

## SENATE BILL No. 263

By Committee on Federal and State Affairs

2-11

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9 AN ACT relating to insurance; concerning the mandatory reinstatement  
10 of certain insurance policies in case of mental incapacity of an insured.

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

13 Section 1. (a) The provisions of sections 1 through 8, and amend-  
14 ments thereto, shall apply to all individual insurance policies issued to  
15 residents of this state that are subject to lapsing on and after the effective  
16 date of this act, issued by an insurer authorized to do business in this  
17 state.

18 (b) The provisions of sections 1 through 8, and amendments thereto,  
19 shall not apply to any: (1) Life insurance policy that provides nonforfeiture  
20 benefits, which would maintain the contract for one year; (2) long-term  
21 care insurance policy as defined by K.S.A. 40-2227, and amendments  
22 thereto; or (3) motor vehicle insurance policy.

23 (c) As used in sections 1 through 8, and amendments thereto, “policy”  
24 means an individual insurance policy authorized under chapter 40 of the  
25 Kansas Statutes Annotated.

26 Sec. 2. (a) A policy shall be entitled to reinstatement under this act  
27 if:

28 (1) Such policy has been in effect continuously for at least five years  
29 immediately preceding the lapse;

30 (2) such policy has been without default in the payment of premiums  
31 during such period;

32 (3) there is a subsequent unintentional default in premium payments  
33 caused by mental incapacity of the insured; and

34 (4) such policy shall include a third-party notification clause.

35 (b) A policy shall be reinstated within one year from the date of lapse  
36 if such policy meets the requirements of subsection (a), on payment of  
37 arrears of premiums with interest. The rate of interest may not exceed  
38 6% per annum.

39 Sec. 3. (a) For purposes of this act, “mental incapacity” means lack-  
40 ing the ability, based on reasonable medical judgment, to understand and  
41 appreciate the nature and consequences of a decision regarding failure  
42 to pay a premium when due and the ability to reach an informed decision  
43 in the matter.

- 1 (b) Mental incapacity must be established by the clinical diagnosis of  
2 a physician licensed and qualified to make the diagnosis.
- 3 Sec. 4. (a) A request for reinstatement of coverage under this act and  
4 proof of mental incapacity may be filed with the insurer by:
- 5 (1) The insured;  
6 (2) the legal guardian of the insured;  
7 (3) other legal representative of the insured; or  
8 (4) the legal representative of the estate of the insured.
- 9 (b) Proof of mental incapacity and an accompanying request for the  
10 reinstatement must be made not later than the first anniversary date after  
11 the lapse of a policy eligible for reinstatement.
- 12 Sec. 5. (a) After the requirements of section 4, and amendments  
13 thereto, have been satisfied, an insurer subject to this act shall reinstate,  
14 without evidence of insurability, coverage that has lapsed under the cir-  
15 cumstances described by section 2, and amendments thereto.
- 16 (b) An insurer may require, as a condition of reinstatement, payment  
17 of premiums plus interest owed for the period from the date of initial  
18 lapse to the date of reinstatement.
- 19 (c) On reinstatement of the coverage, the initial contractual provi-  
20 sions apply as if coverage had been continuous and without interruption.
- 21 Sec. 6. An insurer shall pay the amount of benefits owed under a  
22 policy that is eligible for reinstatement under this act, reduced by the  
23 amount of premiums and interest owed and unpaid on the date of which  
24 the benefits are paid, if there is an uncontroverted claim for benefits that  
25 exceed the amount of premiums and interest owed.
- 26 Sec. 7. An insurer is not required to reinstate coverage or pay ben-  
27 efits under this act if the insured first became mentally incapacitated after  
28 the expiration of an applicable grace period contained in the policy.
- 29 Sec. 8. (a) Each insurer shall disclose fully to each of its policyhol-  
30 ders, contract holders or covered persons the requirements of this act.
- 31 (b) The disclosure shall be forwarded to applicable policyholders,  
32 contract holders or covered persons either:
- 33 (1) Within 90 days following a lapse of a policy regulated by this act;  
34 or  
35 (2) within 90 days after the effective date of this act to each existing  
36 policyholder whose policy is regulated by this act. Disclosure thereafter  
37 on policies issued after the effective date of this act may be made by  
38 including the disclosure information in the policy or in an endorsement  
39 attached to the policy.
- 40 (c) Notice will be deemed to be in compliance with this act if mailed  
41 by first-class mail to the last known address of the policyholder or if  
42 contained in the policy form or as an endorsement thereto.
- 43 (d) The commissioner of insurance may adopt reasonable rules and

1 regulations to implement the provisions of this act. Such disclosure shall  
2 be made in the form and manner prescribed by the commissioner of  
3 insurance.  
4 Sec. 9. This act shall take effect and be in force from and after its  
5 publication in the statute book.