

**As Amended by House Committee**

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*Session of 2011*

**SENATE BILL No. 85**

By Committee on Financial Institutions and Insurance

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1 AN ACT concerning group life insurance; removing mandatory  
2 participation requirements; amending K.S.A. 2010 Supp. 40-433 and  
3 repealing the existing section.  
4

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

6 Section 1. K.S.A. 2010 Supp. 40-433 is hereby amended to read as  
7 follows: 40-433. No policy of group life insurance shall be delivered in  
8 this state unless it conforms to one of the following descriptions:

9 (1) A policy issued by an insurance company organized under the  
10 laws of the state of Kansas on its employees and agents, which agents for  
11 the purpose of this act only shall be deemed employees, the beneficiaries  
12 under such policies to be persons designated by each insured, or a policy  
13 issued to an employer, or to the trustees of a fund established by an  
14 employer, which employer or trustees shall be deemed the policyholder, to  
15 insure employees of the employer for the benefit of persons other than the  
16 employer, both subject to the following requirements:

17 (a) The employees eligible for insurance under the policy shall be all  
18 of the employees of the employer, or all of any class or classes thereof  
19 determined by conditions pertaining to their employment. The policy may  
20 provide that the term "employees" shall include the employees of one or  
21 more subsidiary corporations, and the employees, individual proprietors,  
22 and partners of one or more affiliated corporations, proprietors or  
23 partnerships if the business of the employer and of such affiliated  
24 corporations, proprietors or partnerships is under common control through  
25 stock ownership, contract or otherwise. The policy may provide that the  
26 term "employees" shall include the individual proprietor or partners if the  
27 employer is an individual proprietor or a partnership. The policy may  
28 provide that the term "employees" shall include retired employees. No  
29 director of a corporate employer shall be eligible for insurance under the  
30 policy unless such person is otherwise eligible as a bona fide employee of  
31 the corporation by performing services other than the usual duties of a  
32 director. No individual proprietor or partner shall be eligible for insurance  
33 under the policy unless the proprietor or partner is actively engaged in and  
34 devotes a substantial part of their time to the conduct of the business of the  
35 proprietor or partnership. A policy issued to insure the employees of a  
36 public body may provide that the term "employees" shall include elected

1 or appointed officials.

2 (b) The premium for the policy shall ~~may~~ be paid by the policyholder,  
3 either wholly from the employer's funds or funds contributed by the  
4 employer, or partly from such funds and partly from funds contributed by  
5 the insured employees. ~~No policy shall be issued on which the entire~~  
6 ~~premium is to be derived from funds contributed by the insured~~  
7 ~~employees. A policy on which part of the premium is to be derived from~~  
8 ~~funds contributed by the insured employees may be placed in force only if~~  
9 ~~at least 75% of the then eligible employees, excluding any as to whom~~  
10 ~~evidence of individual insurability is not satisfactory to the insurer, elect to~~  
11 ~~make the required contribution~~ *or entirely by the employees at their option.*  
12 A policy on which no part of the premium is to be derived from funds  
13 contributed by the insured employees shall insure all eligible employees,  
14 or all except any as to whom evidence of individual insurability is not  
15 satisfactory to the insurer *or except those who reject the coverage in*  
16 *writing.*

17 (c) ~~The policy shall cover at least two employees at date of issue. (d)~~  
18 The amounts of insurance under the policy shall be based upon some plan,  
19 precluding individual selection either by the employees or by the employer  
20 or trustees.

21 (2) A policy issued to a creditor, who shall be deemed the  
22 policyholder, to insure debtors of the creditor, subject to the following  
23 requirements:

24 (a) The debtors eligible for insurance under the policy shall be all of  
25 the debtors of the creditor whose indebtedness is repayable in installments,  
26 or all of any class or classes thereof determined by conditions pertaining to  
27 the indebtedness or to the purchase giving rise to the indebtedness.

28 (b) The premium for the policy shall be paid by the policyholder,  
29 either from the creditor's funds or from charges collected from the insured  
30 debtors, or from both. A policy on which part or all of the premium is to be  
31 derived from the collection from the insured debtors of identifiable charges  
32 not required of uninsured debtors shall not include, in the class or classes  
33 of debtors eligible for insurance, debtors under obligations outstanding at  
34 its date of issue without evidence of individual insurability unless at least  
35 75% of the then eligible debtors elect to pay the required charges. A policy  
36 on which no part of the premium is to be derived from the collection of  
37 such identifiable charges shall insure all eligible debtors, or all except any  
38 as to whom evidence of individual insurability is not satisfactory to the  
39 insurer.

40 (c) The policy may be issued only if the group of eligible debtors is  
41 then receiving new entrants at the rate of at least 100 persons yearly, or  
42 may reasonably be expected to receive at least 100 new entrants during the  
43 first policy year, and only if the policy reserves to the insurer the right to

1 require evidence of individual insurability if less than 75% of the new  
2 entrants become insured.

3 (d) The amount of insurance on the life of any debtor shall at no time  
4 exceed the amount owed by that debtor which is repayable in installments  
5 to the creditor.

6 (e) The insurance shall be payable to the policyholder. Such payment  
7 shall reduce or extinguish the unpaid indebtedness of the debtor to the  
8 extent of such payment.

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

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

17 (b) The premium for the policy ~~shall~~ may be paid by the policyholder,  
18 either wholly from the union's funds, or partly from such funds and partly  
19 from funds contributed by the insured members specifically for their  
20 insurance *or entirely by the insured members at their option.* ~~No policy~~  
21 ~~shall be issued on which the entire premium is to be derived from funds~~  
22 ~~contributed by the insured members specifically for their insurance. A~~  
23 ~~policy on which part of the premium is to be derived from funds~~  
24 ~~contributed by the insured members specifically for their insurance may be~~  
25 ~~placed in force only if at least 75% of the then eligible members excluding~~  
26 ~~any as to whom evidence of individual insurability is not satisfactory to~~  
27 ~~the insurer, elect to make the required contributions. A policy on which no~~  
28 ~~part of the premium is to be derived from funds contributed by the insured~~  
29 ~~members specifically for their insurance shall insure all eligible members,~~  
30 ~~or all except any as to whom evidence of individual insurability is not~~  
31 ~~satisfactory to the insurer *or except those who reject coverage in writing.*~~

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

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

36 (4) A policy issued to the trustees of a fund established in this state by  
37 two or more employers if a majority of the employees to be insured of  
38 each employer are located within the state, or to the trustees of a fund  
39 established by one or more labor unions, or by one or more employers and  
40 one or more labor unions, which trustees shall be deemed the policyholder,  
41 to insure employees of the employers or members of the unions for the  
42 benefit of persons other than the employers or the unions, subject to the  
43 following requirements:

1 (a) The persons eligible for insurance shall be all of the employees of  
2 the employers or all of the members of the unions, or all of any class or  
3 classes thereof determined by conditions pertaining to their employment,  
4 or to membership in the unions, or to both. The policy may provide that  
5 the term "employees" shall include retired employees and the individual  
6 proprietor or partners if any employer is an individual proprietor or a  
7 partnership. No director of a corporate employer shall be eligible for  
8 insurance under the policy unless such person is otherwise eligible as a  
9 bona fide employee of the corporation by performing services other than  
10 the usual duties of a director. No individual proprietor or partner shall be  
11 eligible for insurance under the policy unless the proprietor or partner is  
12 actively engaged in and devotes a substantial part of their time to the  
13 conduct of the business of the proprietor or partnership. The policy may  
14 provide that the term "employees" shall include the trustees or their  
15 employees, or both, if their duties are principally connected with such  
16 trusteeship.

17 (b) The premium for the policy ~~shall~~ may be paid by the trustees either  
18 wholly from funds contributed by the employer or employers of the  
19 insured persons, or by the union or unions, or by both, or partly from such  
20 funds and partly from funds contributed by the insured employees *or*  
21 *wholly from funds contributed by the employees or members at their*  
22 *option.* ~~No policy shall be issued on which the entire premium is to be~~  
23 ~~derived from funds contributed by the insured persons.~~ The policy shall  
24 insure all eligible persons, or all except any as to whom evidence of  
25 individual insurability is not satisfactory to the insurer *or except those who*  
26 *reject coverage in writing.*

27 (c) ~~The policy shall cover at date of issue at least 100 persons and not~~  
28 ~~less than an average of five persons per employer unit.~~ (d) The amounts of  
29 insurance under the policy shall be based upon some plan precluding  
30 individual selection either by the insured persons or by the policyholder,  
31 employers; or union.

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

35 (5) A policy issued to an association which has been organized and is  
36 maintained for purposes other than that of obtaining insurance, insuring at  
37 least 25 members, employees, or employees of members of the association  
38 for the benefit of persons other than the association or its officers. The  
39 term "employees" as used herein shall be deemed to include retired  
40 employees. The premiums for the policies shall be paid by the  
41 policyholder, either wholly from association funds, or funds contributed by  
42 the members of such association or by employees of such members or any  
43 combination thereof. The amounts of insurance under the policy shall be

1 based upon some plan precluding individual selection either by the insured  
2 person or by the association or by the member.

3 (6) Any policy issued pursuant to this section may be extended to  
4 insure the employees against loss due to the death of their spouses, their  
5 children, their grandchildren, their spouse's children, their spouse's  
6 grandchildren, their parents, their spouse's parents, or any class or classes  
7 thereof, subject to the following requirements:

8 (a) The premium for the insurance ~~shall~~may be paid by the  
9 policyholder, either from the employer's funds or from funds contributed  
10 by the insured employees, or from both. ~~If any part of the premium is to be~~  
11 ~~derived from funds contributed by the insured employees, the insurance~~  
12 ~~with respect to spouses, their children, their grandchildren, their spouse's~~  
13 ~~children, their spouse's grandchildren, their parents and their spouse's~~  
14 ~~parents may be placed in force only if at least 75% of the then eligible~~  
15 ~~employees, excluding any as to whose family members' evidence of~~  
16 ~~insurability is not satisfactory to the insurer, elect to make the required~~  
17 ~~contribution.~~ If no part of the premium is to be derived from funds  
18 contributed by the employees, all eligible employees, excluding any as to  
19 whose family members' evidence of insurability is not satisfactory to the  
20 insurer, shall be insured with respect to their spouses, their children, their  
21 grandchildren, their spouse's children, their spouse's grandchildren, their  
22 parents, their spouse's parents.

23 ~~(b) The amounts of insurance shall be based upon some plan~~  
24 ~~precluding individual selection either by the employees or by the~~  
25 ~~policyholder, or employer and shall not exceed with respect to any spouse,~~  
26 ~~child or parent 50% of the insurance on the life of such insured~~  
27 ~~employee covering an employee's spouse, their children, their~~  
28 ~~grandchildren, their spouse's children, their spouse's grandchildren, their~~  
29 ~~parents or their spouse's parents shall not exceed 100% of the amount of~~  
30 ~~insurance on the life of the insured employee.~~

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

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

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

1 (7) A policy may be issued to any other group which the  
2 commissioner of insurance finds is the proper subject of a group life  
3 insurance policy or contract. Any such group shall be subject to any  
4 appropriate conditions or provisions relating thereto which the  
5 commissioner may establish or require, consistent with the provisions of  
6 this act, and such conditions and provisions shall be included in the policy  
7 or contract.

8 Sec. 2. K.S.A. 2010 Supp. 40-433 is hereby repealed.

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

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