statement must be filed to perfect all security interests except the following:

(a) A security interest in collateral in possession of the secured party under K.S.A. 84-9-305 and amendments thereto;

(b) a security interest temporarily perfected in instruments or documents without delivery under K.S.A. 84-9-304 and amendments thereto or in proceeds for a ten-day period under K.S.A. 84-9-306 and amendments thereto;

(c) a security interest created by an assignment of a beneficial interest in a trust or a decedent's estate;

\$3,000

(d) a purchase money security interest in a consumer good with a purchase price of ~~\$1,000~~ or less, other than a vehicle in which a security interest is subject to perfection under subsection (3), but filing is required to perfect a security interest in a vessel as defined in K.S.A. 82a-802, and amendments thereto, and a fixture filing is required for priority over conflicting security interests in a fixture as provided in K.S.A. 84-9-313, and amendments thereto;

(e) an assignment of accounts which does not alone or in conjunction with other assignments to the same assignee transfer a significant part of the outstanding accounts of the assignor;

(f) a security interest of a collecting bank (K.S.A. 84-4-208 and amendments thereto) or in securities (K.S.A. 84-8-321 and amendments thereto) or arising under the article on sales (see K.S.A. 84-9-113 and amendments thereto) or covered in subsection (3);

(g) an assignment for the benefits of all creditors of the transferor and subsequent transfers by the assignee thereunder.

(2) If a secured party assigns a perfected security interest, no filing under this article is required in order to continue the perfected status of the security interest against creditors of and transferees from the original debtor.

(3) A security interest in:

(a) Property subject to a statute of the United States which provides for national registration or filing of such security interests in such property; or

(b) property subject to a statute of this state which provides for central filing of such property; or

(c) a vehicle (except a vehicle held as inventory for sale) subject to a statute of this state which requires indication on a certificate of title or a duplicate thereof of such security interests in such vehicle:

Can be perfected only by presentation, for the purpose of such registration or such filing or such indication, of the documents appropriate under any such statute to the public official appropriate under any such statute and tender of the required fee to or acceptance of the documents by such public official, or by the mailing or delivery by a dealer or secured party to the appropriate state agency of a notice of security interest as prescribed by K.S.A. 8-135 and amendments thereto. Such presentation and tender or acceptance, or mailing or delivery, shall have the same effect under this article as filing under this article, and such perfection shall have the same effect under this article as perfection by filing under this article.

History: L. 1965, ch. 564, § 369; L. 1967, ch. 519, § 9; L. 1970, ch. 46, § 2; L. 1975, ch. 32, § 2; L. 1975, ch. 514, § 15; L. 1986, ch. 399, § 64; L. 1987, ch. 404, § 1; L. 1989, ch. 313, § 1; July 1.

Senate File
Attachment 2
Jan 15, 1997

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

Any bank, trust company or savings and loan association organized under the laws of this state or any other state, or any national banking association, savings bank or savings and loan association organized under the laws of the United States, or any subsidiary thereof, may make a good faith disclosure of customer information to any agency of the United States or any state, at the agency's request, without liability therefor under the laws of this state to the customer or any third party.

*Senate J.D.S.
Attachment 3
January 15, 1997*

Kansas Insurance Department

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Homepage: <http://www.org/public/kid>

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*Senate F&D
Attachment #
January 15, 1997*

**Publications
Available
Free to Consumers**

Auto Insurance, A Necessity
 Auto Shoppers Guide, A Rate Comparison
 Homeowners and Renters Insurance Shoppers Guide
 Kansas Homeowners and Renters Insurance
 Kansas Medicare Supplement Insurance Shoppers Guide

Order your free copy by calling
 1-800-432-2484
 or
 email your request to:
 ksebelius@ins.wpo.state.ks.us

Companies Doing Business in Kansas

	Domestic Companies	Foreign Companies	All Companies	Premium
Life	11	714*	725	2,025,904,529
Accident & Health	31	928	959	1,712,154,571
Fire & Casualty	34	784	818	2,511,264,064
Total	76	2426	2502	6,249,323,164

*Includes Fraternal Life Societies

*Senate File
 Attachment #
 Jan 15, 1997*

The Kansas Insurance Department

The Kansas Insurance Department was established by the Kansas Legislature in 1871 and now, 126 years later, it plays a very REAL role in the everyday lives of Kansas consumers. As a regulatory agency, its major responsibilities are to:

Regulate and Review Companies

Seventy-six companies are headquartered in Kansas, plus 1,400 other companies sell policies in Kansas. The Kansas Insurance Department, under the direction of Commissioner Kathleen Sebelius, regulates and reviews these companies to make sure they are solvent and comply with insurance laws and regulations.

Educate Consumers

To educate consumers about insurance, the Kansas Insurance Department publishes brochures and rate guides on all kinds of insurance coverage; provides speakers on numerous insurance topics; and prepares vital public service information to mass media.

Assist Consumers

The Kansas Insurance Department helps consumers when they have disputes with insurance companies. Such assistance has resulted in millions of dollars in refunds and claims payments for consumers.

License Agents

Approximately 29,000 insurance agents are licensed in Kansas to sell insurance products. The Kansas Insurance Department also requires agents to meet ongoing continuing education requirements.

Department Mission

The mission of the Insurance Department is to protect the insurance consumers of Kansas and to serve the public interest through the supervision, control, and regulation of persons and organizations transacting the business of insurance in the state. This mission will be accomplished by assuring an affordable, accessible, and competitive insurance market.

Overview of Department Divisions

The Kansas Insurance Department has nine major divisions. The mission of each division and a brief description of their responsibilities follows.

Accident and Health

The Accident and Health Division is committed to protecting the insurance consumer by monitoring and regulating all matters relating to the writing of accident and health insurance in Kansas. The Division ensures that policy forms and rates comply with applicable laws and regulations and provides information and assistance to the insurance consumer and industry.

The Accident and Health Division (A&H) is responsible for the general supervision and regulation of all matters relating to accident and health insurance. An important function of this division is to assure that the forms and rates being offered in the state of Kansas by indemnity companies, health maintenance organizations, and other entities licensed to provide coverage in Kansas are in compliance with Kansas statutes and regulations. This involves the process of reviewing policy and certificate forms and rates being offered in the state of Kansas. A&H assists the Commissioner in the formation, review, and implementation of pertinent health insurance legislation. This division develops departmental bulletins as needed, responds to questions from insurance companies, and assists in performing market conduct reviews of insurance companies. The division also responds to consumer inquiries as well as contributing to the development of shopper's guides for department publications related to health and accident insurance.

Administrative

The mission of the Administrative Services Division is to provide comprehensive services to the Kansas Insurance Department and its customers. These services include: human resources, fiscal, informational, technical, organizational, and facilities management. Such services will ensure the

agency's effectiveness in serving the public's interest in executing its statutory and regulatory responsibilities.

The Administrative Division performs the staff functions for the Commissioner, i.e. governmental relations, human resources, data processing, purchasing, and implementation of the Commissioner's policies through several operational divisions of the Department.

Agents and Brokers

The mission of the Agents and Brokers Division is to assist the Commissioner in protecting the consumers of Kansas by ensuring that all individuals soliciting insurance in Kansas are knowledgeable, competent, properly licensed, and certified by insurance companies.

The Agents and Brokers Division is responsible for the supervision and regulation of all matters relating to selling or soliciting insurance in Kansas. This division is responsible for agent applications; examinations or other qualifications; issuance of licenses; administration of continuing education requirements; collection and processing of all licensing fees; and the maintenance of all agent records.

Consumer Assistance

The Consumer Assistance Division's mission is to provide information, assistance, education, and protection to the citizens of Kansas in matters of insurance; to ensure that a healthy environment is maintained for the well being of the insurance market place; and to ensure that the standards of the Kansas Insurance Department are consistently followed and that all parties are in compliance with statutes and regulations of the state of Kansas.

The Consumer Assistance Division has three principal areas of responsibility:

- Investigate complaints and respond to inquiries about insurance companies, agencies, and agents.

Consumers may contact our office on the consumer assistance toll-free "hotline", in writing, or in person at our Topeka or Wichita office.

- Educate and inform the general public on insurance matters by providing speakers for various groups and by distributing educational materials.
- Coordinate and staff market conduct examinations that review claims processing, underwriting and rating practices of individual companies.

Financial Surveillance

The mission of the Financial Surveillance Division is to protect the insurance consumers of Kansas from financial hardship and to serve the public interest by detecting as quickly as possible those insurance companies which are in, or have the potential to be in, hazardous financial condition. This mission will be accomplished through licensing, monitoring, and regulating insurance companies in accordance with Kansas laws.

The Financial Surveillance Division performs these activities:

- Conducts examinations of insurance companies domiciled in Kansas
- Monitors the financial condition of all insurance companies authorized to do business in Kansas
- Reviews all applications which involve the acquisition of domestic insurance companies by another party as provided by the Holding Company Act
- Coordinates activities pertaining to the Kansas Insurance Guaranty Association Act and the Kansas Life and Health Insurance Guaranty Act
- Approves the admission of all insurance organizations, automobile clubs, and premium finance companies
- Oversees securities deposited by insurance companies.

Fire and Casualty

The mission of the Fire and Casualty Division is to verify that the regulated rates, rules, and policy forms used by the Fire and Casualty insurance companies comply with statutes and regulations. This division also administers and regulates numerous other related insurance functions to ensure compliance with Kansas statutes and regulations. Our mission will be accomplished by providing prompt and fair regulation of insurance products to the insurance companies and helpful information to the general insuring public.

The Fire and Casualty Division is responsible for the general supervision and regulation of matters relating to the writing of fire and casualty insurance. The primary function of this division is to review rate, rule, and form submissions by fire and casualty insurance companies doing business in Kansas to assure that they are in compliance with the statutes and regulations. This division is also responsible for auditing insurance company annual statement tax and fee forms, reviewing proposed legislation, performing market conduct reviews, replying to consumer inquiries and complaints, administering several plans, pools or acts, and issuing licenses to new insurance companies.

Government and Public Affairs

The mission of the Government and Public Affairs Division is to protect Kansas consumers by informing and educating them about the insurance products they are purchasing, and advocating on their behalf for insurance legislation and regulations. The Division also serves the public interest by communicating information about the Kansas Insurance Department and its Commissioner to the public, news media, and the insurance industry.

The Government and Public Affairs Division works to represent the interests of the Insurance Department before the general public, other government agencies, and state and federal legislative committees. The division is responsible for coordinating the development of the legislative and

regulatory initiatives of the department and presenting those issues to the Kansas Legislature and the US Congress. In addition, the division serves as a liaison between the Insurance Department and state and federal agencies on insurance related matters. The division handles inquiries from the news media and assists the Commissioner in communicating department policy to the insurance industry, insurance agents, and the public. These activities include the publication of consumer brochures, shoppers' guides, newsletters, press releases and other news articles. The division also supports the Commissioner in her role as a member of the National Association of Insurance Commissioners, State Employees Health Care Commission, and other organizations which deal with insurance issues.

Legal

The mission of the Legal Division of the Kansas Insurance Department is to provide advice and counsel to the Commissioner and the operating divisions of the Kansas Insurance Department; to serve the public interest through the control and regulation of persons and organizations transacting the business of insurance in the state; and to defend the Department in all relevant forums.

The Legal Division provides legal advice to the Commissioner and the divisions within the department. This division conducts investigations and holds formal hearings on insurance agents and/or companies when it has been alleged that the agents and/or companies are operating in violation of Kansas insurance laws. This division also represents the department in litigation where necessary.

Life

The mission of the Life Division is to serve, protect and assist the general public, the insurance industry, Commissioner of Insurance and Kansas Insurance Department Divisions, State agencies, legislators, and other state insurance departments, through efficient and effective use of education, technology, and professional expertise.

The Life Division supervises and regulates matters related to the writing of life insurance in Kansas. Although the primary function of the division is to review policy forms being offered to Kansas consumers, the division handles a broad range of other duties. Other important functions are the overseeing of all advertising of life insurance products; the proposal of needed legislation and analysis of proposed laws; tax review and calculation; advisory duties to the Commissioner; and processing official company papers and certificates.

Commissioner's Staff

The Administrative Staff that serves under Commissioner Kathleen Sebelius is:

- Robert (Bob) Kennedy, Jr. .. Assistant Commissioner
- Jamesina M. Evans Director, Human Resources
- Denise Moore Director, Information Technology
- Dennis Shockley Comptroller

Division Directors:

- Rich Huncker, Accident and Health
- Ed Mailen, Agents and Brokers
- Kathy Greenlee, Consumer Assistance
- Don Gaskill, Financial Surveillance
- Bill Wempe, Fire and Casualty
- Tom Wilder, Government and Public Affairs
- Brian Moline, Legal
- Marlyn Burch, Life



Kathleen Sebelius
Commissioner of Insurance
Kansas Insurance Department

MEMORANDUM

To: Senate Financial Institutions and
Insurance Committee

From: Kathleen Sebelius, Commissioner
of Insurance

Re: Bill Introductions

Date: January 15, 1997

The Kansas Insurance Department is requesting that this committee consider the introduction of several bills which concern health insurance, homeowners coverage, life insurance and the operation of the Insurance Department. The legislation is designed to bring our health insurance statutes into compliance with recent federal law changes and to streamline the regulatory process at our agency. In addition, two of the proposals will provide important consumer protections for homeowners and life insurance products.

The following is a list of our proposed legislation. Copies of all of the bills, except for the group and individual health insurance legislation, are attached to this testimony.

– **Health Insurance Reform Act:** As you may be health aware, the 1996 Congress passed the Health Insurance Portability and Availability Act which is also known as the Kassebaum-Kennedy bill after its two principal Senate sponsors. This legislation makes a number of significant changes in self-insured employer health plans, group and individual health insurance coverage, tax law revisions and long term care insurance. It is important for Kansas to enact changes to our group and individual health insurance statutes in order to comply with the new federal standards. If the Kansas Legislature does not act, the regulation of health insurance will fall to the federal government rather than the state.

Most of the changes to the Kansas group health insurance statutes are definition changes. Our current laws are the same as or more comprehensive than the federal standards. We need to adopt the language in the federal bill to bring our health insurance

provisions in line with the definitions in the Kassebaum-Kennedy legislation. I will ask this Committee to consider changing our small employer group health insurance laws to permit self-insured individuals to purchase a small employer policy. This amendment will allow the self-insured access to health insurance coverage.

The revisions to our individual health insurance statutes will adopt the individual insurance market portability provisions in the Kassebaum-Kennedy bill. That law allows individuals who were previously insured under a group health policy for a period of 18 months to have individual health insurance coverage provided by insurers and health maintenance organizations.

I am asking that the Committee agree to conceptually introduce this bill. A final copy will be available by this Friday.

Payment for Emergency Room Services: The bill enacts standards for the payment of emergency room care by health insurers. The proposed legislation is based on a model law developed by the National Association of Insurance Commissioners.

Long Term Care Insurance Revisions: Last fall the Kansas Long-Term Care Task Force which I chaired reviewed the Kansas laws and regulations which govern the sale of long-term care insurance policies in this state. The Task Force recommended that we revise our statute on the use of pre-existing conditions in long term care insurance products. The revision would shorten the "look-back" period for policies sold to those under the age of 65 from two years to six months.

Homeowners Insurance Cancellation: The proposed bill prohibits insurance companies from canceling or nonrenewing a homeowners policy because the insured files one claim of loss based on windstorm or hailstorm damage in any three year period under the policy.

Annual Report of Insurance Commissioner: The bill clarifies what categories of information must be included in the Department's annual report to the Governor.

Definition of RBC Instructions: The Department requires insurance companies to provide information each year on the amount of reserves necessary to meet their obligations. The data is based on a "risk based capital" formula developed by the National

Association of Insurance Commissioners. The statute needs to be updated to include the latest (January 1, 1997) model of that formula.

Payment of Outside Actuaries: The law currently limits the Department to pay no more than \$20,000 for the use of outside actuary consultants. The bill raises those limits. This change was recommended by the NAIC as part of its accreditation review of the Department.

Definition of Insurable Interest: The legislation amends the group life insurance statutes to allow employees who purchase a life policy to insure the lives of (a) their spouse; (b) their children or their spouse's children or (c) their parents or their spouse's parents.

Life Insurance-Cash Surrender Values: Under current law a life insurance company can keep the cash surrender value of a policy for up to six months after the policyholder asks for the money. The bill will make the funds available within 30 days after such a request.

I would ask that the Senate Financial Institutions and Insurance Committee introduce these bills on behalf of the Insurance Department.

DRAFT (12/5/96) Health Insurance - Emergency Room Services

_____ **Bill No.** _____

AN ACT concerning health insurance; regarding payment for emergency room services.

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

Section 1. This Act shall be known as the Emergency Room Services Payment Act.

Section 2. As used in this act:

(a) "Emergency medical condition" means the sudden and, at the time, unexpected onset of a health condition that requires immediate medical attention, where failure to provide medical attention would result in serious impairment to bodily functions or serious dysfunction of a bodily organ or part, or would place the person's health in serious jeopardy.

(b) "Emergency services" means health care items and services furnished or required to evaluate and treat an emergency medical condition.

(c) "Health benefit plan" means any hospital or medical expense policy, health, hospital or medical service corporation contract, and a plan provided by a municipal group-funded pool, or a health maintenance organization contract offered by an employer or any certificate issued under any such policies, contracts or plans. "Health benefit plan" does not include policies or certificates covering only accident, credit, dental, disability income, long-term care, hospital indemnity, medicare supplement, specified disease, vision care, coverage issued as a supplement to liability insurance, insurance arising out of a workers compensation or similar law, automobile medical-payment insurance, or insurance under which benefits are payable with or without regard to fault and which is statutorily required to be contained in any liability insurance policy or equivalent self-insurance.

(d) "Health carrier" means any insurance company, nonprofit medical and hospital service corporation, municipal group-funded pool, fraternal benefit society or health maintenance organization, as these terms are defined by the Kansas Statutes Annotated.

(e) "Participating provider" means a provider who, under a contract with the health carrier or with its contractor or subcontractor, has agreed to provide health care services to covered persons with an expectation of services receiving payment, other than coinsurance, copayments or deductibles, directly or indirectly from the health carrier.

(f) "Provider means a physician or other health care practitioner licensed, accredited or certified to perform specified health care services consistent with state law.

Section 3. (a) A health benefit plan shall cover emergency services necessary to screen and stabilize a covered person and shall not require prior authorization of such services if a prudent lay person acting reasonably would have believed that an emergency medical condition existed. With respect to care obtained from a non-contracting provider within the service area of a managed care plan, a health carrier shall cover emergency services necessary to screen and stabilize a covered person and shall not require prior authorization of such if a prudent layperson would have reasonably believed that use of a contracting provider would result in a delay that would worsen the emergency, or if a provision of federal, state or local law requires the use of a specific provider.

(b) A health benefit plan shall cover emergency services if the health carrier, acting through a participating provider or other authorized representative, has authorized the provision of emergency services.

(c) If a participating provider or other authorized representative of a health carrier authorizes emergency services, the health carrier shall not subsequently retract its authorization after the emergency services have been provided, or reduce payment for an item or service furnished in reliance on approval, unless the approval was based on a material misrepresentation about the covered person's health condition made by the provider of emergency services.

(d) Coverage of emergency services shall be subject to applicable copayments, coinsurance and deductibles.

(e) For immediately required post-evaluation or post-stabilization services, a health carrier shall provide access to an authorized representative twenty-four (24) hours a day, seven (7) days a week, to facilitate review.

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

Draft (12/1/96) - Health Insurance - Long Term Care Policies - Preexisting Conditions

Bill No. 10

AN ACT concerning long term care insurance; revising the definition of preexisting conditions; amending K.S.A. 40-2228 and repealing the existing section.

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

Section 1. K.S.A. 40-2228 is hereby amended to read as follows: K.S.A. 40-2228. (a) The commissioner may adopt reasonable rules and regulations:

(1) To establish specific standards for policy provisions of long-term care insurance policies. Such standards shall be in addition to and in accordance with applicable laws of this state, and shall address terms of renewability, initial and subsequent conditions of eligibility, nonduplication of coverage provisions, coverage of dependents, preexisting conditions, termination of insurance, probationary periods, limitations, exceptions, reductions, elimination periods, requirements for replacement, recurrent conditions and definitions of terms; and

(2) to specify prohibited policy provisions not otherwise specifically authorized by statute which, in the opinion of the commissioner, are unjust, unfair or unfairly discriminatory to any person insured under a long-term care insurance policy.

(b) Rules and regulations adopted by the commissioner shall:

(1) Recognize the unique, developing and experimental nature of long-term care insurance; and

(2) recognize the appropriate distinctions necessary between group and individual long-term care insurance policies.

(c) The commissioner may adopt rules and regulations establishing loss-ratio standards for long-term care insurance policies if a specific reference to long-term care insurance policies is contained in the rules and regulations.

(d) No long-term care insurance policy may:

(1) Be canceled, nonrenewed, or otherwise terminated solely on the grounds of the age or the deterioration of the mental or physical health of the insured individual or certificate holder; or

(2) contain a provision establishing any new waiting period in the event existing coverage is converted to or replaced by a new or other form within the same company, except with respect to an increase in benefits voluntarily selected by the insured individual or group policyholder.

(e)(1) No long-term insurance policy or certificate shall use a definition of preexisting condition which is more restrictive than the following: "Preexisting condition" means ~~the existence of symptoms which would cause an ordinarily prudent person to seek diagnosis, care or treatment, or a condition for which medical advice or treatment was recommended by, or received from a provider of health care services; within:~~ a condition for which medical advice or treatment was recommended by, or received from a provider of health care services, within six months preceding the effective date of coverage of an insured person.

~~(A) Six months preceding the effective date of coverage of an insured person who is 65 years of age or older on the effective date of coverage; or~~

~~(B) twenty-four months preceding the effective date of coverage of an insured person who is under age 65 on the effective date of coverage.~~

(2) No long-term care insurance policy shall exclude coverage for a loss or confinement which is the result of a preexisting condition unless such loss or confinement begins within: six months following the effective date of coverage of an insured person

~~(A) Six months following the effective date of coverage of an insured person who is 65 years of age or older on the effective date of coverage; or~~

~~(B) twenty-four months following the effective date of coverage of an insured person who is under age 65 on the effective date of coverage.~~

(3) The commissioner may extend the limitation periods set forth in subsections (e)(1) and (e)(2) above as to specific age group categories or specific policy forms upon finding that the extension is not contrary to the best interest of the public.

(4) The definition of preexisting condition shall not prohibit an insurer from using an application form designed to elicit the complete health history of an applicant, and, on the basis of the answers to that application, from underwriting in accordance with that insurer's underwriting standards.

(f) No long-term care insurance policy shall require prior institutionalization as a condition precedent to the payment of benefits.

(g) In order to provide for fair disclosure in the sale of long-term care insurance policies:

(1) An outline of coverage shall be delivered to an applicant for a long-term care insurance policy at the time of application. In the case of direct response solicitations, the insurer shall deliver the outline of coverage upon the applicant's request, but regardless of request, shall make such delivery no later than at the time of policy delivery. Such outline of coverage shall include:

(A) A description of the principal benefits and coverage provided in the policy;

(B) a statement of the principal exclusions, reductions and limitations contained in the policy;

(C) a statement of the renewal provisions, including any reservation in the policy of a right to change premiums; and

(D) a statement that the outline of coverage is a summary of the policy issued or applied for, and that the policy should be consulted to determine governing contractual provisions.

(2) A certificate issued pursuant to a group long-term care insurance policy which policy is delivered or issued for delivery in this state shall include the information required by subsection (B)(4) of K.S.A. 40-2209 and amendments thereto.

Section 2. K.S.A. 40-2228 is hereby repealed.

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

DRAFT (12/26/96) - Homeowners Insurance - Storm Loss Claims

_____ No. 11 _____

AN ACT relating to property insurance; concerning the cancellation or decision to deny renewal of coverage.

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

Section 1. After the effective date of this act, an insurance company shall not cancel or nonrenew a policy of property insurance because the insured has filed a single claim for loss due to windstorm, hailstorm or any other act of nature within any three (3) consecutive years such policy is in force. As used in this act, the term "policy of property insurance," shall mean an insurance policy insuring against the physical loss of or damage to real or personal property used for habitation and personal purposes in connection with insurance coverage offered on a one to four family dwelling or its contents.

Section 2. This act shall take effect and be in force from and after its publication in the statute book.

Annual Insurance Department Report - DRAFT 11/27/96

BILL NO. 15

AN ACT relating to the annual report of the commissioner of insurance to the governor; amending K.S.A. 40-108 and repealing the existing section.

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

Section 1. K.S.A. 40-108 is hereby amended to read as follows: K.S.A. 40-108. ~~In addition to his annual and biennial reports, the~~ The commissioner of insurance shall make ~~a separate~~ an annual report to the governor of the general conduct and condition of the insurance companies, including fraternal benefit societies, doing business in this state; ~~with such suggestions as he deems expedient, including also the information contained in the statement required of such companies, and the result of the official valuations of life policies, to be arranged in form in two separate reports, one pertaining to life insurance companies and the other to fire and all insurance companies other than life.~~ The commissioner of insurance shall keep and preserve in a permanent form a full record of ~~his~~ the commissioner's proceedings, including a concise statement of the condition of each company reported, visited or examined by ~~him.~~ the commissioner.

Section 2. K.S.A. 40-108 is hereby repealed.

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

DRAFT 1/14/97 (Payment For Outside Actuaries)

_____ **Bill No.** _____

AN ACT relating to insurance; concerning payment for outside consulting services by the Kansas Department of Insurance; amending K.S.A. 40-233 and repealing the existing section.

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

Section 1. K.S.A. 40-233 is hereby amended to read as follows: K.S.A. 40-233
Any person who makes any examination under the provisions of this act, except as provided in K.S.A. 40-110 and 40-253 and amendments thereto, may receive, as full compensation for such person's services, on a per diem basis an amount fixed by the commissioner, which shall not exceed the amount recommended by the national association of insurance commissioners, for such time necessarily and actually occupied in going to and returning from the place of such examination and for such time the examiner is necessarily and actually engaged in making such examination including any day within the regular workweek when the examiner would have been so engaged had the company or society been open for business, together with such necessary and actual expenses for traveling and subsistence as the examiner shall incur because of the performance of such services. For the purposes of this act, "necessary and actual expenses" shall be limited, whether for travel within the state or travel outside the state, to those limitations expressed in K.S.A. 75-3207 and amendments thereto which pertain to official travel outside the state. The daily charge shall be calculated by dividing the amount the examiner is authorized by the commissioner of insurance to charge per week by the number of days in the regular workweek of the company or society being examined.

All of such compensation, expenses, the employer's share of the federal insurance contributions act taxes, the employer's contribution to the Kansas public employees retirement system as provided in K.S.A. 74-4920 and amendments thereto, the self-insurance assessment for the workers compensation act as provided in K.S.A. 44-576 and amendments thereto, the employer's cost of the state health care benefits program under K.S.A. 75-6507 and amendments thereto, a pro rata amount determined by the

commissioner to provide annual vacation and sick leave for the examiner not to exceed the number of days allowed state officers and employees in the classified service pursuant to regulations promulgated in accordance with the Kansas civil service act, all outside consulting and data processing fees necessary to perform any examination, and a pro rata amount determined by the commissioner not to exceed an annual aggregate of \$18,000 to fund the purchase, maintenance and enhancement of examination equipment and computer software shall be paid to the commissioner of insurance by the insurance company or society so examined, on demand of the commissioner. ~~The amount paid for all outside consulting and data processing fees necessary to perform any examination, and the pro rata amount to fund the purchase of examination equipment and computer software shall not collectively total more than \$25,000 at any one company examination including examination of its subsidiaries or combination thereof.~~ Such demand shall be accompanied by the sworn statement of the person making such examination, setting forth in separate items the number of days necessarily and actually occupied in going to and returning from the place of such examination, the number of days the examiners were necessarily and actually engaged in making such examination including those days within the regular workweek while the examination was in progress and the company or society had closed for business, and the necessary and actual expenses for traveling and subsistence, incurred in and on account of such services. A duplicate of every such sworn statement shall be kept on file in the office of the commissioner of insurance. All moneys so paid to the commissioner of insurance shall be remitted to the state treasurer and the state treasurer shall issue duplicate receipts therefor, one to be delivered to the commissioner of insurance and the other to be filed with the director of accounts and reports.

Section 2. K.S.A. 40-223 is hereby repealed.

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

DRAFT 1/14/97 (Payment For Outside Actuaries)

_____ **Bill No.** _____

AN ACT relating to insurance; concerning payment for outside consulting services by the Kansas Department of Insurance; amending K.S.A. 40-233 and repealing the existing section.

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

Section 1. K.S.A. 40-233 is hereby amended to read as follows: K.S.A. 40-233 Any person who makes any examination under the provisions of this act, except as provided in K.S.A. 40-110 and 40-253 and amendments thereto, may receive, as full compensation for such person's services, on a per diem basis an amount fixed by the commissioner, which shall not exceed the amount recommended by the national association of insurance commissioners, for such time necessarily and actually occupied in going to and returning from the place of such examination and for such time the examiner is necessarily and actually engaged in making such examination including any day within the regular workweek when the examiner would have been so engaged had the company or society been open for business, together with such necessary and actual expenses for traveling and subsistence as the examiner shall incur because of the performance of such services. For the purposes of this act, "necessary and actual expenses" shall be limited, whether for travel within the state or travel outside the state, to those limitations expressed in K.S.A. 75-3207 and amendments thereto which pertain to official travel outside the state. The daily charge shall be calculated by dividing the amount the examiner is authorized by the commissioner of insurance to charge per week by the number of days in the regular workweek of the company or society being examined.

All of such compensation, expenses, the employer's share of the federal insurance contributions act taxes, the employer's contribution to the Kansas public employees retirement system as provided in K.S.A. 74-4920 and amendments thereto, the self-insurance assessment for the workers compensation act as provided in K.S.A. 44-576 and amendments thereto, the employer's cost of the state health care benefits program under K.S.A. 75-6507 and amendments thereto, a pro rata amount determined by the

commissioner to provide annual vacation and sick leave for the examiner not to exceed the number of days allowed state officers and employees in the classified service pursuant to regulations promulgated in accordance with the Kansas civil service act, all outside consulting and data processing fees necessary to perform any examination, and a pro rata amount determined by the commissioner not to exceed an annual aggregate of \$18,000 to fund the purchase, maintenance and enhancement of examination equipment and computer software shall be paid to the commissioner of insurance by the insurance company or society so examined, on demand of the commissioner. ~~The amount paid for all outside consulting and data processing fees necessary to perform any examination, and the pro rata amount to fund the purchase of examination equipment and computer software shall not collectively total more than \$25,000 at any one company examination including examination of its subsidiaries or combination thereof.~~ Such demand shall be accompanied by the sworn statement of the person making such examination, setting forth in separate items the number of days necessarily and actually occupied in going to and returning from the place of such examination, the number of days the examiners were necessarily and actually engaged in making such examination including those days within the regular workweek while the examination was in progress and the company or society had closed for business, and the necessary and actual expenses for traveling and subsistence, incurred in and on account of such services. A duplicate of every such sworn statement shall be kept on file in the office of the commissioner of insurance. All moneys so paid to the commissioner of insurance shall be remitted to the state treasurer and the state treasurer shall issue duplicate receipts therefor, one to be delivered to the commissioner of insurance and the other to be filed with the director of accounts and reports.

Section 2. K.S.A. 40-223 is hereby repealed.

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

DRAFT 11/30/96 - Life Insurance - Definition of "Insurable Interest"

BILL NO. 13

AN ACT concerning insurance; group life insurance; amending K.S.A. 1995 Supp. 40-433 and repealing the existing section.

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

Section 1. K.S.A. 1996 Supp. 40-433 is hereby amended to read as follows: 40-433. No policy of group life insurance shall be delivered in this state unless it conforms to one of the following descriptions:

(1) A policy issued by an insurance company organized under the laws of the state of Kansas on its employees and agents, which agents for the purpose of this act only shall be deemed employees, the beneficiaries under such policies to be persons designated by each insured, or a policy issued to an employer, or to the trustees of a fund established by an employer, which employer or trustees shall be deemed the policyholder, to insure employees of the employer for the benefit of persons other than the employer, both subject to the following requirements: (a) The employees eligible for insurance under the policy shall be all of the employees of the employer, or all of any class or classes thereof determined by conditions pertaining to their employment. The policy may provide that the term "employees" shall include the employees of one or more subsidiary corporations, and the employees, individual proprietors, and partners of one or more affiliated corporations, proprietors or partnerships if the business of the employer and of such affiliated corporations, proprietors or partnerships is under common control through stock ownership, contract or otherwise. The policy may provide that the term "employees" shall include the individual proprietor or partners if the employer is an individual proprietor or a partnership. The policy may provide that the term "employees" shall include retired employees. No director of a corporate employer shall be eligible for insurance under the policy unless such person is otherwise eligible as a bona fide employee of the corporation by performing services other than the usual duties of a director. No individual proprietor or partner shall be eligible for insurance under the policy unless the proprietor or partner is actively engaged in and devotes a substantial part of their time to the conduct of the business of the proprietor or partnership. A policy issued to insure the employees of a public body may provide that the term "employees" shall include elected or appointed officials. (b) The premium for the policy shall be paid by the policyholder, either wholly from the employer's funds or funds contributed by the employer, or partly from such funds and partly from funds contributed by the insured employees. No policy shall be issued on which the entire premium is to be derived from funds contributed by the insured employees. A policy on which part of the premium is to be derived from funds contributed by the insured employees may be placed in force only if at least 75% of the then eligible employees, excluding any as to whom evidence of individual insurability is not satisfactory to the insurer, elect to make the required contribution. A policy on which no part of the

premium is to be derived from funds contributed by the insured employees shall insure all eligible employees, or all except any as to whom evidence of individual insurability is not satisfactory to the insurer. (c) The policy shall cover at least three employees at date of issue. (d) The amounts of insurance under the policy shall be based upon some plan, precluding individual selection either by the employees or by the employer or trustees.

(2) A policy issued to a creditor, who shall be deemed the policyholder, to insure debtors of the creditor, subject to the following requirements: (a) The debtors eligible for insurance under the policy shall be all of the debtors of the creditor whose indebtedness is repayable in installments, or all of any class or classes thereof determined by conditions pertaining to the indebtedness or to the purchase giving rise to the indebtedness. (b) The premium for the policy shall be paid by the policyholder, either from the creditor's funds or from charges collected from the insured debtors, or from both. A policy on which part or all of the premium is to be derived from the collection from the insured debtors of identifiable charges not required of uninsured debtors shall not include, in the class or classes of debtors eligible for insurance, debtors under obligations outstanding at its date of issue without evidence of individual insurability unless at least 75% of the then eligible debtors elect to pay the required charges. A policy on which no part of the premium is to be derived from the collection of such identifiable charges shall insure all eligible debtors, or all except any as to whom evidence of individual insurability is not satisfactory to the insurer. (c) The policy may be issued only if the group of eligible debtors is then receiving new

entrants at the rate of at least 100 persons yearly, or may reasonably be expected to receive at least 100 new entrants during the first policy year, and only if the policy reserves to the insurer the right to require evidence of individual insurability if less than 75% of the new entrants become insured. (d) The amount of insurance on the life of any debtor shall at no time, under one or more policies, exceed the amount owed by that debtor which is repayable in installments to the creditor, or \$100,000, whichever is less. (e) The insurance shall be payable to the policyholder. Such payment shall reduce or extinguish the unpaid indebtedness of the debtor to the extent of such payment.

(3) A policy issued to a labor union, which shall be deemed the policyholder, to insure members of such union for the benefit of persons other than the union or any of its officials, representatives or agents, subject to the following requirements:

(a) The members eligible for insurance under the policy shall be all of the members of the union, or all of any class or classes thereof determined by conditions pertaining to their employment, or to membership in the union, or both.

(b) The premium for the policy shall be paid by the policyholder, either wholly from the union's funds, or partly from such funds and partly from funds contributed by the insured members specifically for their insurance. No policy shall be issued on which the entire premium is to be derived from funds contributed by the insured members specifically for their insurance. A policy on which part of the premium is to be derived from funds

contributed by the insured members specifically for their insurance may be placed in force only if at least 75% of the then eligible members excluding any as to whom evidence of individual insurability is not satisfactory to the insurer, elect to make the required contributions. A policy on which no part of the premium is to be derived from funds contributed by the insured members specifically for their insurance shall insure all eligible members, or all except any as to whom evidence of individual insurability is not satisfactory to the insurer.

(c) The policy shall cover at least 25 members at date of issue.

(d) The amounts of insurance under the policy shall be based upon some plan precluding individual selection either by the members or by the union.

(4) A policy issued to the trustees of a fund established in this state by two or more employers if a majority of the employees to be insured of each employer are located within the state, or to the trustees of a fund established by one or more labor unions, or by one or more employers and one or more labor unions, which trustees shall be deemed the policyholder, to insure employees of the employers or members of the unions for the benefit of persons other than the employers or the unions, subject to the following requirements: (a) The persons eligible for insurance shall be all of the employees of the employers or all of the members of the unions, or all of any class or classes thereof determined by conditions pertaining to their employment, or to membership in the unions, or to both. The policy may provide that the term "employees" shall include retired employees and the individual proprietor or partners if any employer is an individual proprietor or a partnership. No director of a corporate employer shall be eligible for insurance under the policy unless such person is otherwise eligible as a bona fide employee of the corporation by performing services other than the usual duties of a director. No individual proprietor or partner shall be eligible for insurance under the policy unless the proprietor or partner is actively engaged in and devotes a substantial part of their time to the conduct of the business of the proprietor or partnership. The policy may provide that the term "employees" shall include the trustees or their employees, or both, if their duties are principally connected with such trusteeship. (b) The premium for the policy shall be paid by the trustees either wholly from funds contributed by the employer or employers of the insured persons, or by the union or unions, or by both, or partly from such funds and partly from funds contributed by the insured employees. No policy shall be issued on which the entire premium is to be derived from funds contributed by the insured persons. The policy shall insure all eligible persons, or all except any as to whom evidence of individual insurability is not satisfactory to the insurer. (c) The policy shall cover at date of issue at least 100 persons and not less than an average of five persons per employer unit. (d) The amounts of insurance under the policy shall be based upon some plan precluding individual selection either by the insured persons or by the policyholder, employers, or union.

(5) A policy issued to an association which has been organized and is maintained for purposes other than that of obtaining insurance, insuring at least 25 members, employees, or employees of members of the association for the benefit of persons other than the association or its officers. The term "employees" as used herein shall be deemed to include retired employees. The premiums for the policies shall be paid by the policyholder, either wholly from association funds, or funds contributed by the members of such association or by employees of such members or any combination thereof. The amounts of insurance under the policy shall be based upon some plan precluding individual selection either by the insured person or by the association or by the member.

(6) Any policy issued pursuant to this section may be extended to insure the employees against loss due to the death of their spouses, their children or their spouses' children, or their parents or their spouses' parents or the employees' children under 21 years of age, or employees' children 21 years or older who are attending an educational institution and relying upon the insured employees for financial support, or any class or classes thereof, subject to the following requirements:

(a) The premium for the insurance shall be paid by the policyholder, either from the employer's funds or from funds contributed by the insured employees, or from both. If any part of the premium is to be derived from funds contributed by the insured employees, the insurance with respect to spouses and children may be placed in force only if at least 75% of the then eligible employees, excluding any as to whose family members' evidence of insurability is not satisfactory to the insurer, elect to make the required contribution. If no part of the premium is to be derived from funds contributed by the employees, all eligible employees, excluding any as to whose family members' evidence of insurability is not satisfactory to the insurer, shall be insured with respect to their spouses and children.

(b) The amounts of insurance shall be based upon some plan precluding individual selection either by the employees or by the policyholder, or employer and shall not exceed with respect to any spouse, or child, or parent, 50% of the insurance on the life of such insured employee.

(c) Upon termination of the insurance with respect to the spouse of an employee by reason of the employee's termination of employment or death, the spouse insured pursuant to this section shall have the same conversion rights as to the insurance on such spouse's life as is provided for the employee under K.S.A. 40-434 and amendments thereto.

(d) Notwithstanding the provisions of K.S.A. 40-434 and amendments thereto only one certificate need be issued for delivery to an insured person if a statement concerning any dependent's coverage is included in such certificate.

(7) A policy may be issued to any other group which the commissioner of insurance finds is the proper subject of a group life insurance policy or contract. Any such group shall be subject to any appropriate conditions or provisions relating thereto which the

commissioner may establish or require, consistent with the provisions of this act, and such conditions and provisions shall be included in the policy or contract.

Section 2. K.S.A. 1996 Supp. 40-435 is hereby repealed.

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

AN ACT relating to life insurance; concerning payment of certain policy amounts amending K.S.A. 40-427, 40-428, 40-428a and 40-429 and repealing the existing sections.
Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 40-427 is hereby amended to read as follows: 40-427. (a) This subsection shall apply only to policies of life insurance (other than industrial life insurance) issued prior to the operative date of K.S.A. 40-428 (the standard nonforfeiture law). The nonforfeiture benefits referred to in subsection (6) of K.S.A. 40-420, shall be available to the insured in event of default in premium payments, after premiums shall have been paid for three years, and shall be a stipulated form of insurance, effective from the due date of the defaulted premium, the net value of which shall be at least equal to the reserve at the date of default on the policy and on dividend additions thereto, if any, exclusive of the reserve on account of return premium insurance and on total and permanent disability and additional accidental death benefits (the policy to specify the mortality table and rate of interest adopted for computing such reserves), less a percentage (not more than two and one-half), of the amount insured by the policy and of existing dividend additions thereto, if any, and less any existing indebtedness to the company on or secured by the policy:

Provided, That the policy may be surrendered to the company at its home office within one month of the due date of defaulted premium for a specific cash value at least equal to the sum which would otherwise be available for the purchase of insurance as aforesaid:

Provided further, That the company may defer payment for not more than ~~six months~~ thirty days after the application therefor is made. This subsection shall not apply to term insurance of twenty years or less. The policy may also specify that in event of default in a premium payment before the options become available the reserve on any dividend additions then in force may at the option of the company be paid in cash or applied as a net premium to the purchase of paid-up term insurance for any amount not in excess of the face of the original policy.

(b) This subsection shall apply only to policies of industrial life insurance issued prior to the operative date of K.S.A. 40-428 (the standard nonforfeiture law). The nonforfeiture benefits referred to in section (7) of K.S.A. 40-423, shall be available in event of default in premium payments after premiums shall have been paid for five full years and shall be a stipulated form of insurance effective from the due date of the defaulted premium, the net value of which shall not be less than the reserve on the policy at the end of the last completed quarter of the policy year for which premiums have been paid, and all dividend additions thereto, if any, exclusive of any reserve on total and permanent disability and additional accidental death benefits (the policy to specify the mortality table, rate of interest, and method of valuation adopted for computing such reserve), less a maximum percentage (not more than two and one-half percentum) of the amount insured by the policy and of existing dividend additions thereto, if any, and less

any existing indebtedness to the company on or secured by the policy. The policy shall also specify said percentage, or other rule of calculation so as to permit determination of the values, to be specified for each year for which required values are not included in the policy. The cash surrender value referred to in subsection (9) of K.S.A. 40-423, shall be available upon surrender of the policy to the company at its home office within the period of grace after the due date of the defaulted premium and shall be equal to the net value of the stipulated form of insurance otherwise available: Provided, That the company may defer payment for not more than ~~six months~~ thirty days after the application therefor is made. After premiums have been paid for five full years the cash surrender value at any time of any stipulated form of insurance shall be the full reserve at the date of surrender.

Section 2. K.S.A. 40-248 is hereby amended to read as follows: 40-428.

(a) In the case of policies issued on or after the operative date of this section, as defined in subsection (d-1), (d-2), (d-3) or (i), no policy of life insurance, except as stated in subsection (h) shall be delivered or issued for delivery in this state unless it shall contain in substance the following provisions, or corresponding provisions which in the opinion of the commissioner of insurance are at least as favorable to the defaulting or surrendering policyholder as are the minimum requirements hereinafter specified and are essentially in compliance with subsection (g) of this section.

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

In lieu of such stipulated paid-up nonforfeiture benefit, the company may substitute, upon proper request not later than 60 days after the due date of the premium in default, an actuarially equivalent alternative paid-up nonforfeiture benefit which provides a greater amount or longer period of death benefits or, if applicable, a greater amount or earlier payment of endowment benefits.

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

(iii) A specified paid-up nonforfeiture benefit shall become effective as specified in the policy unless the person entitled to make such election elects another available option not later than 60 days after the due date of the premium in default.

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

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

(vi) A statement that the cash surrender values and the paid-up nonforfeiture benefits available under the policy are not less than the minimum values and benefits required by or pursuant to any statute of the state in which the policy is delivered; and an explanation of the manner in which the cash surrender values and the paid-up nonforfeiture benefits are altered by the existence of any paid-up additions credited to the policy or any indebtedness to the company on the policy; if a detailed statement of the method of computation of the values and benefits shown in the policy is not stated therein, a statement that such method of computation has been filed with the insurance supervisory official of the state in which the policy is delivered; and, a statement of the method to be used in calculating the cash surrender value and paid-up nonforfeiture benefit available under the policy on any policy anniversary beyond the last anniversary for which such values and benefits are consecutively shown in the policy.

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

The company shall reserve the right to defer the payment of any cash surrender value for a period of ~~six months~~ 30 days after demand therefor with surrender of the policy.

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

For any policy issued on or after the operative date of subsection (d-3) as defined therein, which provides supplemental life insurance or annuity benefits at the option of the insured and for an identifiable additional premium by rider or supplemental policy provision, the cash surrender value referred to in the first paragraph of this subsection

shall be an amount not less than the sum of the cash surrender value as defined in such paragraph for an otherwise similar policy issued at the same age without such rider or supplemental policy provision and the cash surrender value as defined in such paragraph for a policy which provides only the benefits otherwise provided by such rider or supplemental policy provision.

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

Any cash surrender value available within 30 days after any policy anniversary under any policy paid-up by completion of all premium payments or any policy continued under any paid-up nonforfeiture benefit, whether or not required by subsection (a), shall be an amount not less than the present value, on such anniversary, of the future guaranteed benefits provided for by the policy, including any existing paid-up additions, decreased by any indebtedness to the company on the policy.

(c) Any paid-up nonforfeiture benefit available under the policy in the event of default in a premium payment due on any policy anniversary shall be such that its present value as of such anniversary shall be at least equal to the cash surrender value then provided for by the policy, or, if none is provided for, that cash surrender value which would have been required by this section in the absence of the condition that premiums shall have been paid for at least a specified period.

(d) This subsection (d) shall not apply to policies issued on and after the operative date of subsection (d-3), as defined therein. Except as provided in the third paragraph of this subsection, the adjusted premiums for any policy shall be calculated on an annual basis and shall be such uniform percentage of the respective premiums specified in the policy for each policy year, excluding amounts stated in the policy as extra premiums to cover impairments or special hazards, that the present value, at the date of issue of the policy, of all such adjusted premiums shall be equal to the sum of: (i) The then present value of the future guaranteed benefits provided for by the policy; (ii) two percent of the amount of insurance, if the insurance be uniform in amount, or of the equivalent uniform amount, as hereinafter defined, if the amount of insurance varies with duration of the policy; (iii) forty percent of the adjusted premium for the first policy year; (iv) twenty-five percent of either the adjusted premium for the first policy year or the adjusted premium for a whole life policy of the same uniform or equivalent uniform amount with uniform premiums for the whole life issued at the same age for the same amount of insurance, whichever is less. In applying the percentages specified in (iii) and (iv) above, no adjusted premium shall be deemed to exceed 4% of the amount of insurance or uniform

amount equivalent thereto. The date of issue of a policy for the purpose of this subsection shall be the date as of which the rated age of the insured is determined. In the case of a policy providing an amount of insurance varying with duration of the policy, the equivalent uniform amount thereof for the purpose of this subsection shall be deemed to be the uniform amount of insurance provided by an otherwise similar policy, containing the same endowment benefit or benefits, if any, issued at the same age and for the same term, the amount of which does not vary with duration and the benefits under which have the same present value at the date of issue as the benefits under the policy.

In the case of a policy issued at an age less than 10 years the equivalent uniform amount of insurance may be based upon the amount of insurance after age 10.

The adjusted premiums for any policy providing term insurance benefits by rider or supplemental policy provision shall be equal to (a) the adjusted premiums for an otherwise similar policy issued at the same age without such term insurance benefits, increased, during the period for which premiums for such term insurance benefits are payable, by (b) the adjusted premiums for such term insurance, the foregoing items (a) and (b) being calculated separately and as specified in the first two paragraphs of this subsection except that, for the purposes of (ii), (iii) and (iv) of the first such paragraph, the amount of insurance or equivalent uniform amount of insurance used in the calculation of the adjusted premiums referred to in (b) shall be equal to the excess of the corresponding amount determined for the entire policy over the amount used in the calculation of the adjusted premiums in (a).

Except as otherwise provided in subsections (d-1) and (d-2), all adjusted premiums and present values referred to in this section shall for all policies of ordinary insurance be calculated on the basis of the commissioners' 1941 standard ordinary mortality table. For any category of ordinary insurance issued on female risks, adjusted premiums and present values may be calculated, according to an age not more than three years younger than the actual age of the insured. Such calculations for all policies of industrial insurance shall be made on the basis of the 1941 standard industrial mortality table. All calculations shall be made on the basis of the rate of interest, not exceeding 3 1/2% per annum, specified in the policy for calculating cash surrender values and paid-up nonforfeiture benefits. In calculating the present value of any paid-up term insurance with accompanying pure endowment, if any, offered as a nonforfeiture benefit, the rates of mortality assumed may be not more than 130% of the rates of mortality according to such applicable table. If the rate of mortality used exceeds 100% the rate shall be stated in the policy. For insurance issued on a substandard basis, the calculation of any such adjusted premiums and present values may be based on such other table of mortality as may be specified by the company and approved by the commissioner of insurance.

(d-1) This subsection (d-1) shall not apply to ordinary policies issued on or after the operative date of subsection (d-3), as defined therein. In the case of ordinary policies issued on or after the operative date of this subsection (d-1) as defined herein, all adjusted premiums, as defined in subsection (d), and present values referred to in this section shall

be calculated on the basis of the commissioners' 1958 standard ordinary mortality table and the rate of interest specified in the policy for calculating cash surrender values and paid-up nonforfeiture benefits. Such rate of interest shall not exceed 3 1/2% per annum, except that a rate of interest not exceeding 4% per annum may be used for policies issued on or after July 1, 1973, and prior to July 1, 1978, and a rate of interest not exceeding 5 1/2% per annum may be used for policies issued on or after July 1, 1978, except that for any single premium whole life or endowment insurance policy a rate of interest not exceeding 6 1/2% per annum may be used. For any category of ordinary insurance issued on female risks, adjusted premiums and present values may be calculated according to an age not more than six years younger than the actual age of the insured. In calculating the present value of any paid-up term insurance with accompanying pure endowment, if any, offered as a nonforfeiture benefit, the rates of mortality assumed may be not more than those shown in the commissioners' 1958 extended term insurance table. For insurance issued on a substandard basis, the calculation of any such adjusted premiums and present values may be based on such other table of mortality as may be specified by the company and approved by the commissioner.

After the effective date of this subsection (d-1), any company may file with the commissioner a written notice of its election to comply with the provisions of this subsection after a specified date. After the filing of such notice, then upon such specified date (which shall be the operative date of this subsection for such company), this subsection shall become operative with respect to the ordinary policies thereafter issued by such company. Any company, having filed such notice of election to comply with this subsection, and desiring to withdraw from such election as to future policies may file with the commissioner of insurance a written notice of such withdrawal after a specified date, and of its intention to value all its future policies in accordance with the provisions of law applicable to the basis used prior to such election and to provide nonforfeiture benefits and cash surrender values in future policies as required for the basis used prior to such election.

(d-2) This subsection (d-2) shall not apply to industrial policies issued on or after the operative date of subsection (d-3), as defined therein. In the case of industrial policies issued on or after the operative date of this subsection (d-2) as defined herein, all adjusted premiums and present values referred to in this section shall be calculated on the basis of the commissioners' 1961 standard industrial mortality table and the rate of interest specified in the policy for calculating cash surrender values and paid-up nonforfeiture benefits. Such rate of interest shall not exceed 3 1/2% per annum, except that a rate of interest not exceeding 4% per annum may be used for policies issued on or after July 1, 1973, and prior to July 1, 1978, and a rate of interest not exceeding 5 1/2% per annum may be used for policies issued on or after July 1, 1978, except that for any single premium whole life or endowment insurance policy a rate of interest not exceeding 6 1/2% per annum may be used. In calculating the present value of any paid-up term insurance with accompanying pure endowment, if any, offered as a nonforfeiture benefit, the rates of mortality assumed may be not more than those shown in the commissioners' 1961

industrial extended term insurance table. For insurance issued on a substandard basis, the calculations of such adjusted premiums and present values may be based on such other table of mortality as may be specified by the company and approved by the commissioner.

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

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

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

(3) In the case of policies which cause on a basis guaranteed in the policy unscheduled changes in benefits or premiums, or which provide an option for changes in benefits or premiums other than a change to a new policy, the adjusted premiums and present values shall initially be calculated on the assumption that future benefits and premiums do not

change from those stipulated at the date of issue of the policy. At the time of any such change in the benefits or premiums the future adjusted premiums, nonforfeiture net level premiums and present values shall be recalculated on the assumption that future benefits and premiums do not change from those stipulated by the policy immediately after the change.

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

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

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

(B) Equals the present value of an annuity of one per annum payable on each anniversary of the policy on or subsequent to the date of change on which a premium falls due.

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

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

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

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

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

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

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

(F) Any ordinary mortality tables, adopted after 1980 by the national association of insurance commissioners, that are approved by regulation promulgated by the commissioner for use in determining the minimum nonforfeiture standard may be substituted for the commissioners' 1980 standard ordinary mortality table with or without ten-year select mortality factors or for the commissioners' 1980 extended term insurance table.

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

(9) The nonforfeiture interest rate per annum for any policy issued in a particular calendar year shall be equal to 125% of the calendar year statutory valuation interest rate for such policy as defined in the standard valuation law, rounded to the nearer 1/4%.

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

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

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

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

(2) the commissioner must be satisfied that the benefits and the pattern of premiums of that plan are not such as to mislead prospective policyholders or insureds;

(3) the cash surrender values and paid-up nonforfeiture benefits provided by such plan must not be less than the minimum values and benefits required for the plan computed by a method consistent with the principles of this standard nonforfeiture law, as determined by regulations promulgated by the commissioner.

(f) Any cash surrender value and any paid-up nonforfeiture benefit, available under any such policy in the event of default in the payment of any premium due at any time other than on the policy anniversary, shall be calculated with allowance for the lapse of time and the payment of fractional premiums beyond the beginning of the policy year in which the default occurs. All values referred to in subsections (b), (c), (d), (d-1), (d-2) and (d-3) may be calculated upon the assumption that any death benefit is payable at the end of the policy year of death. The net value of any paid-up additions, other than paid-up term additions, shall be not less than the amounts used to provide such additions.

Notwithstanding the provisions of subsection (b), additional benefits payable: (i) In the event of death or dismemberment by accident or accidental means; (ii) in the event of total and permanent disability; (iii) as reversionary annuity or deferred reversionary annuity benefits; (iv) as term insurance benefits provided by a rider or supplemental policy provision to which, if issued as a separate policy, this section would not apply; (v) as term insurance on the life of a child or on the lives of children provided in a policy on the life of a parent of a child, if such term insurance expires before the child's age is 26, is uniform in amount after the child's age is one, and has not become paid-up by reason of the death of a

parent of the child; and (vi) as other policy benefits additional to life insurance and endowment benefits, and premiums for all such additional benefits, shall be disregarded in ascertaining cash surrender values and nonforfeiture benefits required by this section, and no such additional benefits shall be required to be included in any paid-up nonforfeiture benefits.

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

The basic cash value shall be equal to the present value, on such anniversary, of the future guaranteed benefits which would have been provided for by the policy, excluding any existing paid-up additions and before deduction of any indebtedness to the company, if there had been no default, less the then present value of the nonforfeiture factors, as hereinafter defined, corresponding to premiums which would have fallen due on and after such anniversary. The effects on the basic cash value of supplemental life insurance or annuity benefits or of family coverage, as described in subsection (b) or (d), whichever is applicable, shall be the same as are the effects specified in subsection (b) or (d), whichever is applicable on the cash surrender values defined in that subsection.

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

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

(b) must be such that no percentage after the later of the two policy anniversaries specified in the preceding item (a) may apply to fewer than five consecutive policy years. No basic cash value may be less than the value which would be obtained if the adjusted premiums for the policy, as defined in subsection (d) or (d-3), whichever is applicable, were substituted for the nonforfeiture factors in the calculation of the basic cash value.

All adjusted premiums and present values referred to in this subsection shall for a particular policy be calculated on the same mortality and interest bases as are used in demonstrating the policy's compliance with the other sections of this act. The cash

surrender values referred to in this subsection shall include any endowment benefits provided for by the policy.

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

(h) This section shall not apply to any of the following: (1) Reinsurance; (2) group insurance; (3) pure endowment; (4) annuity or reversionary annuity contract; (5) term policy of uniform amount, which provides no guaranteed nonforfeiture or endowment benefits, or renewal thereof, of 20 years or less expiring before age 71, for which uniform premiums are payable during the entire term of the policy; (6) term policy of decreasing amount, which provides no guaranteed nonforfeiture or endowment benefits, on which each adjusted premium calculated as specified in subsections (d), (d-1), (d-2) and (d-3), is less than the adjusted premium so calculated, on a term policy of uniform amount, or renewal thereof, which provides no guaranteed nonforfeiture or endowment benefits, issued at the same age and for the same initial amount of insurance and for a term of 20 years or less expiring before age 71, for which uniform premiums are payable during the entire term of the policy; (7) policy, which provides no guaranteed nonforfeiture or endowment benefits, for which no cash surrender value, if any, or present value of any paid-up nonforfeiture benefit, at the beginning of any policy year, calculated as specified in subsections (b), (c), (d), (d-1), (d-2) and (d-3), exceeds 2 1/2% of the amount of insurance at the beginning of the same policy year; nor (8) policy which shall be delivered outside this state through an agent or other representative of the company issuing the policy.

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

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

(j) Any company, having filed written notices as provided in the preceding subsection (i), and desiring to withdraw from such election as to future policies may file with the commissioner of insurance a written notice of such withdrawal after a specified date, and of its intention to value all its future policies in accordance with the provisions of subsection (b) of K.S.A. 40-409, and amendments thereto, and to provide nonforfeiture benefits and cash surrender values in future policies in accordance with K.S.A. 40-427. After the filing of such withdrawal notice, then upon such specified date, subsection (b) of

K.S.A. 40-409, and amendments thereto, and K.S.A. 40-427 shall become operative with respect to all policies thereafter issued by such company in this state.

Section 3. K.S.A. 40-428a is hereby amended to read as follows: 40-428a.

(a) This section shall be known as the standard nonforfeiture law for individual deferred annuities.

(b) This section shall not apply to any reinsurance, group annuity purchased under a retirement plan or plan of deferred compensation established or maintained by an employer (including a partnership or sole proprietorship) or by an employee organization, or by both, other than a plan providing individual retirement accounts or individual retirement annuities under section 408 of the internal revenue code,* as now or hereafter amended, premium deposit fund, variable annuity, investment annuity, immediate annuity, any deferred annuity contract after annuity payments have commenced, or reversionary annuity, nor to any contract which shall be delivered outside this state through an agent or other representative of the company issuing the contract.

(c) In the case of contracts issued on or after the operative date of this section as defined in subsection (1), no contract of annuity, except as stated in subsection (b), shall be delivered or issued for delivery in this state unless it contains in substance the following provisions, or corresponding provisions which in the opinion of the commissioner are at least as favorable to the contractholder, upon cessation of payment of considerations under the contract.

(1) That upon cessation of payment of considerations under a contract, the company will grant a paid-up annuity benefit on a plan stipulated in the contract of such value as is specified in subsections (e), (f), (g), (h), and (j).

(2) If a contract provides for a lump sum settlement at maturity, or at any other time, that upon surrender of the contract at or prior to the commencement of any annuity payments, the company will pay in lieu of any paid-up annuity benefit a cash surrender benefit of such amount as is specified in subsections (e), (f), (h), and (j). The company shall reserve the right to defer the payment of such cash surrender benefit for a period of ~~six (6) months~~ thirty days after demand therefor with surrender of the contract.

(3) A statement of the mortality table, if any, and interest rates used in calculating any minimum paid-up annuity, cash surrender or death benefits that are guaranteed under the contract, together with sufficient information to determine the amounts of such benefits.

(4) A statement that any paid-up annuity, cash surrender or death benefits that may be available under the contract are not less than the minimum benefits required by any statute of the state in which the contract is delivered and an explanation of the manner in which such benefits are altered by the existence of any additional amounts credited by the company to the contract, any indebtedness to the company on the contract or any prior withdrawals from or partial surrenders of the contract.

Notwithstanding the requirements of this subsection, any deferred annuity contract may provide that if no considerations have been received under a contract for a period of two (2) full years and the portion of the paid-up annuity benefit at maturity on the plan

stipulated in the contract arising from considerations paid prior to such period would be less than twenty dollars (\$20) monthly, the company may at its option terminate such contract by payment in cash of the then present value of such portion of the paid-up annuity benefit, calculated on the basis of the mortality table, if any, and interest rate specified in the contract for determining the paid-up annuity benefit, and by such payment shall be relieved of any further obligation under such contract.

(d) The minimum values as specified in subsections (e), (f), (g), (h) and (j) of any paid-up annuity, cash surrender or death benefits available under an annuity contract shall be based upon minimum nonforfeiture amounts as defined in this subsection.

(1) With respect to contracts providing for flexible considerations, the minimum nonforfeiture amount at any time at or prior to the commencement of any annuity payments shall be equal to an accumulation up to such time at a rate of interest of three percent (3%) per annum of percentages of the net considerations (as hereinafter defined) paid prior to such time, decreased by the sum of

(i) Any prior withdrawals from or partial surrenders of the contract accumulated at a rate of interest of three percent (3%) per annum, and

(ii) the amount of any indebtedness to the company on the contract, including interest due and accrued, and increased by any existing additional amounts credited by the company to the contract. The net considerations for a given contract year used to define the minimum nonforfeiture amount shall be an amount not less than zero and shall be equal to the corresponding gross considerations credited to the contract during that contract year less an annual contract charge of thirty dollars (\$30) and less a collection charge of one dollar and twenty-five cents (\$1.25) per consideration credited to the contract during that contract year. The percentages of net consideration for the first contract year and eighty-seven and one-half percent (87 1/2%) of the net considerations for the second and later contract years. Notwithstanding the provisions of the preceding sentence, the percentage shall be sixty-five percent (65%) of the portion of the total net consideration for any renewal contract year which exceeds by not more than two times the sum of those portions of the net considerations in all prior contract years for which the percentage was sixty-five percent (65%).

(2) With respect to contracts providing for fixed scheduled considerations, minimum nonforfeiture amounts shall be calculated on the assumption that considerations are paid annually in advance and shall be defined as for contracts with flexible considerations which are paid annually with two exceptions:

(a) The portion of the net consideration for the first contract year to be accumulated shall be the sum of sixty-five percent (65%) of the net consideration for the first contract year plus twenty-two and one-half percent (22 1/2%) of the excess of the net consideration for the first contract year over the lesser of the net considerations for the second and third contract years.

(b) The annual contract charge shall be the lesser of (i) thirty dollars (\$30) or (ii) ten percent (10%) of the gross annual consideration.

(3) With respect to contracts providing for a single consideration, minimum nonforfeiture amounts shall be defined as for contracts with flexible considerations except that the percentage of net consideration used to determine the minimum nonforfeiture amount shall be equal to ninety percent (90%) and the net consideration shall be the gross consideration less a contract charge of seventy-five dollars (\$75).

(e) Any paid-up annuity benefit available under a contract shall be such that its present value on the date annuity payments are to commence is at least equal to the minimum nonforfeiture amount on that date. Such present value shall be computed using the mortality table, if any, and the interest rate specified in the contract for determining the minimum paid-up annuity benefits guaranteed in the contract.

(f) For contracts which provide cash surrender benefits, such cash surrender benefits available prior to maturity shall not be less than the present value as of the date of surrender of that portion of the maturity value of the paid-up annuity benefit which would be provided under the contract at maturity arising from considerations paid prior to the time of cash surrender reduced by the amount appropriate to reflect any prior withdrawals from or partial surrenders of the contract, such present value being calculated on the basis of an interest rate not more than one percent (1%) higher than the interest rate specified in the contract for accumulating the net considerations to determine such maturity value, decreased by the amount of any indebtedness to the company on the contract, including interest due and accrued, and increased by any existing additional amounts credited by the company to the contract. In no event shall any cash surrender benefit be less than the minimum nonforfeiture amount at that time. The death benefit under such contracts shall be at least equal to the cash surrender benefit.

(g) For contracts which do not provide cash surrender benefits, the present value of any paid-up annuity benefit available as a nonforfeiture option at any time prior to maturity shall not be less than the present value of that portion of the maturity value of the paid-up annuity benefit provided under the contract arising from considerations paid prior to the time the contract is surrendered in exchange for, or changed to, a deferred paid-up annuity, such present value being calculated for the period prior to the maturity date on the basis of the interest rate specified in the contract for accumulating the net considerations to determine such maturity value, and increased by any existing additional amounts credited by the company to the contract. For contracts which do not provide any death benefits prior to the commencement of any annuity payments, such present values shall be calculated on the basis of such interest rate and the mortality table specified in the contract for determining the maturity value of the paid-up annuity benefit. However, in no event shall the present value of a paid-up annuity benefit be less than the minimum nonforfeiture amount at that time.

(h) For the purpose of determining the benefits calculated under subsections (f) and (g), in the case of annuity contracts under which an election may be made to have annuity payments commence at optional maturity dates, the maturity date shall be deemed to be the latest date for which election shall be permitted by the contract, but shall not be

deemed to be later than the anniversary of the contract next following the annuitant's seventieth birthday or the tenth anniversary of the contract, whichever is later.

(i) Any contract which does not provide cash surrender benefits or does not provide death benefits at least equal to the minimum nonforfeiture amount prior to the commencement of any annuity payments shall include a statement in a prominent place in the contract that such benefits are not provided.

(j) Any paid-up annuity, cash surrender or death benefits available at any time, other than on the contract anniversary under any contract with fixed scheduled considerations, shall be calculated with allowance for the lapse of time and the payment of any scheduled considerations beyond the beginning of the contract year in which cessation of payment of considerations under the contract occurs.

(k) For any contract which provides, within the same contract by rider or supplemental contract provision, both annuity benefits and life insurance benefits that are in excess of the greater of cash surrender benefits or a return of the gross considerations with interest, the minimum nonforfeiture benefits shall be equal to the sum of the minimum nonforfeiture benefits for the annuity portion and the minimum nonforfeiture benefits, if any, for the life insurance portion computed as if each portion were a separate contract.

Notwithstanding the provisions of subsections (e), (f), (g), (h) and (j), additional benefits payable (1) in the event of total and permanent disability, (2) as reversionary annuity or deferred reversionary annuity benefits, or (3) as other policy benefits additional to life insurance, endowment, and annuity benefits, and considerations for all such additional benefits, shall be disregarded in ascertaining the minimum nonforfeiture amounts, paid-up annuity, cash surrender and death benefits that may be required by this section. The inclusion of such additional benefits shall not be required in any paid-up benefits, unless such additional benefits separately would require minimum nonforfeiture amounts, paid-up annuity, cash surrender and death benefits.

(l) After July 1, 1978, any company may file with the commissioner a written notice of its election to comply with the provisions of this section after a specified date before July 1, 1980. After the filing of such notice, then upon such specified date, which shall be the operative date of this section for such company, this section shall become operative with respect to annuity contracts thereafter issued by such company. If a company makes no such election, the operative date of this section for such company shall be July 1, 1980.

Section 4. K.S.A. 40-429 is hereby amended to read as follows: 40-429.

(a) In the case of those policies issued prior to the operative date of K.S.A. 40-428 (the standard nonforfeiture law) the loan value referred to in subsection (5) of K.S.A. 40-420, shall be the reserve at the end of the current policy year on the policy and on the dividend additions thereto, if any, exclusive of the reserve on account of return premium insurance and of total and permanent disability and additional accidental death benefits, less a sum not more than two and one-half percentum of the amount insured by the policy and of any dividend additions thereto (the policy to specify the mortality table and rate of interest adopted for computing such reserve). Such policies may further provide that such

loan may be deferred for not exceeding ~~six months~~ thirty days after the application therefor is made.

(b) In the case of policies issued on or after the operative date of K.S.A. 40-428 (the standard nonforfeiture law) the loan value referred to in subsection (5) of K.S.A. 40-420, shall be the cash surrender value at the end of the current policy year as required by K.S.A. 40-428. The company shall reserve the right to defer such loans, except when made to pay premiums, for ~~six months~~ thirty days after application therefor is made.

Section 5. K.S.A. 40-427, 40-428, 40-428a and 40-429 are hereby repealed.

Section 6. This act shall be in force and take effect from and after its publication in the statute book.

MEMORANDUM

TO: The Honorable Don Steffes, Chairman
Senate Financial Institutions and Insurance Committee

FROM: William W. Sneed
AmVestors Financial Corporation
American Investors Life Insurance Company

DATE: January 15, 1997

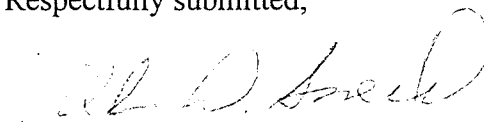
RE: Exemption of Interest in Contracts of Annuity

On behalf of my client, AmVestors Financial Corporation, and its wholly-owned subsidiary, American Investors Life Insurance Company, I respectfully request that the attached be introduced as a committee bill.

The bill is an act concerning exemption of interest in contracts of annuity. The legislation amends K.S.A. 40-414 to exempt contracts of annuity from the claims of creditors.

I will be happy to provide greater detail on the subject matter and impact of the legislation at a later date. Please feel free to contact me if you have any questions. Thank you for your consideration of this matter.

Respectfully submitted,



William W. Sneed

AN ACT concerning exemption of interest in contracts of annuity;
amending K.S.A. 40-414.

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

1 Section 1. K.S.A. 40-414 is hereby amended to read as
2 follows: 40-414. (a) If a life insurance company or fraternal benefit
3 society issues any policy of insurance, including a contract of
4 annuity, or beneficiary certificates upon the life of an individual and
5 payable at the death of the insured, or in any given number of years,
6 to any person or persons having an insurable interest in the life of the
7 insured, the policy and its reserves, or their present value, shall inure
8 to the sole and separate use and benefit of the beneficiaries named in
9 the policy and shall be free from:

10
11 (1) The claims of the insured or the insured's creditors and
12 representatives;

13
14 (2) the claims of any policyholders or the policyholder's
15 creditors and representatives, subject to the provisions of subsection
16 (b);

17
18 (3) all taxes, subject to the provisions of subsection (d); and

19
20 (4) the claims and judgments of the creditors and
21 representatives of any person named as beneficiary in the policy of
22 insurance.

23
24 (b) The nonforfeiture value of a life insurance policy shall not
25 be exempt from:

26
27 (1) Claims of the creditors of a policyholder who files a
28 bankruptcy petition under 11 U.S.C. § 101 et seq. on or within one
29 year after the date the policy is issued; or

30
31 (2) the claim of any creditor of a policyholder if execution on
32 judgment for the claim is issued on or within one year after the date
33 that the policy is issued.

34
35 (c) Nothing in this section shall be construed as restricting the
36 right of the insured to change the beneficiary if the policy reserves
37 that right to the insured.

38

1 (d) Nothing in this section shall be construed as exempting
2 from taxation any real estate which may at any time be carried by any
3 life insurance company as a part of its legal reserve.

4
5 (e) The provisions of subsection (b) shall apply only to life
6 insurance policies purchased on or after July 1, 1988.

7
8 (f) The provisions of subsection (b) shall not apply to that
9 portion of the nonforfeiture value of a life insurance policy, issued on
10 or within one year of the filing of a bankruptcy petition under 11
11 U.S.C. § 101 et seq. or an execution on judgment for the claim of the
12 creditor, which is derived from the surrender of a life insurance policy
13 issued more than one year prior to such bankruptcy petition or such
14 execution.

15
16 Section 2. K.S.A. 40-414 is hereby repealed.

17
18 Section 3. This act shall take effect and be in force from
19 and after its publication in the statute book.

MEMORANDUM

TO: The Honorable Don Steffes, Chairman
Senate Financial Institutions and Insurance Committee

FROM: William W. Sneed
The State Farm Insurance Companies

DATE: January 15, 1997

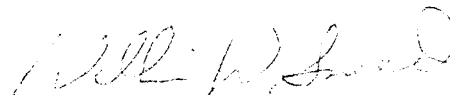
RE: Trade Secrets/Confidential Information

On behalf of my client, The State Farm Insurance Companies, I respectfully request that the attached be introduced as a committee bill.

The bill is an act concerning the protection of trade secrets, privileged information, and confidential commercial or financial information furnished by or obtained from any insurance company to the Kansas Insurance Department.

I will be happy to provide greater detail on the subject matter and impact of the legislation at a later date. Please feel free to contact me if you have any questions. Thank you for your consideration of this matter.

Respectfully submitted,



William W. Sneed

*Senate F.D. D
Attachment 6
January 15, 1997*

AN ACT concerning trade secrets and confidential commercial information furnished by or obtained from insurance companies to the Kansas Insurance Department.

1 New Section 1. Trade secrets, privileged information, and confidential commercial or
2 financial information furnished by or obtained from any insurance company to the Kansas Insurance
3 Department shall not be subject to disclosure by the Commissioner or any employee of the Insurance
4 Department to persons outside the Department except as agreed to by written consent of the
5 insurance company or as ordered by a court of competent jurisdiction.
6

7 New Section 2. This act shall take effect and be in force from and after its publication in the
8 statute book.