

CHAPTER 128  
HOUSE BILL No. 2545

AN ACT concerning insurance; pertaining to the use of mortality tables; relating to the assumption reinsurance agreements; relating to group life insurance; relating to motor vehicle insurance; relating to contracts of stock insurance companies; relating to required provisions of certain accident and health policies; relating to the effect of health savings accounts on certain types of coverage; relating to income tax deduction for long-term care insurance premium costs; amending K.S.A. 8-173, 40-306, 40-409, 40-433, 40-2202 and K.S.A. 2003 Supp. 40-2,105 and 79-32,117 and repealing the existing sections.

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

Section 1. From and after July 1, 2004, K.S.A. 40-409 is hereby amended to read as follows: 40-409. (a) Every life insurance company transacting business in this state shall annually file, on or before March 1 of each year, with the commissioner of insurance a certified valuation of its policies in force as of December 31 of the preceding year, and it shall be the duty of the commissioner of insurance to annually make or cause to be made net valuations of all the outstanding policies and additions thereto of every life insurance company transacting business in this state, except that in the case of an alien company such valuation shall be limited to its insurance transactions in the United States. In making the valuations of life insurance companies organized under the laws of this state, the valuation shall include unpaid dividends, and all other policy obligations. Whenever the laws of any other state of the United States shall authorize the valuation of life insurance policies by some designated state officer according to the same standard as herein provided, or some other standard which will require a reserve not less than the standard herein provided, the valuation made according to the standard by such officer of the policies and other obligations of any life insurance company not organized under the laws of this state, and certified by such officer, may be received as true and correct, and no further valuation of the same shall be required of such company by the commissioner of insurance. It shall be the duty of the commissioner of insurance, whenever requested so to do by any life insurance company organized under the laws of this state, to make annual valuations of all the outstanding policies and additions thereto of every such company and deliver to such company certificates of such valuation, specifying the amount of the company's reserve on policies thus valued. And for the performance of the duties prescribed by this section the commissioner of insurance shall be authorized to employ an actuary, whose compensation shall be paid by the company whose policies, additions, unpaid dividends or other outstanding policy obligations are valued, upon a certificate by the commissioner of insurance showing the compensation due therefor.

Any such company which at any time shall have adopted any standards of valuation producing greater aggregate reserves than those calculated according to the minimum standards hereinafter provided may, with the approval of the commissioner of insurance, adopt any lower standard of valuation, but not lower than the minimum herein provided.

(b) This subsection shall become operative for the year ending December 31, 1995, and each subsequent calendar year.

(1) Every life insurance company doing business in this state shall annually submit the opinion of a qualified actuary as to whether the reserves and related actuarial items held in support of the policies and contracts specified by the commissioner by regulation are computed appropriately, are based on assumptions which satisfy contractual provisions, are consistent with prior reported amounts and comply with applicable laws of this state. The commissioner shall adopt an administrative regulation defining the specific application, scope and content of this opinion.

(2) Except as otherwise provided by law or rules and regulations of the commissioner, every life insurance company shall also annually include in the opinion required by subsection (1), an opinion of the same qualified actuary as to whether the reserves and related actuarial items held in support of the policies and contracts specified by the commissioner, when considered in light of the assets held by the company with respect to the reserves and related actuarial items, including but not limited to the investment earnings on the assets and the considerations anticipated to be received and retained under the policies and contracts, making adequate provision for the company's obligations under the pol-

icies and contracts, including but not limited to the benefits under and expenses associated with the policies and contracts.

(3) The commissioner may provide for a transition period for establishing any higher reserves which the qualified actuary deems necessary in order to render the opinion required by this section.

(4) Each opinion required by subsection (2) shall comply with the following provisions:

(A) A memorandum, in form and substance acceptable to or prescribed by the commissioner shall be prepared to support each actuarial opinion.

(B) If the insurance company fails to provide a supporting memorandum within a period specified or the commissioner determines that the supporting memorandum provided by the insurance company fails to meet the prescribed standards or is otherwise unacceptable to the commissioner, the commissioner is authorized to employ an actuary whose compensation and expenses shall be paid by the company whose policies, additions, unpaid dividends or other outstanding policy or contractual obligations are valued upon a certificate by the commissioner showing the compensation and expenses due therefor.

(5) Every opinion of the actuary shall comply with the following provisions:

(A) The opinion shall be submitted with the annual statement required by K.S.A. 40-225 and amendments thereto reflecting the valuation of such reserve liabilities for each year ending on or after December 31, 1995.

(B) The opinion shall apply to all business in force including individual and group health insurance plans.

(C) The opinion shall be based on standards adopted from time to time by the actuarial standards board of the American academy of actuaries and on such additional standards as the commissioner prescribes.

(D) In the case of an opinion required to be submitted by an insurance company not domiciled in this state, the commissioner may accept the opinion filed by that company with the insurance supervisory official of another state if the commissioner determines that the opinion reasonably meets the requirements applicable to a company domiciled in this state.

(E) For the purposes of this section, "qualified actuary" means a member in good standing of the American academy of actuaries.

(F) Except in cases of fraud or willful misconduct, the qualified actuary shall not be liable for damages to any person, other than the insurance company and the commissioner, for any act, error, omission, decision or conduct with respect to the actuary's opinion required by this act.

(G) Any memorandum in support of the opinion, and any other material provided by the company to the commissioner in connection with the opinion, shall be kept confidential by the commissioner and shall not be made public and shall not be subject to subpoena, other than for the purpose of defending an action seeking damages from any person by reason of any action required by this section or by rules and regulations adopted pursuant to this section. Notwithstanding the provisions of this subpart (G), the memorandum or other material may be released by the commissioner: (i) With the written consent of the company, or (ii) to the American academy of actuaries upon request stating that the memorandum or other material is required for the purpose of professional disciplinary proceedings and setting forth procedures satisfactory to the commissioner for preserving the confidentiality of the memorandum or other material. Once any portion of the confidential memorandum is cited by the company in its marketing or is cited before any governmental agency other than a state insurance department or is released by the company to the news media, all portions of the confidential memorandum shall be no longer confidential.

(c) This subsection shall apply to only those policies and contracts issued prior to the operative date of K.S.A. 40-428, and amendments thereto, (the standard nonforfeiture law), except as provided in subsection (d) of this section.

For the purpose of such valuations and for making special examinations of the condition of life insurance companies, as provided by the laws of this state, and for valuing all outstanding policies of every life insurance company, the method and basis of valuation shall be the same as prescribed by the insurance code of this state in the valuation of such con-

tracts before June 1, 1927. The legal minimum standard for the valuation of life insurance contracts issued on or after June 1, 1927, shall be the one-year preliminary-term method of valuation, except as hereinafter modified, on the basis of the American experience table of mortality with interest at 4% per annum. If the premium charged for term insurance under limited-payment life preliminary-term policy providing for the payment of all premiums thereon in less than 20 years from the date of policy, or under an endowment preliminary-term policy, exceeds that charged for life insurance under twenty-payment life preliminary-term policy of the same company, the reserve thereon at the end of any year, including the first, shall not be less than the reserve on a twenty-payment life preliminary-term policy issued in the same year and at the same age, together with an amount which shall be equivalent to the accumulation of a net level premium sufficient to provide for a pure endowment at the end of the premium-payment period, equal to the difference between the value at the end of such period of such a twenty-payment life preliminary-term policy and the full net level premium reserve at such time of such a limited-payment life or endowment policy. The premium-payment period is the period during which premiums are concurrently payable, under such twenty-payment life preliminary-term policy and such limited-payment life or endowment policy. Policies issued on the preliminary-term method shall contain a clause specifying that the reserve thereof shall be computed in accordance with the modified preliminary-term method of valuation provided therein. Except as otherwise provided for group annuity and pure endowment contracts in paragraphs (1-a) and (1-b) of subsection (d) of this section, the legal minimum standard for the valuation of annuities shall be McClintock's "table of mortality among annuitants," with interest at 4% per annum, but annuities deferred 10 or more years and written in connection with life insurance shall be valued on the same basis as that used in computing the consideration or premiums therefor, or upon any higher standard at the option of the company. The commissioner of insurance may, in the commissioner's discretion, vary the above standard of interest and mortality in cases of companies organized under the laws of a foreign country and in particular cases of invalid lives or other extra hazards.

Reserves for all such policies and contracts may be calculated, at the option of the company, according to any standards which produce greater aggregate reserves for all such policies and contracts than the minimum reserves required by this subsection.

(d) *Standard valuation law.* This subsection shall apply to only those policies and contracts issued on or after the operative date of K.S.A. 40-428, and amendments thereto, (the standard nonforfeiture law), except as otherwise provided in paragraphs (1-a) and (1-b) of this subsection for group annuity and pure endowment contracts issued prior to such operative date, and except as provided in subsection (e) of this section.

(1) Except as otherwise provided in paragraphs (1-a) and (1-b) of this subsection, the minimum standard for the valuation of all such policies and contracts shall be the commissioners' reserve valuation methods defined in paragraphs (2), (2-a) and (5) of this subsection, 3½% interest or in the case of policies and contracts, other than annuity and pure endowment contracts, issued on or after July 1, 1973, 4% interest for such policies issued prior to July 1, 1978, 5½% interest for single premium life insurance policies and 4½% interest for all other such policies issued on or after July 1, 1978, and the following specified tables:

(i) For all ordinary policies of life insurance issued on the standard basis, excluding any disability and accidental death benefits in such policies—the commissioners' 1941 standard ordinary mortality table for such policies issued prior to the operative date of K.S.A. 40-428 (d-1), and amendments thereto, the commissioners' 1958 standard ordinary mortality table and the commissioners' 1958 extended term insurance table, as applicable, for such policies issued on or after the operative date of K.S.A. 40-428 (d-1), and amendments thereto, and prior to the operative date of K.S.A. 40-428 (d-3), and amendments thereto, provided that for any category of such policies issued on female risks, the modified net premiums and present values, referred to in subsection (d)(2) of this section, may be calculated, according to an age not more than six years younger than the actual age of the insured; and for such policies issued on or after the operative date of K.S.A. 40-428 (d-3), and amendments thereto: (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; or (iii) any ordinary mortality table, adopted after 1980 by the national association of insurance commissioners, that is approved by regulation promulgated by the commissioner for use in determining the minimum standard of valuation for such policies.

(ii) For all industrial life insurance policies issued on the standard basis, excluding any disability and accidental death benefits in such policies—the 1941 standard industrial mortality table for such policies issued prior to the operative date of K.S.A. 40-428 (d-2), and amendments thereto, and for such policies issued on or after such operative date the commissioners' 1961 standard industrial mortality table or any industrial mortality table, adopted after 1980 by the national association of insurance commissioners, that is approved by regulation promulgated by the commissioner for use in determining the minimum standard of valuation for such policies.

(iii) For individual annuity and pure endowment contracts, excluding any disability and accidental death benefits in such policies, and excluding annuities involving life contingencies provided or available under optional modes of settlement in life insurance policies or annuity contracts—the 1937 standard annuity mortality table, or, at the option of the company, the annuity mortality table for 1949, ultimate, or any modification of either of these tables approved by the commissioner.

(iv) For group annuity and pure endowment contracts, excluding any disability and accidental death benefits in such policies—the group annuity mortality table for 1951, any modification of such table approved by the commissioner, or at the option of the company, any of the tables or modifications of tables specified for individual annuity and pure endowment contracts.

(v) For total and permanent disability benefits in or supplementary to ordinary policies or contracts—for policies or contracts issued on or after January 1, 1961, either the tables of period 2 disablement rates and the 1930 to 1950 termination rates of the 1952 disability study of the society of actuaries, with due regard to the type of benefit, any tables of disablement rates and termination rates, 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 standard of valuation for such policies, or, at the option of the company, the class (3) disability table (1926); and for policies issued prior to January 1, 1961, the class (3) disability table (1926). Any such table shall, for active lives, be combined with a mortality table permitted for calculating the reserve for life insurance policies.

(vi) For accidental death benefits in or supplementary to policies—for policies issued on or after January 1, 1961, either the 1959 accidental death benefits table, any accidental death benefits table, adopted after 1980 by the national association of insurance commissioners, that is approved by regulation promulgated by the commissioner for use in determining the minimum standard of valuation for such policies, or, at the option of the company, the inter-company double indemnity mortality table; and for policies issued prior to January 1, 1961, the inter-company double indemnity mortality table. Either table shall be combined with a mortality table permitted for calculating the reserves for life insurance policies.

(vii) For group life insurance, life insurance issued on the substandard basis, annuities involving life contingencies provided or available under optional modes of settlement in life insurance policies or annuity contracts and other special benefits—such tables as may be approved by the commissioner of insurance.

(viii) For all credit life insurance having initial terms of 10 years or less, excluding any disability and accidental death benefits in such policies, the ~~1958~~ 1980 commissioners' extended term *mortality* table or any later version as established in rules and regulations adopted by the commissioner of insurance.

(1-a) Except as provided in paragraph (1-b), the minimum standard for the valuation of all individual annuity and pure endowment contracts issued on or after the operative date of this paragraph (1-a), as defined herein, and for all annuities and pure endowments purchased on or after such operative date under group annuity and pure endowment contracts,

shall be the commissioners' reserve valuation methods defined in paragraphs (2) and (2-a) and the following tables and interest rates:

(i) For individual annuity and pure endowment contracts issued prior to July 1, 1978, excluding any disability and accidental death benefits in such contracts—the 1971 individual annuity mortality table, or any modification of this table approved by the commissioner of insurance, and 6% interest for single premium immediate annuity contracts, and 4% interest for all other individual annuity and pure endowment contracts.

(ii) For individual single premium immediate annuity contracts issued on or after July 1, 1978, excluding any disability and accidental death benefits in such contracts—the 1971 individual annuity mortality table, or any individual annuity mortality table, adopted after 1980 by the national association of insurance commissioners, that is approved by regulation promulgated by the commissioner for use in determining the minimum standard of valuation for such contracts, or any modification of these tables approved by the commissioner, and 7½% interest.

(iii) For individual annuity and pure endowment contracts issued on or after July 1, 1978, other than single premium immediate annuity contracts, excluding any disability and accidental death benefits in such contracts—the 1971 individual annuity mortality table, or any individual annuity mortality table, adopted after 1980 by the national association of insurance commissioners, that is approved by regulation promulgated by the commissioner for use in determining the minimum standard of valuation for such contracts, or any modification of these tables approved by the commissioner, and 5½% interest for single premium deferred annuity and pure endowment contracts and 4½% interest for all other such individual annuity and pure endowment contracts.

(iv) For all annuities and pure endowments purchased prior to July 1, 1978, under group annuity and pure endowment contracts, excluding any disability and accidental death benefits purchased under such contracts—the 1971 group annuity mortality table, or any modification of this table approved by the commissioner of insurance, and 6% interest.

(v) For all annuities and pure endowments purchased on or after July 1, 1978, under group annuity and pure endowment contracts, excluding any disability and accidental death benefits purchased under such contracts—the 1971 group annuity mortality table, or any group annuity mortality table, adopted after 1980 by the national association of insurance commissioners, that is approved by regulation promulgated by the commissioner for use in determining the minimum standard of valuation for such annuities and pure endowments, or any modification of these tables approved by the commissioner, and 7½% interest.

After July 1, 1973, any company may file with the commissioner of insurance a written notice of its election to comply with the provisions of this paragraph after a specified date before January 1, 1979, which shall be the operative date of this paragraph for such company. A company may elect a different operative date for individual annuity and pure endowment contracts from that elected for group annuity and pure endowment contracts. If a company makes no such election, the operative date of this paragraph for such company shall be January 1, 1979.

(1-b) (A) Applicability of this paragraph:

(1) The interest rates used in determining the minimum standard for the valuation of:

(a) All life insurance policies issued in a particular calendar year, on or after the operative date of K.S.A. 40-428(d-3), and amendments thereto;

(b) all individual annuity and pure endowment contracts issued in a particular calendar year on or after January 1, 1983;

(c) all annuities and pure endowments purchased in a particular calendar year on or after January 1, 1983, under group annuity and pure endowment contracts; and

(d) the net increase, if any, in a particular calendar year after January 1, 1983, in amounts held under guaranteed interest contracts shall be the calendar year statutory valuation interest rates as defined in this paragraph (1-b).

(B) Calendar year statutory valuation interest rates:

(1) The calendar year statutory valuation interest rates, I, shall be determined as follows and the results rounded to the nearer ¼%:

(a) For life insurance,

$$I = .03 + W (R^1 - .03) + W/2 (R^2 - .09);$$

(b) For single premium immediate annuities and for annuity benefits involving life contingencies arising from other annuities with cash settlement options and from guaranteed interest contracts with cash settlement options,

$$I = .03 + W (R - .03)$$

where  $R^1$  is the lesser of  $R$  and  $.09$ ,  
 $R^2$  is the greater of  $R$  and  $.09$ ,

$R$  is the reference interest rate defined in this paragraph and  $W$  is the weighting factor defined in this paragraph.

(c) For other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, valued on an issue year basis, except as stated in (b) above, the formula for life insurance stated in (a) above shall apply to annuities and guaranteed interest contracts with guarantee durations in excess of 10 years and the formula for single premium immediate annuities stated in (b) above shall apply to annuities and guaranteed interest contracts with guarantee duration of 10 years or less.

(d) For other annuities with no cash settlement options and for guaranteed interest contracts with no cash settlement options, the formula for single premium immediate annuities stated in (b) above shall apply.

(e) For other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, valued on a change in fund basis, the formula for single premium immediate annuities stated in (b) above shall apply.

(2) However, if the calendar year statutory valuation interest rate for any life insurance policies issued in any calendar year determined without reference to this sentence differs from the corresponding actual rate for similar policies issued in the immediately preceding calendar year by less than  $\frac{1}{2}\%$ , the calendar year statutory valuation interest rate for such life insurance policies shall be equal to the corresponding actual rate for the immediately preceding calendar year. For purposes of applying the immediately preceding sentence, the calendar year statutory valuation interest rate for life insurance policies issued in a calendar year shall be determined for 1980 (using the reference interest rate defined for 1979) and shall be determined for each subsequent calendar year regardless of when K.S.A. 40-428(d-3), and amendments thereto, becomes operative.

(C) Weighting factors:

(1) The weighting factors referred to in the formulas stated above are given in the following tables:

(a) Weighting factors for life insurance:

Guarantee Duration (Years)	Weighting Factors
10 or less.....	.50
More than 10, but not more than 20 .....	.45
More than 20.....	.35

For life insurance, the guarantee duration is the maximum number of years the life insurance can remain in force on a basis guaranteed in the policy or under options to convert to plans of life insurance with premium rates or nonforfeiture values, or both, which are guaranteed in the original policy;

(b) Weighting factor for single premium immediate annuities and for annuity benefits involving life contingencies arising from other annuities with cash settlement options and guaranteed interest contracts with cash settlement options:

.80

(c) Weighting factors for other annuities and for guaranteed interest contracts, except as stated in (b) above, shall be as specified in tables (i), (ii) and (iii) below, according to the rules and definitions in (iv), (v) and (vi) below:

(i) For annuities and guaranteed interest contracts valued on an issue year basis:

Guarantee Duration (Years)	Weighting Factor for Plan Type		
	A	B	C
5 or less.....	.80	.60	.50
More than five, but not more than 10 .....	.75	.60	.50
More than 10, but not more than 20 .....	.65	.50	.45
More than 20.....	.45	.35	.35

(ii)

Plan Type

	A	B	C
For annuities and guaranteed interest contracts valued on a change in fund basis, the factors shown in (i) above increased by.....	.15	.25	.05
(iii)			

	Plan Type		
	A	B	C
For annuities and guaranteed interest contracts valued on an issue year basis (other than those with no cash settlement options) which do not guarantee interest on considerations received more than one year after issue or purchase and for annuities and guaranteed interest contracts valued on a change in fund basis which do not guarantee interest rates on considerations received more than 12 months beyond the valuation date, the factors shown in (i) or derived in (ii) increased by .....	.05	.05	.05

(iv) For other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, the guarantee duration is the number of years for which the contract guarantees interest rates in excess of the calendar year statutory valuation interest rate for life insurance policies with guarantee duration in excess of 20 years. For other annuities with no cash settlement options and for guaranteed interest contracts with no cash settlement options, the guarantee duration is the number of years from the date of issue or date of purchase to the date annuity benefits are scheduled to commence.

(v) Plan type as used in the above tables is defined as follows:

Plan type A: At any time policyholder may withdraw funds only: (1) With an adjustment to reflect changes in interest rates or asset values since receipt of the funds by the insurer; or (2) without such adjustment but in installments over five years or more; or (3) as an immediate life annuity; or (4) no withdrawal permitted.

Plan type B: Before expiration of the interest rate guarantee, policyholder may withdraw funds only: (1) With an adjustment to reflect changes in interest rates or asset values since receipt of the funds by the insurer; or (2) without such adjustment but in installments over five years or more; or (3) no withdrawal permitted. At the end of interest rate guarantee, funds may be withdrawn without such adjustment in a single sum or installments over less than five years.

Plan type C: Policyholder may withdraw funds before expiration of interest rate guarantee in a single sum or installments over less than five years either: (1) Without adjustment to reflect changes in interest rates or asset values since receipt of the funds by the insurance company; or (2) subject only to a fixed surrender charge stipulated in the contract as a percentage of the fund.

(vi) A company may elect to value guaranteed interest contracts with cash settlement options and annuities with cash settlement options on either an issue year basis or on a change in fund basis. Guaranteed interest contracts with no cash settlement options and other annuities with no cash settlement options must be valued on an issue year basis. As used in this paragraph (1-b), an issue year basis of valuation refers to a valuation basis under which the interest rate used to determine the minimum valuation standard for the entire duration of the annuity or guaranteed interest contract is the calendar year valuation interest rate for the year of issue or year of purchase of the annuity or guaranteed interest contract, and the change in fund basis of valuation refers to a valuation basis under which the interest rate used to determine the minimum valuation standard applicable to each change in the fund held under the annuity or guaranteed interest contract is the calendar year valuation interest rate for the year of the change in the fund.

(D) Reference interest rate:

(1) The reference interest rate referred to in paragraph (B) of this paragraph (1-b) shall be defined as follows:

(a) For all life insurance, the lesser of the average over a period of 36 months and the average over a period of 12 months, ending on June 30 of the calendar year next preceding the year of issue, of Moody's corporate bond yield average—monthly average corporates, as published by Moody's investors service, inc.

(b) For single premium immediate annuities and for annuity benefits

involving life contingencies arising from other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, the average over a period of 12 months, ending on June 30 of the calendar year of issue or year of purchase, of Moody's corporate bond yield average—monthly average corporates, as published by Moody's investors service, inc.

(c) For other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, valued on a year of issue basis, except as stated in (b) above, with guarantee duration in excess of 10 years, the lesser of the average over a period of 36 months and the average over a period of 12 months, ending on June 30 of the calendar year of issue or purchase, of Moody's corporate bond yield average—monthly average corporates, as published by Moody's investors service, inc.

(d) For other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, valued on a year of issue basis, except as stated in (b) above, with guaranteed duration of 10 years or less, the average over a period of 12 months, ending on June 30 of the calendar year of issue or purchase, of Moody's corporate bond yield average—monthly average corporates, as published by Moody's investors service, inc.

(e) For other annuities with no cash settlement options and for guaranteed interest contracts with no cash settlement options, the average over a period of 12 months, ending on June 30 of the calendar year of issue or purchase, of Moody's corporate bond yield average—monthly average corporates, as published by Moody's investors service, inc.

(f) For other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, valued on a change in fund basis, except as stated in (b) above, the average over a period of 12 months, ending on June 30 of the calendar year of the change in the fund, of Moody's corporate bond yield average—monthly average corporates, as published by Moody's investors service, inc.

(E) Alternative method for determining reference interest rates:

(1) In the event that Moody's corporate bond yield average—monthly average corporates is no longer published by Moody's investors service, inc., or in the event that the national association of insurance commissioners determines that Moody's corporate bond yield average—monthly average corporates as published by Moody's investors service, inc., is no longer appropriate for the determination of the reference interest rate, then an alternative method for determination of the reference interest rate, which is adopted by the national association of insurance commissioners and approved by regulation promulgated by the commissioner, may be substituted.

(2) *Commissioners' reserve valuation method.* Except as otherwise provided in paragraphs (2-a) and (5) of this subsection, reserves according to the commissioners' reserve valuation method, for the life insurance and endowment benefits of policies providing for a uniform amount of insurance and requiring the payment of uniform premiums, shall be the excess, if any, of the present value, at the date of valuation, of such future guaranteed benefits provided for by such policies, over the then present value of any future modified net premiums therefor.

The modified net premiums for any such policy shall be such uniform percentage of the respective contract premiums for such benefits that the present value, at the date of issue of the policy, of all such modified net premiums shall be equal to the sum of the then present value of such benefits provided for by the policy and the excess of (A) over (B), as follows:

(A) A net level annual premium equal to the present value, at the date of issue, of such benefits provided for after the first policy year, divided by the present value, at the date of issue, of an annuity of one per annum payable on the first and each subsequent anniversary of such policy on which a premium falls due. Such net level annual premium shall not exceed the net level annual premium on the nineteen-year premium whole life plan for insurance of the same amount at an age one year higher than the age at issue of such policy.

(B) A net one-year term premium for such benefits provided for in the first policy year.

Except for any life insurance policy issued on or after January 1, 1985, for which the contract premium in the first policy year exceeds that of



the second year and for which no comparable additional benefit is provided in the first year for such excess and which provides an endowment benefit or a cash surrender value or a combination thereof in an amount greater than such excess premium, the reserve according to the commissioners' reserve valuation method as of any policy anniversary occurring on or before the assumed ending date defined herein as the first policy anniversary on which the sum of any endowment benefit and any cash surrender value then available is greater than such excess premium shall, except as otherwise provided in paragraph (5), be the greater of the reserve as of such policy anniversary calculated as described in this paragraph and the reserve as of such policy anniversary calculated as described in this paragraph, but with: (i) The value defined in subparagraph (A) of this paragraph being reduced by 15% of the amount of such excess first-year premium; (ii) all present values of benefits and premiums being determined without reference to premiums or benefits provided for by the policy after the assumed ending date; (iii) the policy being assumed to mature on such date as an endowment; and (iv) the cash surrender value provided on such date being considered as an endowment benefit. In making the above comparison the mortality and interest bases stated in paragraphs (1) and (1-b) shall be used.

Reserves according to the commissioners' reserve valuation method for: (i) Life insurance policies providing for a varying amount of insurance or requiring the payment of varying premiums; (ii) group annuity and pure endowment contracts 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; (iii) disability and accidental death benefits in all policies and contracts; and (iv) all other benefits, except life insurance and endowment benefits in life insurance policies and benefits provided by all other annuity and pure endowment contracts, shall be calculated by a method consistent with the principles of this paragraph (2).

(2-a) This section shall apply to all annuity and pure endowment contracts other than group annuity and pure endowment contracts 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.

Reserves according to the commissioners' annuity reserve method for benefits under annuity or pure endowment contracts, excluding any disability and accidental death benefits in such contracts, shall be the greatest of the respective excesses of the present values, at the date of valuation, of the future guaranteed benefits, including guaranteed nonforfeiture benefits, provided for by such contracts at the end of each respective contract year, over the present value, at the date of valuation, of any future valuation considerations derived from future gross considerations, required by the terms of such contract, that become payable prior to the end of such respective contract year. The future guaranteed benefits shall be determined by using the mortality table, if any, and the interest rate, or rates, specified in such contracts for determining guaranteed benefits. The valuation considerations are the portions of the respective gross considerations applied under the terms of such contracts to determine nonforfeiture values.

(3) In no event shall a company's aggregate reserves for all life insurance policies, excluding disability and accidental death benefits, be less than the aggregate reserves calculated in accordance with the methods set forth in paragraphs (2), (2-a), (5) and (6) and the mortality table or tables and rate or rates of interest used in calculating nonforfeiture benefits for such policies.

(3-a) In no event shall the aggregate reserves for all policies, contracts and benefits be less than the aggregate reserves determined by the qualified actuary rendering the opinion required by subsection (b).

(4) Reserves for any category of policies, contracts or benefits as established by the commissioner of insurance may be calculated at the option of the company, according to any standards which produce greater

aggregate reserves for such category than those calculated according to the minimum standard herein provided, but the rate or rates of interest used for policies and contracts, other than annuity and pure endowment contracts, shall not be higher than the corresponding rate or rates of interest used in calculating any nonforfeiture benefits provided for therein.

(5) If in any contract year the gross premium charged by any life insurance company on any policy or contract is less than the valuation net premium for the policy or contract calculated by the method used in calculating the reserve thereon but using the minimum valuation standards of mortality and rate of interest, the minimum reserve required for such policy or contract shall be the greater of either the reserve calculated according to the mortality table, rate of interest, and method actually used for such policy or contract, or the reserve calculated by the method actually used for such policy or contract but using the minimum valuation standards of mortality and rate of interest and replacing the valuation net premium by the actual gross premium in each contract year for which the valuation net premium exceeds the actual gross premium.

The minimum valuation standards of mortality and rate of interest referred to in this section are those standards stated in paragraphs (1) and (1-b).

Except for any life insurance policy issued on or after January 1, 1988, for which the gross premium in the first policy year exceeds that of the second year and for which no comparable additional benefit is provided in the first year for such excess and which provides an endowment benefit or a cash surrender value or a combination thereof in an amount greater than such excess premium, the foregoing provisions of this paragraph (5) shall be applied as if the method actually used in calculating the reserve for such policy were the method described in paragraph (2), ignoring the third paragraph of paragraph (2). The minimum reserve at each policy anniversary of such a policy shall be the greater of the minimum reserve calculated in accordance with paragraph (2), including the third paragraph of paragraph (2), and the minimum reserve calculated in accordance with this paragraph (5).

(6) 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 or annuity which is of such a nature that the minimum reserves cannot be determined by the methods described in paragraphs (2), (2-a) and (5), the reserves which are held under any such plan must:

(a) Be appropriate in relation to the benefits and the pattern of premiums for that plan, and

(b) be computed by a method which is consistent with the principles of this standard valuation law, as determined by regulations promulgated by the commissioner.

(e) Any company organized under the laws of this state, which shall desire to do business in any other states wherein it is not permitted to issue or deliver policies valued as provided in subsection (d) of this section, may value its policies issued and delivered in such other states as provided in subsection (c) of this section.

(f) The commissioner shall adopt rules and regulations establishing the minimum standards applicable to the valuation of accident and sickness insurance and may adopt other rules and regulations necessary to administer the provisions of this act.

Sec. 2. K.S.A. 2003 Supp. 40-2,105 is hereby amended to read as follows: 40-2,105. (a) On or after the effective date of this act, every insurer which issues any individual or group policy of accident and sickness insurance providing medical, surgical or hospital expense coverage for other than specific diseases or accidents only and which provides for reimbursement or indemnity for services rendered to a person covered by such policy in a medical care facility, must provide for reimbursement or indemnity under such individual policy or under such group policy, except as provided in subsection (d), which shall be limited to not less than 30 days per year when such person is confined for treatment of alcoholism, drug abuse or nervous or mental conditions in a medical care facility licensed under the provisions of K.S.A. 65-429 and amendments thereto, a treatment facility for alcoholics licensed under the provisions of K.S.A. 65-4014 and amendments thereto, a treatment facility for drug

abusers licensed under the provisions of K.S.A. 65-4605 and amendments thereto, a community mental health center or clinic licensed under the provisions of K.S.A. 75-3307b and amendments thereto or a psychiatric hospital licensed under the provisions of K.S.A. 75-3307b and amendments thereto. Such individual policy or such group policy shall also provide for reimbursement or indemnity, except as provided in subsection (d), of the costs of treatment of such person for alcoholism, drug abuse and nervous or mental conditions, limited to not less than 100% of the first \$100, 80% of the next \$100 and 50% of the next \$1,640 in any year and limited to not less than \$7,500 in such person's lifetime, in the facilities enumerated when confinement is not necessary for the treatment or by a physician licensed or psychologist licensed to practice under the laws of the state of Kansas.

(b) For the purposes of this section "nervous or mental conditions" means disorders specified in the diagnostic and statistical manual of mental disorders, fourth edition, (DSM-IV, 1994) of the American psychiatric association but shall not include conditions:

(1) Not attributable to a mental disorder that are a focus of attention or treatment (DSM-IV, 1994); and

(2) defined as a mental illness in K.S.A. 2003 Supp. 40-2,105a and amendments thereto.

(c) The provisions of this section shall be applicable to health maintenance organizations organized under article 32 of chapter 40 of the Kansas Statutes Annotated.

(d) There shall be no coverage under the provisions of this section for any assessment against any person required by a diversion agreement or by order of a court to attend an alcohol and drug safety action program certified pursuant to K.S.A. 8-1008 and amendments thereto or for evaluations and diagnostic tests ordered or requested in connection with criminal actions, divorce, child custody or child visitation proceedings.

(e) The provisions of this section shall not apply to any medicare supplement policy of insurance, as defined by the commissioner of insurance by rule and regulation.

(f) The provisions of this section shall be applicable to the Kansas state employees health care benefits program developed and provided by the Kansas state employees health care commission.

(g) The outpatient coverage provisions of this section shall not apply to a high deductible health plan as defined in ~~Section 301 of P.L. 104-191 and any amendments thereto~~ *federal law* if such plan is purchased in connection with a medical or health savings account pursuant to that ~~act~~ *federal law, regardless of the effective date of the insurance policy.* After the amount of eligible deductible expenses have been paid by the insured, the outpatient costs of treatment of the insured for alcoholism, drug abuse and nervous or mental conditions shall be paid on the same level they are provided for a medical condition, subject to the yearly and lifetime maximums provided in subsection (a).

Sec. 3. From and after July 1, 2004, K.S.A. 8-173 is hereby amended to read as follows: 8-173. (a) An application for registration of a vehicle as provided in article 1 of chapter 8 of the Kansas Statutes Annotated and amendments thereto, shall not be accepted unless the person making such application shall exhibit:

(1) A receipt showing that such person has paid all personal property taxes levied against such person for the preceding year, including taxes upon such vehicle, except that if such application is made before June 21 such receipt need show payment of only one-half the preceding year's tax; or

(2) evidence that such vehicle was assessed for taxation purposes by a state agency, or was assessed as stock in trade of a merchant or manufacturer or was exempt from taxation under the laws of this state.

(b) An application for registration of a vehicle as provided in article 1 of chapter 8 of the Kansas Statutes Annotated shall not be accepted if the records of the county treasurer show that the applicant is delinquent and owes personal property taxes levied against the applicant for any preceding year.

(c) An application for registration or renewal of registration of a motor vehicle shall not be accepted until the applicant signs a certification, provided by the director of motor vehicles, certifying that the applicant has and will maintain, during the period of registration, the required insurance, self insurance or other financial security required pursuant to

K.S.A. 40-3104 and amendments thereto.

(d) An application for registration or renewal of registration of a vehicle shall not be accepted if the applicant is unable to provide proof of the insurance, self insurance or other financial security required by article 31 of chapter 40 of the Kansas Statutes Annotated. Proof of insurance shall be verified by examination of the insurance card or other documentation issued by an insurance company, a certificate of self insurance issued by the commissioner, a binder of insurance, a certificate of insurance, a motor carrier identification number issued by the state corporation commission, proof of insurance for vehicles covered under a fleet policy, a commercial policy covering more than one vehicle or a policy of insurance required by K.S.A. 40-3104, and amendments thereto and for vehicles used as part of a drivers education program, a dealership contract and a copy of a motor vehicle liability insurance policy issued to a school district or accredited nonpublic school. Examination of a photocopy or facsimile of any of these documents shall suffice for verification of registration or renewal. Proof of insurance may also be verified on-line or electronically *and the commissioner of insurance may require, by duly adopted rules and regulations, any motor vehicle liability insurance company authorized to do business in this state to provide verification of insurance in that manner. Any motor vehicle liability insurance company which is providing verification of insurance on-line or electronically on the day preceding the effective date of this act may continue to do so in the same manner and shall be deemed to be in compliance with this section.*

Sec. 4. From and after July 1, 2004, K.S.A. 40-306 is hereby amended to read as follows: 40-306. The board of directors shall elect from their number a president and vice-president, and shall appoint a secretary, treasurer and such other officers as shall be prescribed in the bylaws, and shall fill any vacancy that may occur. They shall also have power to appoint any agents necessary for transacting the business of the company, pay such salaries and require such bonds as they may deem reasonable; and it shall be their duty to keep full and correct entries of their transactions, which shall at all times be open to the inspection of the stockholders. ~~All contracts made by the company shall be signed by the president or vice-president, and secretary, but such requirement shall not apply to any contract now in existence or hereafter entered into between the company and its agents.~~

Sec. 5. From and after July 1, 2004, K.S.A. 40-2202 is hereby amended to read as follows: 40-2202. (a) No policy of accident and sickness insurance shall be delivered or issued for delivery to any person in this state unless:

(1) The entire money and other considerations therefor are expressed therein;

(2) the time at which the insurance takes effect and terminates is expressed therein;

(3) it purports to insure only one person, except that a policy may insure, originally or by subsequent amendment, upon the application of an adult member of a family who shall be deemed the policyholder, any two or more eligible members of such family, including husband, wife, dependent children or any children under a specified age which shall not exceed nineteen years and any other person dependent upon the policyholder;

(4) the style, arrangement and over-all appearance of the policy give no undue prominence to any portion of the text, and unless every printed portion of the text of the policy and of any endorsements or attached papers is plainly printed in lightfaced type of a style in general use, the size of which shall be uniform and not less than 10-point with a lowercase unspaced alphabet length not less than 120-point (the "text" shall include all printed matter except the name and address of the insurer, name or title of the policy, the brief description if any, and captions and subcaptions);

(5) the exceptions and reductions of indemnity are set forth in the policy and, except those which are set forth in K.S.A. 40-2203 and amendments thereto, are printed, at the insurer's option, either included with the benefit provision to which they apply, or under an appropriate caption such as "Exceptions," or "Exceptions and reductions," provided, that if an exception or reduction specifically applies only to a particular benefit of the policy, a statement of such exception or reduction shall be included

with the benefit provision to which it applies;

(6) each such form, including riders and endorsements, shall be identified by a form number in the lower left-hand corner of the first page thereof;

(7) it contains no provision purporting to make any portion of the charter, rules, constitution, or bylaws of the insurer a part of the policy unless such portion is set forth in full in the policy, except in the case of the incorporation of, or reference to, a statement of rates or classification of risks, or short-rate table filed with the commissioner of insurance; and

(8) any provision purporting to base the payment of benefits on "usual, customary and reasonable charges" or a standard of similar import is specifically defined; ~~or~~ and the determination of payable benefits is developed from a statistically valid sample which: (A) Equitably recognizes geographic variations; (B) is produced at least every six months; and (C) is collected on the basis of the most current codes and nomenclature developed and maintained by recognized authorities.

(b) If any policy is issued by an insurer domiciled in this state for delivery to a person residing in another state, and if the official having responsibility for the administration of the insurance laws of such other state shall have advised the commissioner of insurance that any such policy is not subject to approval or disapproval by such official, the commissioner of insurance may by ruling require that such policy meet the standards set forth in subsection (a) of this section and in K.S.A. 40-2203 and amendments thereto.

New Sec. 6. (a) This act applies to any insurer authorized in this state which either assumes or transfers the obligations or risks, or both, on contracts of insurance pursuant to an assumption reinsurance agreement.

(b) This act does not apply to: (1) Any reinsurance agreement or transaction in which the ceding insurer continues to remain directly liable for its insurance obligations or risks, or both, under the contracts of insurance subject to the reinsurance agreement;

(2) the substitution of one insurer for another upon the expiration of insurance coverage pursuant to statutory or contractual requirements and the issuance of a new contract of insurance by another insurer;

(3) the transfer of contracts of insurance pursuant to mergers or consolidations of two or more insurers to the extent that those transactions are regulated by statute;

(4) any insurer subject to a judicial order of liquidation or rehabilitation;

(5) any reinsurance agreement or transaction to which a state insurance guaranty association is a party, provided that policyholders do not lose any rights or claims afforded under their original policies pursuant to K.S.A. 40-2901 et seq., and amendments thereto, or K.S.A. 40-3001 et seq., and amendments thereto; or

(6) the transfer of liabilities from one insurer to another under a single group policy upon the request of the group policyholder.

(c) This section shall take effect on and after July 1, 2004.

New Sec. 7. For the purposes of this act:

(a) "Assuming insurer" means the insurer that acquires an insurance obligation or risk, or both, from the transferring insurer pursuant to an assumption reinsurance agreement.

(b) "Assumption reinsurance agreement" means any contract that both:

(1) Transfers insurance obligations or risks, or both, of existing or in-force contracts of insurance from a transferring insurer to an assuming insurer; and

(2) is intended to effect a novation of the transferred contract of insurance with the result that the assuming insurer becomes directly liable to the policyholders of the transferring insurer and the transferring insurer's insurance obligations or risks, or both, under the contracts are extinguished.

(c) "Commissioner" means the commissioner of insurance as defined by K.S.A. 40-102 and amendments thereto, unless the context requires otherwise.

(d) "Contract of insurance" means any written agreement between an insurer and policyholder pursuant to which the insurer, in exchange for premium or other consideration, agrees to assume an obligation or risk, or both, of the policyholder or to make payments on behalf of, or to, the policyholder or its beneficiaries. Contract of insurance includes all

property, casualty, life, health, accident, surety, title and annuity business authorized to be written pursuant to the insurance laws of this state.

(e) "Home service business" means insurance business on which premiums are collected on a weekly or monthly basis by an agent of the insurer.

(f) "Notice of transfer" means the written notice to policyholders required by section 8 and amendments thereto.

(g) "Policyholder" means any individual or entity which has the right to terminate or otherwise alter the terms of a contract of insurance.

Policyholder includes any certificateholder whose certificate is in force on the proposed effective date of the assumption, if the certificateholder has the right to keep the certificate in force without change in benefit following termination of the group policy.

The right to keep the certificate in force shall not include the right to elect individual coverage under the consolidated omnibus budget reconciliation act ("COBRA") section 601 et seq., of the employee retirement income security act of 1974, as amended, 29 U.S.C. 1161 et seq.

(h) "Transferring insurer" means the insurer which transfers an insurance obligation or risk, or both, to an assuming insurer pursuant to an assumption reinsurance agreement.

(i) This section shall take effect on and after July 1, 2004.

New Sec. 8. (a) The transferring insurer shall provide or cause to be provided to each policyholder a notice of transfer by first-class mail, addressed to the policyholder's last known address or to the address to which premium notices or other policy documents are sent or, with respect to home service business, by personal delivery with acknowledged receipt. A notice of transfer shall also be sent to the transferring insurer's agents or brokers of record on the affected policies.

(b) The notice of transfer shall state or provide:

(1) The date the transfer and novation of the policyholder's contract of insurance is proposed to take place;

(2) the name, address and telephone number of the assuming and transferring insurer;

(3) that the policyholder has the right to either consent to or reject the transfer and novation;

(4) the procedures and time limit for consenting to or rejecting the transfer and novation;

(5) a summary of any effect that consenting to or rejecting the transfer and novation will have on the policyholder's rights;

(6) a statement that the assuming insurer is licensed to write the type of business being assumed in the state where the policyholder resides, or is otherwise authorized, as provided herein, to assume such business;

(7) the name and address of the person at the transferring insurer to whom the policyholder should send its written statement of acceptance or rejection of the transfer and novation;

(8) the address and phone number of the insurance department where the policyholder resides so that the policyholder may write or call the insurance department for further information regarding the financial condition of the assuming insurer;

(9) the following financial data for both companies:

(A) Ratings for the last five years if available or for such lesser period as is available from two nationally recognized insurance rating services acceptable to the commissioner including the rating service's explanation of the meaning of the ratings. If ratings are unavailable for any year of the five-year period, this shall also be disclosed;

(B) a balance sheet as of December 31 for the previous three years, if available, or for such lesser period as is available and as of the date of the most recent quarterly statement;

(C) a copy of the management's discussion and analysis that was filed as a supplement to the previous year's annual statement; and

(D) an explanation of the reason for the transfer.

(c) Notice in a form identical or substantially similar to the form set forth in this act shall be deemed to comply with the requirements of subsection (b) of section 8 and amendments thereto.

(d) The notice of transfer shall include a pre-addressed, postage-paid response card which a policyholder may return as such policyholder's written statement of acceptance or rejection of the transfer and novation.

(e) The notice of transfer shall be filed as part of the prior approval requirement.

(f) This section shall take effect on and after July 1, 2004.

New Sec. 9. (a) Prior approval by the commissioner is required for any transaction where an insurer domiciled in this state assumes or transfers obligations or risks, or both, on contracts of insurance under an assumption reinsurance agreement. No insurer licensed in this state shall transfer obligations and/or risks on contracts of insurance issued to or owned by residents of this state to any insurer that is not licensed in this state. An insurer domiciled in this state shall not assume obligations or risks, or both, on contracts of insurance issued to or owned by policyholders residing in any other state unless it is licensed in the other state, or the insurance regulatory official of that state has approved the assumption.

(b) Any licensed foreign insurer that enters into an assumption reinsurance agreement which transfers the obligations or risks, or both, on contracts of insurance issued to or owned by residents of this state, shall file or cause to be filed with the commissioner of insurance of this state the assumption certificate, a copy of the notice of transfer and an affidavit that the transaction is subject to substantially similar requirements in the state of domicile of both the transferring and assuming insurer. If no such requirements exist in the domicile of either the transferring or assuming insurers, then the requirements of this act shall apply.

(c) Any licensed foreign insurer that enters into an assumption reinsurance agreement which transfers the obligations or risks, or both, on contracts of insurance issued to or owned by residents of this state, shall obtain prior approval of the commissioner of insurance of this state and be subject to all other requirements of this act with respect to residents of this state, unless the transferring and assuming insurers are subject to assumption reinsurance requirements adopted by statute or regulation in the jurisdiction of their domicile which are substantially similar to those contained herein.

(d) The following factors, along with such other factors as the commissioner deems appropriate under the circumstances, shall be considered by the commissioner in reviewing a request for approval:

(1) The financial condition of the transferring and assuming insurers and the effect the transaction will have on the financial condition of each company;

(2) the competence, experience and integrity of those persons who control the operation of the assuming insurer;

(3) the plans or proposals the assuming party has with respect to the administration of the policies subject to the proposed transfer;

(4) whether the transfer is fair and reasonable to the policyholders of both companies; and

(5) whether the notice of transfer to be provided by the insurer is fair, adequate and not misleading.

(e) This section shall take effect on and after July 1, 2004.

New Sec. 10. (a) Policyholders shall have the right to reject the transfer and novation of their contracts of insurance. Policyholders electing to reject the assumption transaction shall return to the transferring insurer the pre-addressed, postage-paid response card or other written notice and indicate thereon that the assumption is rejected (collectively referred to as the "response card").

(b) Payment of any premium to the assuming company during the 24-month period after notice is received shall be deemed to indicate the policyholder's acceptance of the transfer to the assuming insurer and a novation shall be deemed to have been effected, provided that the premium notice clearly states that payment of the premium to the assuming insurer shall constitute acceptance of the transfer. However, the premium notice shall also provide a method for the policyholder to pay the premium while reserving the right to reject the transfer. With respect to any home service business or any other business not using premium notices, the disclosures and procedural requirements of this subsection are to be set forth in the notice of transfer required by section 8, and amendments thereto, and in the assumption certificate.

(c) After no fewer than 24 months from the mailing of the initial notice of transfer required under section 8, and amendments thereto, if positive consent to, or rejection of, the transfer and assumption has not been received or consent has not been deemed to have occurred under subsection (b) of this section, the transferring company shall send to the policyholder a second and final notice of transfer as specified in section

8 and amendments thereto. If the policyholder does not accept or reject the transfer during the one-month period immediately following the date on which the transferring insurer mails the second and final notice of transfer, the policyholder's consent will be deemed to have occurred and novation of the contract will be effected. With respect to the home service business, or any other business not using premium notices, the 24-month and one-month periods shall be measured from the date of delivery of the notice of transfer pursuant to subsection (a) of section 8 and amendments thereto.

(d) The transferring insurer will be deemed to have received the response card on the date it is postmarked. A policyholder may also send its response card by facsimile or other electronic transmission or by registered mail, express delivery or courier service, in which case the response card shall be deemed to have been received by the assuming insurer on the date of actual receipt by the transferring insurer.

(e) This section shall take effect on and after July 1, 2004.

New Sec. 11. If a policyholder consents to the transfer pursuant to section 10, and amendments thereto, or if the transfer is effected under section 12, and amendments thereto, there shall be a novation of the contract of insurance subject to the assumption reinsurance agreement with the result that the transferring insurer shall thereby be relieved of all insurance obligations or risks, or both, transferred under the assumption reinsurance agreement and the assuming insurer shall become directly and solely liable to the policyholder for those insurance obligations or risks, or both.

This section shall take effect on and after July 1, 2004.

New Sec. 12. If an insurer domiciled in this state or in a jurisdiction having a substantially similar law is deemed by the domiciliary commissioner to be in hazardous financial condition or an administrative proceeding has been instituted against it for the purpose of reorganizing or conserving the insurer, and the transfer of the contracts of insurance is in the best interest of the policyholders, as determined by the domiciliary commissioner, a transfer and novation may be effected notwithstanding the provisions of this act. This may include a form of implied consent and adequate notification to the policyholder of the circumstances requiring the transfer as approved by the commissioner.

This section shall take effect on and after July 1, 2004.

New Sec. 13. Residents of this state whose policies were previously subject to the protections set forth in K.S.A. 40-2901 et seq., and amendments thereto, or K.S.A. 40-3001 et seq., and amendments thereto, and whose policies are transferred to an unlicensed insurer pursuant to this section are entitled to continued protection thereunder.

This section shall take effect on and after July 1, 2004.

New Sec. 14. A notice of transfer and form for response by an insured to such a notice shall be deemed to be sufficient for the purposes of this act if it substantially conforms with the following form:

NOTICE OF TRANSFER  
IMPORTANT: THIS NOTICE AFFECTS YOUR CONTRACT RIGHTS. PLEASE READ IT CAREFULLY.

#### Transfer of Policy

The [ABC Insurance Company] has agreed to replace us as your insurer under [insert policy/certificate name and number] effective [insert date]. The [ABC Insurance Company's] principal place of business is [insert address] and certain financial information concerning both companies is attached, including (1) ratings for the last five years, if available, or for such lesser period as is available from two nationally recognized insurance rating services; (2) balance sheets for the previous three years, if available, or for such lesser period as is available and as of the date of the most recent quarterly statement; (3) a copy of the Management's Discussion and Analysis that was filed as a supplement to the previous year's annual statement; and (4) an explanation of the reason for the transfer. You may obtain additional information concerning [ABC Insurance Company] from reference materials in your local library or by contacting your Insurance Commissioner at [insert address and phone number].

The [ABC Insurance Company] is licensed to write this coverage in your state. The Commissioner of Insurance in your state has reviewed the potential effect of the proposed transaction, and has approved the transaction.

#### Your Rights

You may choose to consent to or reject the transfer of your policy to [ABC Insurance Company]. If you want your policy transferred, you may notify us in writing by signing and returning the enclosed pre-addressed, postage-paid card or by writing to us at:

[Insert name, address and facsimile number of contact person.]

Payment of your premium to the assuming company will also constitute acceptance of the transaction. However, a method will be provided to allow you to pay the premium while



reserving the right to reject the transfer.

If you reject the transfer, you may keep your policy with us or exercise any option under your policy. If we do not receive a written rejection you will, as a matter of law, have consented to the transfer. However, before this consent is final you will be provided a second notice of the transfer 24 months from now. After the second notice is provided, you will have one month to reply. If you have paid your premium to the [ABC Insurance Company], without reserving your right to reject the transfer, you will not receive a second notice.

Effect of Transfer

If you accept this transfer, [ABC Insurance Company] will be your insurer. It will have direct responsibility to you for the payment of all claims, benefits and for all other policy obligations. We will no longer have any obligations to you.

If you accept this transfer, you should make all premium payments and claims submissions to [ABC Insurance Company] and direct all questions to [ABC Insurance Company].

If you have any further questions about this agreement, you may contact [XYZ Insurance] or [ABC Insurance].

Sincerely,

[XYZ Insurance Company  
111 No Street  
Smithville, USA  
555/555-5555]

[ABC Insurance Company  
222 No Street  
Jonesville, USA  
333/333-3333]

For your convenience, we have enclosed a pre-addressed postage-paid response card. Please take time now to read the enclosed notice and complete and return the response card to us. [Notice Date]

RESPONSE CARD

- \_\_\_\_\_ Yes, I accept the transfer of my policy from [name of transferring company] to [name of assuming company].
- \_\_\_\_\_ No, I reject the proposed transfer of my policy from [name of transferring company] to [name of assuming company] and wish to retain my policy with [name of transferring company].

\_\_\_\_\_  
Date: \_\_\_\_\_ Signature: \_\_\_\_\_  
Name: \_\_\_\_\_  
Street Address: \_\_\_\_\_  
City, State, Zip: \_\_\_\_\_

This section shall take effect on and after July 1, 2004.

New Sec. 15. (a) Sections 6 through 15, and amendments thereto, shall be known and may be cited as the assumption reinsurance agreement act.

(b) This act shall be administered by the commissioner.

(c) This section shall take effect on and after July 1, 2004.

Sec. 16. From and after July 1, 2004, K.S.A. 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.

*(e) The requirements of paragraphs (b) and (d) of this subsection governing employer contributions and amounts of insurance shall not apply to a voluntary term life insurance policy issued on a group basis.*

(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, their grandchildren, their spouse's children, their spouse's grandchildren, their parents, their spouse's parents, 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, their children, their grandchildren, their spouse's children, their spouse's grandchildren, their parents and their spouse's parents 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, their children, their

grandchildren, their spouse's children, their spouse's grandchildren, their parents, their spouse's parents.

(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, 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.

(e) *The requirements of paragraphs (a) and (b) of this subsection governing participation, contribution by an employer and amounts of insurance for dependents shall not apply to a voluntary term life insurance policy issued on a group basis.*

(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.

Sec. 17. From and after July 1, 2004, K.S.A. 2003 Supp. 79-32,117 is hereby amended to read as follows: 79-32,117. (a) The Kansas adjusted gross income of an individual means such individual's federal adjusted gross income for the taxable year, with the modifications specified in this section.

(b) There shall be added to federal adjusted gross income:

(i) Interest income less any related expenses directly incurred in the purchase of state or political subdivision obligations, to the extent that the same is not included in federal adjusted gross income, on obligations of any state or political subdivision thereof, but to the extent that interest income on obligations of this state or a political subdivision thereof issued prior to January 1, 1988, is specifically exempt from income tax under the laws of this state authorizing the issuance of such obligations, it shall be excluded from computation of Kansas adjusted gross income whether or not included in federal adjusted gross income. Interest income on obligations of this state or a political subdivision thereof issued after December 31, 1987, shall be excluded from computation of Kansas adjusted gross income whether or not included in federal adjusted gross income.

(ii) Taxes on or measured by income or fees or payments in lieu of income taxes imposed by this state or any other taxing jurisdiction to the extent deductible in determining federal adjusted gross income and not credited against federal income tax. This paragraph shall not apply to taxes imposed under the provisions of K.S.A. 79-1107 or 79-1108, and amendments thereto, for privilege tax year 1995, and all such years thereafter.

(iii) The federal net operating loss deduction.

(iv) Federal income tax refunds received by the taxpayer if the deduction of the taxes being refunded resulted in a tax benefit for Kansas income tax purposes during a prior taxable year. Such refunds shall be included in income in the year actually received regardless of the method of accounting used by the taxpayer. For purposes hereof, a tax benefit shall be deemed to have resulted if the amount of the tax had been deducted in determining income subject to a Kansas income tax for a prior year regardless of the rate of taxation applied in such prior year to the Kansas taxable income, but only that portion of the refund shall be included as bears the same proportion to the total refund received as the federal taxes deducted in the year to which such refund is attributable bears to the total federal income taxes paid for such year. For purposes of the foregoing sentence, federal taxes shall be considered to have been deducted only to the extent such deduction does not reduce Kansas taxable income below zero.

(v) The amount of any depreciation deduction or business expense deduction claimed on the taxpayer's federal income tax return for any capital expenditure in making any building or facility accessible to the handicapped, for which expenditure the taxpayer claimed the credit al-

lowed by K.S.A. 79-32,177, and amendments thereto.

(vi) Any amount of designated employee contributions picked up by an employer pursuant to K.S.A. 12-5005, 20-2603, 74-4919 and 74-4965, and amendments to such sections.

(vii) The amount of any charitable contribution made to the extent the same is claimed as the basis for the credit allowed pursuant to K.S.A. 79-32,196, and amendments thereto.

(viii) The amount of any costs incurred for improvements to a swine facility, claimed for deduction in determining federal adjusted gross income, to the extent the same is claimed as the basis for any credit allowed pursuant to K.S.A. 2003 Supp. 79-32,204 and amendments thereto.

(ix) The amount of any ad valorem taxes and assessments paid and the amount of any costs incurred for habitat management or construction and maintenance of improvements on real property, claimed for deduction in determining federal adjusted gross income, to the extent the same is claimed as the basis for any credit allowed pursuant to K.S.A. 79-32,203 and amendments thereto.

(x) Amounts received as nonqualified withdrawals, as defined by K.S.A. 2003 Supp. 75-643, and amendments thereto, if, at the time of contribution to a family postsecondary education savings account, such amounts were subtracted from the federal adjusted gross income pursuant to paragraph (xv) of subsection (c) of K.S.A. 79-32,117, and amendments thereto, or if such amounts are not already included in the federal adjusted gross income.

(c) There shall be subtracted from federal adjusted gross income:

(i) Interest or dividend income on obligations or securities of any authority, commission or instrumentality of the United States and its possessions less any related expenses directly incurred in the purchase of such obligations or securities, to the extent included in federal adjusted gross income but exempt from state income taxes under the laws of the United States.

(ii) Any amounts received which are included in federal adjusted gross income but which are specifically exempt from Kansas income taxation under the laws of the state of Kansas.

(iii) The portion of any gain or loss from the sale or other disposition of property having a higher adjusted basis for Kansas income tax purposes than for federal income tax purposes on the date such property was sold or disposed of in a transaction in which gain or loss was recognized for purposes of federal income tax that does not exceed such difference in basis, but if a gain is considered a long-term capital gain for federal income tax purposes, the modification shall be limited to that portion of such gain which is included in federal adjusted gross income.

(iv) The amount necessary to prevent the taxation under this act of any annuity or other amount of income or gain which was properly included in income or gain and was taxed under the laws of this state for a taxable year prior to the effective date of this act, as amended, to the taxpayer, or to a decedent by reason of whose death the taxpayer acquired the right to receive the income or gain, or to a trust or estate from which the taxpayer received the income or gain.

(v) The amount of any refund or credit for overpayment of taxes on or measured by income or fees or payments in lieu of income taxes imposed by this state, or any taxing jurisdiction, to the extent included in gross income for federal income tax purposes.

(vi) Accumulation distributions received by a taxpayer as a beneficiary of a trust to the extent that the same are included in federal adjusted gross income.

(vii) Amounts received as annuities under the federal civil service retirement system from the civil service retirement and disability fund and other amounts received as retirement benefits in whatever form which were earned for being employed by the federal government or for service in the armed forces of the United States.

(viii) Amounts received by retired railroad employees as a supplemental annuity under the provisions of 45 U.S.C. 228b (a) and 228c (a)(1) *et seq.*

(ix) Amounts received by retired employees of a city and by retired employees of any board of such city as retirement allowances pursuant to K.S.A. 13-14,106, and amendments thereto, or pursuant to any charter ordinance exempting a city from the provisions of K.S.A. 13-14,106, and amendments thereto.

(x) For taxable years beginning after December 31, 1976, the amount of the federal tentative jobs tax credit disallowance under the provisions of 26 U.S.C. 280 C. For taxable years ending after December 31, 1978, the amount of the targeted jobs tax credit and work incentive credit disallowances under 26 U.S.C. 280 C.

(xi) For taxable years beginning after December 31, 1986, dividend income on stock issued by Kansas Venture Capital, Inc.

(xii) For taxable years beginning after December 31, 1989, amounts received by retired employees of a board of public utilities as pension and retirement benefits pursuant to K.S.A. 13-1246, 13-1246a and 13-1249 and amendments thereto.

(xiii) For taxable years beginning after December 31, 1993, the amount of income earned on contributions deposited to an individual development account under K.S.A. 79-32,117h, and amendments thereto.

(xiv) For all taxable years commencing after December 31, 1996, that portion of any income of a bank organized under the laws of this state or any other state, a national banking association organized under the laws of the United States, an association organized under the savings and loan code of this state or any other state, or a federal savings association organized under the laws of the United States, for which an election as an S corporation under subchapter S of the federal internal revenue code is in effect, which accrues to the taxpayer who is a stockholder of such corporation and which is not distributed to the stockholders as dividends of the corporation.

(xv) For all taxable years beginning after December 31, 1999, amounts not exceeding \$2,000, or \$4,000 for a married couple filing a joint return, for each designated beneficiary which are contributed to a family postsecondary education savings account established under the Kansas postsecondary education savings program for the purpose of paying the qualified higher education expenses of a designated beneficiary at an institution of postsecondary education. The terms and phrases used in this paragraph shall have the meaning respectively ascribed thereto by the provisions of K.S.A. 2003 Supp. 75-643, and amendments thereto, and the provisions of such section are hereby incorporated by reference for all purposes thereof.

(xvi) *For the tax year beginning after December 31, 2004, an amount not exceeding \$500; for the tax year beginning after December 31, 2005, an amount not exceeding \$600; for the tax year beginning after December 31, 2006, an amount not exceeding \$700; for the tax year beginning after December 31, 2007, an amount not exceeding \$800; for the tax year beginning December 31, 2008, an amount not exceeding \$900; and for all taxable years commencing after December 31, 2009, an amount not exceeding \$1,000 of the premium costs for qualified long-term care insurance contracts, as defined by subsection (b) of section 7702B of public law 104-191.*

(d) There shall be added to or subtracted from federal adjusted gross income the taxpayer's share, as beneficiary of an estate or trust, of the Kansas fiduciary adjustment determined under K.S.A. 79-32,135, and amendments thereto.

(e) The amount of modifications required to be made under this section by a partner which relates to items of income, gain, loss, deduction or credit of a partnership shall be determined under K.S.A. 79-32,131, and amendments thereto, to the extent that such items affect federal adjusted gross income of the partner.

Sec. 18. K.S.A. 2003 Supp. 40-2,105 is hereby repealed.

Sec. 19. From and after July 1, 2004, K.S.A. 8-173, 40-306, 40-409, 40-433 and 40-2202 and K.S.A. 2003 Supp. 79-32,117 are hereby repealed.

Sec. 20. This act shall take effect and be in force from and after its publication in the Kansas register.

Approved May 13, 2004.

Published in the *Kansas Register* May 20, 2004.

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