

HOUSE BILL No. 2490

By Committee on Insurance

1-20

10 AN ACT concerning insurance; relating to ~~life insurance companies~~ **[the**
11 **regulation thereof]**; amending K.S.A. 40-401 **[and K.S.A. 2009**
12 **Supp. 40-2,103 and 40-19c09]** and repealing the existing ~~section~~
13 **[sections]**.
14

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

16 Section 1. K.S.A. 40-401 is hereby amended to read as follows: 40-
17 401. Any 10 or more persons, a majority of whom are citizens of this state,
18 may associate in accordance with the provisions of this code and form an
19 incorporated company, upon either the stock or mutual plan, to make
20 insurance upon the lives of persons and every insurance appertaining
21 thereto or connected therewith and to grant, purchase or dispose of an-
22 nuities, and to issue funding agreements, guaranteed investment con-
23 tracts and synthetic guaranteed investment contracts. Such companies
24 may incorporate: (a) In their policies provisions or conditions for the
25 waiver of premiums or for the granting of an annuity to the insured, or
26 for special surrender values or other benefits in the event the insured
27 shall from any cause become unemployed or totally and permanently
28 disabled; (b) in their policies provisions for acceleration of life or annuity
29 benefits in advance of the time they would otherwise be payable subject
30 to such reserve and other regulatory standards as the commissioner may
31 prescribe by rules and regulations, except that any provision providing for
32 acceleration of life or annuity benefits for persons diagnosed as having a
33 medical condition usually requiring continuous confinement for the rest
34 of the person's life in a nursing home or other eligible facility as defined
35 in the policy, may also provide for acceleration of benefits upon diagnosis
36 of such condition even if the person is not confined in a nursing home or
37 similar facility; (c) in their policies and annuity contracts provisions or
38 conditions for waiver of surrender charges upon terms and conditions as
39 specified in the policy or contract, subject to rules and regulations
40 adopted by the commissioner of insurance; or (d) in their policies pro-
41 visions for the payment of a larger sum if death is caused by accident than
42 if it results from any other causes.

43 Prior to the payment of any accelerated benefit, the insurer shall re-

1 ceive from any assignee or irrevocable beneficiary of the policy a signed
2 acknowledgment of concurrence for the payment. For the purposes of
3 this section, “totally and permanently disabled” means disabled contin-
4 uously for a period, such period to be specified in any such provision, of
5 not less than 60 days nor more than one year, except this provision shall
6 not apply to and specifically excludes group life insurance. Such company
7 may make insurance on the health of individuals, against accidental per-
8 sonal injury, disablement or death and against loss, liability or expense on
9 account thereof. Such company so transacting such health and accident
10 insurance business, or either kind, shall maintain statutory and separate
11 reserves for such business, shall issue such contracts only in separate
12 policies except as otherwise permitted herein and shall make separate
13 reports to the commissioner of insurance of the premiums received and
14 expenses and losses incurred in connection with such business, except
15 that such reports will not be required for accelerated benefits incorpo-
16 rated in a life or annuity policy. Long-term care insurance meeting the
17 applicable requirements of K.S.A. 40-2227 and 40-2228, and amend-
18 ments thereto, may be incorporated in life insurance policies *and annu-*
19 *ities* if approved by the commissioner.

20 The business of life insurance in this state shall not be in any way
21 conducted or transacted by any company which in this state makes in-
22 surance on marine, fire, inland or any other like risks, except that, life,
23 health and accident insurance on the group or industrial plan may be
24 combined in one policy, which shall show the premium charged for life
25 insurance and the premium charged for health and accident insurance,
26 and the insured, at the insured’s option, may discontinue either and by
27 payment of the stated premium continue the other. The amount of capital
28 stock of a company organized on the stock plan shall be not less than
29 \$600,000.

30 Companies organized on the mutual plan shall be required to have
31 applications from at least 200 persons for insurance upon their lives, ag-
32 gregating not less than \$400,000, upon which one full annual premium
33 in cash shall have been paid. No such company shall transact any business
34 of insurance until, if a stock company, all the capital stock named in its
35 charter has been paid in cash including all contributions to surplus to be
36 made by the original purchasers of such stock. The surplus shall be at
37 least \$600,000, and at least \$400,000 in securities authorized by this code
38 shall have been deposited with the commissioner of insurance pursuant
39 to K.S.A. 40-229a, and amendments thereto, and if a mutual company, a
40 guaranty fund of at least \$1,200,000, and at least \$400,000 of which shall
41 be in securities as authorized in this code and deposited with the com-
42 missioner of insurance pursuant to K.S.A. 40-229a and amendments
43 thereto. The guaranty fund may be returned to the contributors with

1 interest at 6% per annum whenever the surplus shall equal the amount
2 of such guaranty fund and interest, and no company shall transact any
3 business of insurance unless it shall maintain the capital or surplus or
4 both required of a company commencing to transact business, or, if a
5 mutual company, the required number and amount of applications for
6 insurance have been received and the annual premiums collected in cash.
7 The securities deposited pursuant to this section shall be held by the
8 commissioner of insurance in trust for the benefit and protection of the
9 policyholders or creditors, or both, of the company depositing the same
10 and may be withdrawn only upon order of the commissioner of insurance.

11 *The commissioner of insurance may adopt rules and regulations to im-*
12 *plement the provisions of this section.*

13 **[New Sec. 2. (a) Any individual or group health insurance pol-**
14 **icy, medical service plan, contract, hospital service corporation**
15 **contract, hospital and medical service corporation contract, fra-**
16 **ternal benefit society or health maintenance organization, munic-**
17 **ipal group-funded pool and the state employee health care bene-**
18 **fits plan which is delivered, issued for delivery, amended or**
19 **renewed on and after July 1, 2010, shall exclude coverage for elec-**
20 **tive abortions, unless the procedure is necessary to preserve the**
21 **life of the mother. Coverage may be obtained through an optional**
22 **rider for which an additional premium is paid.**

23 **[(b) “Abortion” means the use of any means to intentionally**
24 **terminate a pregnancy except for the purpose of causing a live**
25 **birth. Abortion does not include: (1) The use of any drug or device**
26 **that inhibits or prevents ovulation, fertilization or the implantation**
27 **of an embryo; or (2) disposition of the product of *in vitro* fertili-**
28 **zation prior to implantation.**

29 **[Sec. 3. K.S.A. 2009 Supp. 40-2,103 is hereby amended to read**
30 **as follows: 40-2,103. The requirements of K.S.A. 40-2,100, 40-**
31 **2,101, 40-2,102, 40-2,104, 40-2,105, 40-2,114, 40-2,160, 40-2,165**
32 **through 40-2,170, inclusive, 40-2250, K.S.A. 2009 Supp. 40-2,105a**
33 **and 40-2,105b and section 2, and amendments thereto, shall apply**
34 **to all insurance policies, subscriber contracts or certificates of in-**
35 **surance delivered, renewed or issued for delivery within or outside**
36 **of this state or used within this state by or for an individual who**
37 **resides or is employed in this state.**

38 **[Sec. 4. K.S.A. 2009 Supp. 40-19c09 is hereby amended to**
39 **read as follows: 40-19c09. (a) Corporations organized under the**
40 **nonprofit medical and hospital service corporation act shall be**
41 **subject to the provisions of the Kansas general corporation code,**
42 **articles 60 to 74, inclusive, of chapter 17 of the Kansas Statutes**
43 **Annotated, applicable to nonprofit corporations, to the provisions**

1 of K.S.A. 40-214, 40-215, 40-216, 40-218, 40-219, 40-222, 40-223,
2 40-224, 40-225, 40-226, 40-229, 40-230, 40-231, 40-235, 40-236,
3 40-237, 40-247, 40-248, 40-249, 40-250, 40-251, 40-252, 40-254,
4 40-2,100, 40-2,101, 40-2,102, 40-2,103, 40-2,104, 40-2,105, 40-
5 2,116, 40-2,117, 40-2,153, 40-2,154, 40-2,160, 40-2,161, 40-2,163
6 through 40-2,170, inclusive, 40-2a01 et seq., 40-2111 to 40-2116,
7 inclusive, 40-2215 to 40-2220, inclusive, 40-2221a, 40-2221b, 40-
8 2229, 40-2230, 40-2250, 40-2251, 40-2253, 40-2254, 40-2401 to 40-
9 2421, inclusive, and 40-3301 to 40-3313, inclusive, K.S.A. 2009
10 Supp. 40-2,105a ~~and~~ 40-2,105b *and section 2*, and amendments
11 thereto, except as the context otherwise requires, and shall not be
12 subject to any other provisions of the insurance code except as
13 expressly provided in this act.

14 [(b) No policy, agreement, contract or certificate issued by a
15 corporation to which this section applies shall contain a provision
16 which excludes, limits or otherwise restricts coverage because
17 medicaid benefits as permitted by title XIX of the social security
18 act of 1965 are or may be available for the same accident or illness.

19 [(c) Violation of subsection (b) shall be subject to the penalties
20 prescribed by K.S.A. 40-2407 and 40-2411, and amendments
21 thereto.]

22 [New Sec. 5. Any individual or group health insurance policy,
23 medical service plan, contract, hospital service corporation con-
24 tract, hospital and medical service corporation contract, fraternal
25 benefit society or health maintenance organization, municipal
26 group-funded pool and the state employee health care benefits
27 plan which is delivered, issued for delivery, amended or renewed
28 on and after July 1, 2010, shall exclude coverage for illnesses and
29 medical conditions caused substantially and directly by the use of
30 tobacco products. Coverage for such illnesses and medical condi-
31 tions caused by the use of tobacco products may be obtained
32 through an optional rider for which an additional premium is
33 paid.]

34 [New Sec. 6. Any individual or group health insurance policy,
35 medical service plan, contract, hospital service corporation con-
36 tract, hospital and medical service corporation contract, fraternal
37 benefit society or health maintenance organization, municipal
38 group-funded pool and the state employee health care benefits
39 plan which is delivered, issued for delivery, amended or renewed
40 on and after July 1, 2010, shall exclude coverage for erectile dys-
41 function. Coverage for erectile dysfunction may be obtained
42 through an optional rider for which an additional premium is
43 paid.]

- 1 Sec. ~~2~~ [7.] K.S.A. 40-401 ~~is~~ [**and K.S.A. 2009 Supp. 40-2,103 and**
- 2 **40-19c09 are**] hereby repealed.
- 3 Sec. ~~3~~ [8.] This act shall take effect and be in force from and after
- 4 its publication in the statute book.