

MINUTES OF THE HOUSE COMMITTEE ON INSURANCE.

The meeting was called to order by Chairperson Rep. Robert Tomlinson at 3:35 p.m. on January 18, 2000 in Room 527-S of the Capitol.

All members were present except: Rep Eber Phelps
 Rep. Nancy Kirk
 Rep. Garry Boston

Committee staff present: Bill Wolff, Research
 Ken Wilke, Revisor
 Mary Best, Secretary

Conferees appearing before the committee: Dennis Wilson, State Treasurer Office
 Bill Sneed, AmVestor's Insurance

Others attending: See attached guest list

Upon calling the meeting to order Chairperson Tomlinson introduced Mr. Dennis Wilson, Director of Unclaimed Property, State of Kansas.

Mr. Wilson brought forth a request of bill introduction on behalf of his office. A copy of the testimony is (Attachment #1) attached hereto and incorporated into the Minutes by reference. Mr. Wilson stated the bill would "help the State Treasurers's office in collecting and maintaining unclaimed property." Mr. Wilson explained the bill would consist of four parts:

1. It would satisfy the original intents of the committee of the '99 legislative session, establishing compliance procedures
2. It will clean up language dealing with holders; certain properties to be turned over to the state
3. Address the sale of securities the Treasurer's office holds in trust for claimants.
4. Clarify language concerning heir finders.

Mr. Wilson explained this would help all state agencies to comply with this law (i.e. property, securities). At this time Mr. Wilson stood for questions. As there were none the request went to committee. Rep. Grant made the motion to introduce the bill and Rep. Empson seconded the motion. A vote was taken and the motion passed.

Rep. Grant then asked Mr. Wilson how long the state held such monies to which Mr. Wilson replied, forever.

The chair then recognized Mr. Bill Sneed, representing AmVestors Life, a Kansas Domestic Life Insurance Co. A copy of the written testimony is (Attachment #2) attached hereto and incorporated into the Minutes by reference. Mr. Sneed offered an amendment to the committee concerning K.S.A. 40-2b25.

Mr. Sneed's request dealt with changes to the current law specifically dealing with "equity indexed" annuities. If the bill proposal is accepted, Mr. Sneed will at that time provide a full analysis of the proposal to the committee. Mr. Sneed then stood for questions. As there were no questions from the committee, there was a request for a motion to hear the bill. A motion was made by Representative Empson to hear the proposed bill. The motion was seconded by Representative Hummerickhouse. A vote was taken and the motion was passed.

Old business by Dr. Wolff to Representative Grant regarding Mr. Wilson's proposal—the money is a liability not an asset and part of the general fund. As there were no further bills presented for consideration and no further business, the meeting was adjourned. The time was 3:45 p.m.

The next meeting is scheduled for Tuesday, January 25, 2000, at 3:30 p.m., in Room 527-S.



STATE OF KANSAS

Tim Shallenburger
TREASURER

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TELEPHONE
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January 18, 2000

To: House Insurance Committee

From: Dennis Wilson, Director of Unclaimed Property Division

Re: Introduction of Unclaimed Property Bill

Chairman Tomlinson and members of the committee:

I would like to thank you for the opportunity to request a bill introduction on behalf of the Unclaimed Property Division of the State Treasurer's office.

The bill requested, will help the State Treasurer's office in collecting and maintaining unclaimed property.

The bill will consist of four parts;

- First, it will satisfy one of the original intents of this committee during the '99 legislative session, by establishing compliance procedures regarding the state and the unclaimed property laws.
- Second, it will clean up language dealing with holders and when certain properties are to be turned over to the state.
- Third, it will address the sale of securities that the State Treasurer's office holds in trust for claimants.
- Fourth, it will clarify language having to do with heir finders.

In closing, I respectfully ask that your committee introduce a bill that will cover the aforementioned topics.

Again, thank you for your time.

Dennis Wilson

House Ins. Comm
1-18-00 #1
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POLSINELLI
WHITE
VARDEMAN &
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Memorandum

TO: The Honorable Bob Tomlinson, Chairman
House Insurance Committee

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

RE: Proposed Amendment To K.S.A. 40-2b25

DATE: January 10, 2000

Mr. Chairman, Members of the Committee: My name is Bill Sneed and I represent American Investors Life Insurance Company, a Kansas domestic life insurance company. By way of background, my client is involved exclusively in the issuance of "fixed" annuities throughout the United States.

Several years ago my client, in coordination with the Kansas Insurance Department, presented legislation that set the parameters for investments by life insurance companies as it relates to financial futures contracts. This law is now found at K.S.A. 40-2b25.

My client is now issuing an annuity commonly referred to as an "equity indexed" annuity, which is partially governed by K.S.A. 40-2b25. However, when K.S.A. 40-2b25 was created, this type of product was not encompassed, and as such, we are requesting some changes to the current law which will specifically deal with equity indexed annuities.

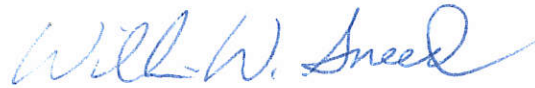
At the time of the full hearing, I will be able to provide the Committee a full analysis of the proposal and why we believe such a proposal is deserving of your Committee's favorable consideration.

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Thus, on behalf of my client, I respectfully request that the attached proposal be introduced in the House Insurance Committee. If you have any questions, please feel free to contact me.

Respectfully submitted,



William W. Sneed

Attachment

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KANSAS STATUTES ANNOTATED
CHAPTER 40.--INSURANCE
ARTICLE 2B.--INVESTMENTS BY LIFE INSURANCE COMPANIES

40-2b25. Financial futures contracts; definitions; use for hedging purposes.

(a) Any life insurance company heretofore or hereafter organized under any law of this state may use financial instruments under this section to engage in hedging transactions and certain income generation transactions or as these terms may be further defined in regulations promulgated by the commissioner. The life insurance company shall be able to demonstrate to the commissioner the intended hedging characteristics and the ongoing effectiveness of the financial instrument transaction or combination of the transactions through cash flow testing or other appropriate analysis.

(b) As used in this section:

(1) 'Cap' means an agreement obligating the seller to make payments to the buyer, each payment based on the amount by which a reference price or level or the performance or value of one or more underlying interest exceeds a predetermined number, sometimes called the strike rate or price.

(2) 'Collar' means an agreement to receive payments as the buyer of an option, cap or floor and to make payments as the seller of a different option, cap or floor.

(3) '*Crediting basis amount*' means the amount of interest credited to an insured's account value for the percentage of change on an underlying index.

(4) (A) 'Financial instrument' means an agreement, option, instrument or any series or combination thereof:

(i) To make or take delivery of, or assume or relinquish, a specified amount of one or more underlying interests, or to make a cash settlement in lieu thereof; or

(ii) which has a price, performance, value or cash flow based primarily upon the actual or expected price, level, performance, value or cash flow of one or more underlying interests.

(B) Financial instruments include options, warrants, caps, floors, collars, swaps, forwards, future and any other agreements, options or instruments substantially similar thereto, or any series or combination thereof.

(5) 'Financial instrument transaction' means a transaction involving the use of one or more financial instruments.

(6) 'Floor' means an agreement obligating the seller to make payments to the buyer in which each payment is based on the amount that a predetermined number, sometimes called the floor rate or price, exceeds a reference price, level, performance or value of one or more underlying interests.

(7) 'Forward' means an agreement (other than a future) to make or take delivery of, or effect a cash settlement based on the actual or expected price, level, performance or value of one or more underlying interests.

(8) 'Future' means an agreement traded on a qualified exchange, to make or take delivery of, or effect a cash settlement based on the actual or expected price, level, performance or value of one or more underlying interests.

- (9) 'Hedging transaction' means a financial instrument transaction which is entered into and maintained to reduce:
- (A) The risk of a change in the value, yield, price, cash flow or quantity of assets or liabilities which the insurer has acquired or incurred or anticipates acquiring or incurring;
 - or
 - (B) the currency exchange-rate risk or the degree of exposure as to assets or liabilities which an insurer has acquired or incurred or anticipates acquiring or incurring.
- (10) 'Income generation transaction' means a financial instrument transaction involving the writing of covered call options which is intended to generate income or enhance return.
- (11) 'Option' means an agreement giving the buyer the right to buy or receive, sell or deliver, enter into, extend or terminate, or effect a cash settlement based on the actual or expected price, level, performance or value of one or more underlying interests.
- (12) 'Potential exposure' means:
- (A) As to a futures position, the amount of the initial margin required for that position; or
 - (B) as to swaps, collars and forwards, .5% times the notional amount times the square root of the remaining years to maturity.
- (13) 'Swap' means an agreement to exchange for net payments at one or more times based on the actual or expected price, level, performance or value of one or more underlying interests.
- (14) *'Underlying index' means the index, market, or financial futures contract used to determine the crediting basis amount.*
- (15) 'Underlying interest' means the assets, other interests, or a combination thereof, underlying a financial instrument, such as any one or more securities, currencies, rates, indices, commodities or financial instruments.
- (16) 'Warrants' means an option to purchase or sell the underlying securities or investments at a given price and time or at a series of prices and times outlined in the warrant agreement. Warrants may be issued alone or in connection with the sale of other securities, as part of a merger or recapitalization agreement, or to facilitate divestiture of the securities of another corporation.
- (c) A life insurance company may enter into financial instrument transactions for the purpose of hedging except that the transaction shall not cause any of the following limits to be exceeded:
- (1) The aggregate statement value of options, caps, floors and warrants not attached to any other security or investment purchase in hedging transactions may not exceed 110% of the excess of such insurer's capital and surplus as shown on the company's last annual or quarterly report filed with the commissioner of insurance over the minimum requirements of a new stock or mutual company to qualify for a certificate of authority to write the kind of insurance which the insurer is authorized to write;
 - (2) the aggregate statement value of options, caps and floors written in hedging transactions may not exceed 3% of the life insurance company's admitted assets; and
 - (3) the aggregate potential exposure of collars, swaps, forwards and futures used in hedging transactions may not exceed 5% of the life insurance company's admitted assets.
- (d) A life insurance company may enter into the following types of income generation transactions if:
- (1) Selling covered call options on non-callable fixed income securities or financial

instruments based on fixed income securities, but the aggregate statement value of assets subject to call during the complete term of the call options sold, plus the face value of fixed income securities underlying any financial instrument subject to call, may not exceed 10% of the life insurance company's admitted assets; and

(2) selling covered call options on equity securities, if the life insurance company holds in its portfolio the equity securities subject to call during the complete term of the call option sold.

(e) the limitations set forth in subsection (c) regarding financial instrument transactions for the purpose of hedging and subsection (d) regarding income generation transactions shall not apply to any investments made by a life insurance company where such investments are only used to hedge the crediting basis amount an insured receives on a particular insurance policy which is determined by an underlying index.

(f) Upon request of the life insurance company, the commissioner may approve additional transactions involving the use of financial instruments in excess of the limits of subsection (c) or for other risk management purposes, excluding replication transactions, pursuant to regulations promulgated by the commissioner.

(g) For the purposes of this section, the value or amount of an investment acquired or held under this section, unless otherwise specified in this code, shall be the value at which assets of an insurer are required to be reported for statutory accounting purposes as determined in accordance with procedures prescribed in published accounting and valuation standards of the national association of insurance commissioners (NAIC), including the purposes and procedures of the securities valuation office, the valuation of securities manual, the accounting practices and procedures manual, the annual statement instructions or any successor valuation procedures officially adopted by the NAIC.

(h) Prior to engaging in transactions in financial instruments, an insurer shall develop and adequately document policies and procedures regarding investment strategies and objectives, recordkeeping needs and reporting matters. Such policies and procedures shall address authorized investments, investment limitations, authorization and approval procedures, accounting and reporting procedures and controls and shall provide for review of activity in financial instruments by the insurer's board of directors or such board's designee.

Recordkeeping systems must be sufficiently detailed to permit internal auditors and insurance department examiners to determine whether operating personnel have acted in accordance with established policies and procedures, as provided in this section. Insurer records must identify for each transaction the related financial instruments contracts.