

MINUTES OF THE HOUSE INSURANCE COMMITTEE

The meeting was called to order by Chairman Clark Shultz at 3:30 p.m. on March 7, 2011, in Room 152-S of the Capitol.

All members were present except:

Tom Burroughs – Excused
James Fawcett – Excused
Richard Proehl – Excused

Committee staff present:

David Wiese, Office of the Revisor of Statutes
Ken Wilke, Office of the Revisor of Statutes
Melissa Calderwood, Legislative Research Department
Cindy Lash, Kansas Legislative Research Department
Sue Fowler, Committee Assistant

Conferees appearing before the Committee:

Tim Thompson, Asurion Insurance Company
Kevin Davis, Kansas Department of Insurance
Linda Becker, Kansas Life and Health Insurance Guaranty Association

Others attending:

See attached list.

Hearings on:

SB 170 **Portable electronics insurance act**

Ken Wilke, Office of Revisor of Statutes, gave a brief overview on **SB 170**.

Representative Shultz opened the hearing on **SB 170**.

Proponents:

Tim Thompson, on behalf of Stephen McDaniel, Asurion Insurance Company, (Attachment 1), gave testimony before the committee in support of **SB 170**.

Representative Hermanson closed the hearing on **SB 170**.

SB 179 **Kansas life and health guaranty association act**

Melissa Calderwood, Kansas Legislative Research Department, gave a brief overview on **SB 179**.

Representative Hermanson opened the hearing on **SB 179**.

Proponents:

Kevin Davis, Kansas Department of Insurance, (Attachment 2), appeared before the committee in support of **SB 179**.

Linda Becker, Kansas Life and Health Insurance Guaranty Association, (Attachment 3), gave testimony before the committee in support of **SB 179**.

Representative Hermanson closed the hearing on **SB 179**.

Representative Grant moved without objection to pass the March 2, 2011 committee minutes as written.

Next meeting is scheduled for Monday, March 9, 2011, 3:30 P.M. in Room 152-S in Capitol.

Meeting adjourned at 4:29 p.m.

House Insurance Committee Guest Sign In Sheet Monday, March 7, 2011

[illegible]

Testimony of Stephen K. McDaniel

Support of SB 170

House Insurance Committee

March 7, 2011

Mr. Chair and Representatives, thank you for the opportunity to testify in favor of SB 170.

My name is Stephen McDaniel. I am outside regulatory counsel for Asurion and I am here today testifying on the company's behalf. Asurion is the leading provider of handset protection programs in the country and has joined forces with leading wireless carriers throughout the world to bring the portable electronics insurance to consumers. Asurion's North American headquarters are in Kansas City and the company employs over 150 people at that facility. In addition, they have facilities in Salina and Hays that employ over 650 people.

The product that is at the heart of this bill is an insurance program that protects a consumer's investment in their wireless communications device by insuring it against loss, theft, damage, and internal malfunction of the device. The bill provides for an entity level license to vendors offering portable electronics insurance and provides for key consumer protections related to such coverage.

As wireless devices have become an integral part of our everyday lives their functionalities have expanded exponentially and with these developments the cost of these devices has also risen. Portable electronics insurance not only ensures that a consumer's investment in such a device is protected, but also ensures that a consumer has very little down time when a problem does occur by getting a pre-programmed phone or other portable electronics device in the consumer's hands often the very next day after a claim has been made. Staying connected in today's world is crucial and Asurion's products ensure that its customers stay connected.

SB 170 creates a licensing framework applicable to the sale of portable electronics insurance in Kansas. Currently, there is no statutory regulatory structure that exists for the sale of this product in Kansas. This bill will provide such a structure and provide for an individual limited lines producer license to sell this type of insurance product. It creates a balanced regulatory structure that would avoid the need to license every individual on the floor of every retailer that offers this insurance to consumers while also providing crucial consumer protection and disclosures. As you can imagine, licensing of every sales floor representative of a large retailer would be impractical and overly burdensome on both the Department and businesses.

SB 170 allows the retailer itself to hold the license authorizing its employees to sell this insurance product on their behalf. This model is consistent with the national trend that we have seen with respect to the regulation of this product as it creates an efficient and fair licensing framework for the entities offering this product to consumers and gives regulators the authority they need to effectively oversee these activities. Laws similar to this have been enacted into law in Minnesota, Texas, New Mexico, Georgia, Washington, Maryland, California, Florida, and New York.

In addition to the licensing framework, the bill also provides significant consumer protection measures in the form of required disclosures to consumers regarding the insurance coverage that is being sold as well as required training for individual salespeople.

There are several amendments to the bill that are before you today. These revisions to the bill came about as a result of discussions with other interested parties in the industry. The amendments have been circulated to the Department and the Department has not indicated any concerns with or opposition to the proposed amendments.

So in summary, this bill is a good bill not only for the Kansas retailers but also for Kansas consumers in that the bill ensures full disclosure to the consumer of the terms and conditions of this insurance coverage while also providing the Department of Insurance with the regulatory authority to ensure that the product is sold to Kansas consumers in the right way. This bill strikes an effective balance between the interests of consumers and industry and we would ask that you vote to recommend this bill and the proposed amendments favorably.

Thank you and I would be pleased to answer any questions.

House Insurance
Date: 3-7-11
Attachment # 1

SENATE BILL No. 170

By Committee on Financial Institutions and Insurance

2-9

1 AN ACT enacting the portable electronics insurance act.

2
3 *Be it enacted by the Legislature of the State of Kansas:*

4 Section 1. Sections 1 through 9 shall be known and may be cited
5 as the portable electronics insurance act.

6 Sec. 2. For purposes of this act:

7 (a) "Commissioner" means the commissioner of insurance.

8 (b) "Covered customer" means a customer who elects coverage
9 under a portable electronics insurance policy issued to a vendor of
10 portable electronics devices.

11 (c) "Location" means any physical location in the State of Kansas
12 or any website, call center site or similar location directed to residents
13 of the State of Kansas.

14 (c) "Customer" means a person who purchases or leases portable
15 electronics devices or services.

16 (d) "Insurance producer" shall have the meaning ascribed to it in
17 K.S.A. 2010 Supp. 40-4902, and amendments thereto.

18 (e) "Portable electronic device" means an electronic device that is
19 portable in nature. The term portable electronic device also includes
20 any accessory for such device and any service related to the use of such
21 portable electronic device that is sold to a customer.

22 (f) "Portable electronic devices" does not mean devices used
23 exclusively by communication companies or commercial entities to
24 provide service to a customer.

25 (g) (1) "Portable electronics insurance" means insurance providing
26 coverage for the repair or replacement of portable electronics devices
27 which may ~~cover~~ provide coverage for portable electronics devices
28 against any one or more of the following causes of loss: loss, theft, are
29 inoperable due to mechanical failure, malfunction, damage or other
30 ~~applicable perils~~ similar causes of loss.

31 (2) "Portable electronics insurance" does not include:

32 (A) Any service contract as defined by K.S.A. 2010 Supp. 40-
33 201a, and amendments thereto;

34 (B) any policy of insurance covering a seller's or a manufacturer's
35 obligations under a warranty; or

1 (C) any homeowner's, renter's, private passenger automobile,
2 commercial multiperil, or similar policy.

3 (h) "Portable electronics transaction" means:

4 (1) The sale or lease of portable electronics device by a vendor to
5 a customer; or

6 (2) the sale of a service related to the use of portable electronics
7 device by a vendor to a customer.

8 (i) "Supervising-~~agency~~entity" means a business entity that is a
9 licensed insurance producer or insurer.

10 (j) "Vendor" means a person in the business of engaging in
11 portable electronics transactions directly or indirectly.

12 Sec. 3. (a) A vendor shall be required to hold a limited lines
13 license to sell or offer coverage under a policy of portable electronics
14 insurance. To hold a limited lines license to sell or offer coverage
15 under a policy of portable electronics insurance, a vendor shall meet all
16 the requirements to be a producer including:

17 (1) Paying all fees to be an insurance producer;

18 (2) complying with all the same terms and conditions that are
19 specified for an insurance producer license; and

20 (3) submitting to the commissioner any additional information or
21 documentation that the commissioner requires, including any
22 information or documentation needed to determine the professional
23 competence, good character and trustworthiness of the vendor.

24 (b) In connection with a vendor's application for licensure, and
25 quarterly thereafter, the vendor shall provide a list to the commissioner
26 of all locations in this state at which it offers coverage.

27 (c) Notwithstanding any other provision of law, any license issued
28 pursuant to this section shall authorize the licensee and its employees or
29 authorized representatives to engage ~~only~~ in those activities that are
30 expressly permitted in this act.

31 Sec. 4. (a) At every location where portable electronics insurance
32 is offered to customers, brochures or other written material shall be
33 made available to a prospective customer which:

34 (1) discloses that portable electronics insurance may provide a
35 duplication of coverage already provided by a customer's homeowner's
36 insurance policy, renter's insurance policy or other source of coverage;

37 (2) states that the enrollment by the customer in a portable
38 electronics insurance program is not required in order to purchase or
39 lease portable electronics devices or services;

40 (3) summarizes the material terms of the insurance coverage,
41 including:

42 (A) The identity of the insurer;

43 (B) the identity of the supervising agencyentity;

- 1 (C) the amount of any applicable deductible and how it is to be
2 paid;
3 (D) benefits of the coverage; and
4 (E) key terms and conditions of coverage such as whether portable
5 electronics devices may be repaired or replaced with similar make and
6 model, reconditioned, or repaired with nonoriginal manufacturer parts
7 or equipment.
8 (4) Summarizes the process for filing a claim, including a
9 description of ~~any requirements:~~
10 ~~(A) To how to~~ return portable electronics devices and the
11 maximum fee applicable in the event the customer fails to comply with
12 any equipment return requirements; ~~and~~
13 ~~(B) any proof of loss requirements.~~
14 (5) States that the customer may cancel enrollment for coverage
15 under a portable electronics insurance policy at any time and receive
16 ~~any applicable refund of any unearned premium~~ refund.
17 (b) Portable electronics insurance may be offered on a month-to-
18 month or other periodic basis as a group or master commercial policy
19 issued to a vendor of portable electronics devices ~~under which~~
20 ~~individual customers may elect to enroll for coverage or its covered~~
21 ~~customers.~~
22 (c) Eligibility and underwriting standards for customers electing to
23 enroll in coverage shall be established for each portable electronics
24 insurance program.
25 Sec. 5. (a) The employees and authorized representatives of
26 vendors may sell or offer portable electronics insurance to customers at
27 each location at which the vendor engages in portable electronics
28 transactions and shall not be subject to licensure as an insurance
29 producer under K.S.A. 40-4901 et seq., and amendments thereto, if:
30 (1) The vendor has a limited lines license to authorize its
31 employees or authorized representatives to sell or offer portable
32 electronics insurance pursuant to this section;
33 (2) the insurer complies with all statutes and regulations applicable
34 to limited lines insurers;
35 (3) the insurer issuing the portable electronics insurance either
36 directly supervises or appoints a supervising ~~agency entity~~ to supervise
37 the administration of the program including development of a training
38 program for employees and authorized representatives of the vendors.
39 The training required by this subdivision shall comply with the
40 following:
41 (A) The training shall be delivered to ~~all~~ employees and authorized
42 representatives of ~~the a~~ vendors who are directly engaged in the activity
43 of selling or offering portable electronics insurance.

1 (B) The training may be provided in electronic form. However, if
2 conducted in an electronic form, the supervising ~~agency-entity~~ shall
3 implement a supplemental education program ~~of in-person training~~
4 regarding the portable electronics insurance product that is conducted
5 and overseen by licensed employees of the supervising ~~agency-to~~
6 supplement the electronic training entity.

7 (C) Each employee and authorized representative shall receive
8 basic instruction about the portable electronics insurance offered to
9 customers and the disclosures required under section 4, and
10 amendments thereto.

11 (4) No employee or authorized representative of a vendor of
12 portable electronics devices shall advertise, represent or otherwise hold
13 one's self out as a nonlimited lines licensed insurance producer.

14 (b) The charges for portable electronics insurance coverage may
15 be billed and collected by the vendor of portable electronics devices.
16 Any charge to the customer for coverage that is not included in the cost
17 associated with the purchase or lease of portable electronics devices or
18 related services shall be separately itemized on the customer's bill. If
19 the ~~charge for portable electronics insurance~~ coverage is included in the
20 cost associated with the purchase or lease of portable electronics
21 devices or related services, the vendor shall clearly and conspicuously
22 disclose to the customer that ~~the charge for the portable electronics~~
23 ~~devices or related services includes the charge for coverage~~ the portable
24 electronics insurance coverage is included with the portable electronics
25 or related services. Vendors billing and collecting such charges shall
26 not be required to maintain such funds in a segregated account provided
27 that the vendor is authorized by the insurer to hold such funds in an
28 alternative manner and remits such amounts to the supervising ~~agency~~
29 entity within 60 days of receipt. All funds received by a vendor from a
30 customer for the sale of portable electronics insurance shall be
31 considered funds held in trust by the vendor in a fiduciary capacity for
32 the benefit of the insurer. Vendors may receive compensation for billing
33 and collection services.

34 Sec. 6. If a ~~supervision-agency~~ supervising entity, vendor of
35 portable electronics, or employee or authorized representative of a
36 vendor violates any provision of this act, K.A.R. 40-1-34, K.S.A. 40-
37 2404 or 40-4909, and amendments thereto, the commissioner may: (a)
38 Impose on the ~~supervision-agency-supervising entity~~ or vendor any or
39 all of the penalties authorized under chapter 40 of the Kansas Statutes
40 Annotated, and amendments thereto, for those violations; and

41 (b) suspend or revoke the ability of individual employees or
42 authorized representatives to act under the license of the vendor.

43 Sec. 7. Notwithstanding any other provision of law:

1 (a) An insurer may not terminate or otherwise change the terms
2 and conditions of a policy of portable electronics insurance more than
3 once in any six-month period.

4 *(b) An insurer may not terminate an individually enrolled*
5 *customer based solely upon the age of such enrolled customer's*
6 *covered portable electronic device.*

7 ~~(b)~~ (c) If the insurer changes the terms and conditions of a policy,
8 the insurer shall provide the policyholder with a revised policy or
9 endorsement and each enrolled customer with a revised certificate,
10 endorsement, updated brochure or other evidence indicating a change
11 in the terms and conditions has occurred and a summary of material
12 changes 30 days prior to the end of the term of the policy.

13 ~~(c)~~ (d) Notwithstanding ~~paragraph (1)~~ of subsection (a), an insurer
14 may terminate an enrolled customer's enrollment under a portable
15 electronics insurance policy upon 15 days notice for:

16 (1) Fraud or material misrepresentation in obtaining coverage or in
17 the presentation of a claim thereunder; or

18 (2) nonpayment of premium;

19 ~~(d)~~ (e) notwithstanding subsection (a), an insurer may terminate an
20 enrolled customer's enrollment under a portable electronics insurance
21 policy immediately if:

22 (1) The enrolled customer ceases to have an active service with the
23 vendor of portable electronics; or

24 (2) an enrolled customer exhausts the aggregate limit of liability, if
25 any, under the terms of the portable electronics insurance policy and the
26 insurer sends notice of termination to the customer within 30 calendar
27 days after exhaustion of the limit. However, if notice is not timely sent,
28 enrollment shall continue notwithstanding the aggregate limit of
29 liability until the insurer sends notice of termination to the enrolled
30 customer.

31 ~~(e)~~ (f) Whenever notice is required pursuant to this section, it shall
32 be in writing and may be mailed or delivered to the vendor of portable
33 electronics devices at the vendor's mailing address and to its affected
34 enrolled customers' last known mailing addresses on file with the
35 insurer. The insurer or vendor of portable electronics, as the case may
36 be, shall maintain proof of mailing in a form authorized or accepted by
37 the United States postal service or other commercial mail delivery
38 service. Alternatively, an insurer or vendor policyholder may comply
39 with any notice required by this section by providing electronic notice
40 to a vendor or its affected enrolled customers, as the case may be, by
41 electronic means. If notice is accomplished through electronic means,
42 the insurer or vendor of portable electronics, as the case may be, shall
43 maintain proof that the notice was sent. Additionally, if an insurer or

1 vendor policyholder provides electronic notice to an affected enrolled
2 customer and such delivery by electronic means is not available or
3 fails, the insurer or vendor policyholder shall provide written notice to
4 the enrolled customer by mail in accordance with this section.

5 ~~(f)~~ (g) Regardless of whether the insurer or the enrolled customer
6 terminates the policy the insurer shall return any unearned premium to
7 the customer without requiring the consumer to request it. The
8 unearned premium shall be calculated on a pro rata basis such that the
9 enrolled customer pays for the actual number of days of coverage. No
10 penalty for early termination may be charged.

11 Sec. 8. If any provision of this act, or the application of such
12 provision to any person or circumstances, shall be held invalid, the
13 remainder of the act, and the application of such provision to persons or
14 circumstances other than those as to which it is held invalid, shall not
15 be affected thereby.

16 Sec. 9. The commissioner may adopt rules and regulations
17 necessary to implement this act.

18 Sec. 10. This act shall take effect and be in force from and after
19 *January 1, 2012, and* its publication in the statute book.
20
21



Kansas Insurance Department

Sandy Praeger, Commissioner of Insurance

TESTIMONY ON SB 179

HOUSE INSURANCE COMMITTEE March 7, 2011

Mr. Chairman and Members of the Committee:

I am Kevin Davis with the Kansas Insurance Department and with me today is Ken Abitz, Director of our Financial Surveillance Division. Thank you for the opportunity to testify in support of SB 179. This bill is being introduced by the Department at the request of the Kansas Life and Health Insurance Guaranty Association Board.

I will be very brief with my comments as the next proponent will provide a more detailed background and description of this bill.

Generally, this bill makes a number of amendments to the Life and Health Insurance Guaranty Association Act at K.S.A. 40-3001 et seq. to add language which will improve the operations and provide uniformity in coverage to Kansas residents as compared to residents of other states in multi-state insolvencies. This Act will respond to the claims of our Kansas policy holders when a life, health or other insurance company covered under the plan goes insolvent. It makes a number of technical changes to add clarity to certain provisions in the statutes. This bill also makes several changes to the limits of some of the coverage's provided for in the plan. Linda Becker the Administrator of the Kansas Life and Health Insurance Guaranty Association is here and she will give you more details about the plan and the key changes to the Act.

The Department is recommending these proposed amendments in order increase consistency among all the states in their operations and in the reimbursement of claims of insolvent insurance companies in order to protect Kansas consumers.

Thank you for the opportunity to appear today and we request your favorable action on this bill. I would be happy to take any questions now or after Ms. Becker testifies.

Kevin R. Davis
Director of Consumer Assistance and Government Affairs

House Insurance
Date: 3-7-11
Attachment # 2

Kansas Life and Health Insurance Guaranty Association

(Authorized by K.S.A. 40-3001 et seq.)

2909 SW Maupin Lane
Topeka, KS 66614-5335

(785) 271-1199
(785) 272-0242 (Fax)

TESTIMONY ON SB 179 HOUSE INSURANCE COMMITTEE

Mr. Chairman and Members of the Committee:

The Kansas Life and Health Insurance Guaranty Association Act ("Act") was passed by the Kansas Legislature in 1972 to protect resident policyholders of life, annuity and health insurance companies in the event of insolvency of the insurance company issuing such policies or contracts. To provide this consumer protection, the Kansas Life and Health Insurance Guaranty Association ("Association") was created to enable the payment of benefits and to provide continuation of insurance coverages. Similar associations exist in all 50 states, the District of Columbia and Puerto Rico.

Each state's guaranty association law needs to be coordinated in order to provide effective guaranty association protection in multi-state insolvencies. Since 1972, there have been substantial changes in products that are covered under the Act. These amendments are intended to improve protection for policyholders, to improve guaranty association operating efficiencies and to accommodate the ability of guaranty associations to take a consistent approach to multi-state insolvencies.

Through the years, Kansas has amended the Act to provide a safety net that is uniform and consistent with other state guaranty association laws. For example, limits on life insurance death benefits were increased to \$300,000 and limits on annuity benefits were increased to \$250,000. The proposed amendments would now increase the limits on various health insurance coverages to levels currently provided by more than half of the state guaranty associations.

Other proposed changes include provisions to cover citizens of the United States who reside outside of the country, such as servicemen on active duty; moves coverage for structured settlement annuities from the contract owner's state of residence and directs that protection to Kansas resident payees; and provides guidance for continuing coverage of complex equity index products. Many of the proposed revisions are of a technical nature to clarify existing language and coverage provisions based on experiences in past insolvencies.

SB 179 will update the Kansas Act to coordinate the more critical provisions of our law with other states and will offer increased policyholder protection to residents of Kansas that is uniform and consistent in consumer protection in multi-state insolvencies. I appreciate the opportunity to appear today and would be glad to respond to questions.

Linda Becker, Administrator
Kansas Life and Health Insurance Guaranty Association

House Insurance
Date: 3-7-11
Attachment # 3

Kansas Life and Health Insurance Guaranty Association

(Authorized by K.S.A. 40-3001 et seq.)

2909 SW Maupin Lane
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This document is intended to provide a summary description of the key amendments in SB 179. Examples are provided to clarify some of the more complicated provisions.

K.S.A. 40-3003(a)(2) – Amended to exclude structured settlement annuities from being governed by this provision and amends coverage to ensure that non-residents are not denied coverage on technical grounds.

K.S.A. 40-3003(a)(3) – Amended to move coverage for structured settlement annuities (“SSAs”) from the contract owner’s state of residence to the state of residence of the payee under the contract. This change was made to avoid undue concentrations of coverage resulting from single institutions owning large blocks of SSAs and to site coverage with the state of residence of the ultimate beneficiary of the coverage, the payee.

EXAMPLE: To achieve certain tax consequences, structured settlement annuities must be owned by a third party rather than the underlying beneficiary of the annuity. In 1994, Confederation Life Insurance Company (“CLIC”) was placed into liquidation. CLIC had written enormous numbers of structured settlement annuities and issued them to its Georgia domiciled subsidiary, Confederation Life and Annuity Company (“CLIAC”) as the owner of the contracts for the benefit of the individual payees listed under the contracts. Georgia’s guaranty association act was similar to this state’s current law whereas coverage was based on the contract owner’s state of residence. As a consequence, when CLIC (the issuer of the structured settlement annuities) was placed into liquidation, the Georgia Life and Health Insurance Guaranty Association was responsible for providing coverage on all the structured settlement annuities issued to CLIAC as the owner of the contracts. But for the ability of the Receiver to fully transfer the block using estate assets, the Georgia Association was facing potential liabilities for the shortfall on about \$1.6 billion in structured settlement annuities to cover payees living in many different states. The proposed amendment to change structured settlement annuity coverage from the contract owner’s state of residence to the residence of the payee would prevent this situation from occurring in Kansas and would allow the Kansas Life and Health Insurance Guaranty Association (“Association”) to provide coverage principally to Kansas resident payees.

K.S.A. 40-3003(a)(4) and (5) – Provisions were added to avoid the possibility of multiple associations being obligated to provide coverage to the same person.

K.S.A. 40-3005(f) – The definition of impaired insurer was modified to make the determination of impaired insurer status more objective and uniform among guaranty associations.

K.S.A. 40-3005(k) – The definition for policyholder and contract holder was added to clarify the person who is the legal owner and who is otherwise vested with legal title to the policy or contract.

K.S.A. 40-3005(m) – Amended to limit assessable premium of a single owner of multiple policies since amendment to K.S.A. 40-3008(o) provides for a coverage limit to single owners of multiple policies.

K.S.A. 40-3005(n) – Amended to deem U.S. citizens who reside outside of the United States as residents of the failed company’s domiciliary state. This change results in such persons being eligible for coverage from the guaranty association in the domiciliary state of the failed company. **EXAMPLE:** A Kansas resident is serving in the military and has been stationed in a number of different states and is now stationed in Afghanistan. Unfortunately, this person does not clearly meet the current Kansas definition of “resident” and may not meet the resident requirement of any state. The amendment provides direct improvement in policyholder protection and closes a potential unintended gap in coverage.

K.S.A. 40-3005(o) – Added to provide definition for structured settlement annuity, which is identified in Section 3, and provides coverage based on the residency of the payee.

K.S.A. 40-3008(a) – Amended to make the discretionary trigger for impaired insurers applicable to foreign as well as domestic insurers. Since this is a discretionary trigger, the expansion of the provision would allow the Association greater authority and flexibility to act in appropriate circumstances. Also, K.S.A. 40-3008(a)(3), which provided the Association with broad authority to loan money to an impaired insurer, was deleted due to various concerns, including with respect to the Association’s tax exempt status. However, (a) and (b) were modified to clarify that the Association can provide notes and loans for the limited purpose of funding its coverage obligations.

K.S.A. 40-3008(b) – Deleted because of concerns over the Association being required to act prior to a liquidation in certain circumstances. In addition, the conditions required to implement the provision were not practical.

K.S. A. 40-3008(c) – Amended to make clear that the provisions apply to both insurance policies and annuity contracts.

K.S.A. 40-3008(c)(6) – Amended to allow the Association, with the approval of the receivership court, to work together with the domiciliary insurance commissioner to change premiums when deemed necessary on long term coverage obligations under policies.

K.S.A. 40-3008(l) - Amended to recognize that the Association has the right to intervene in proceedings where there may be obligations to provide coverage.

K.S.A. 40-3008(n)(3) and (9) and 40-3008(t) – Amended to clarify coverage including that the Moody’s interest rate adjustment provision applies to index linked interest on equity index products and clarifies that coverage is limited to contract values that have been credited and not subject to forfeiture as of the date of insolvency or impairment.

EXAMPLE: Since equity index products were not developed until the early 1990s, the current Act is not clear on how these products are to be covered. Equity indexed products are fixed life insurance products that provide for increases in policy or contract values based on the performance of a stock market index such as the S&P 500. This creates significant questions regarding the extent of coverage for the equity-linked interest and the applicability of the interest rate adjustment provision of the Act and creates a potential delay in benefits as the Association may have to wait until the end of the term of these products – sometimes as long as 7 to 10 years – to determine the amount of equity linked interest that might be subject to coverage. Without the amendments, there is the potential for substantial ambiguities and costly coverage litigation over the application of the Association’s coverage to these products.

K.S.A. 40-3008(o) – Amended to increase limits for various health coverages to be more consistent and uniform with health coverage provided in other states. The proposed limits are: \$100,000 for coverages not defined as disability insurance or basic hospital, medical and surgical insurance or major medical insurance or long term care insurance; \$300,000 for disability insurance; \$300,000 for long term care insurance; \$500,000 for basic hospital, medical and surgical insurance or major medical insurance.

EXAMPLE: The current limit in health insurance benefits is \$100,000. A policyholder covered under the provisions of the current Act could be under-going extensive cancer treatments and if his health costs exceed \$100,000 this individual must assume his own health expenses and file a claim with the insolvent estate for the over-limit health costs that he pays out of pocket. He may receive some percentage of his health payments from the estate assets but it often takes several years for the Liquidator to determine what equal percentage can be allowed for all the claims that are filed and to determine the cash assets that are available for distribution. That may be too late for the individual that did not have savings to continue cancer treatments. With the higher limits, the Association can continue paying those claims up to the new limit providing a true safety net for the policyholder. One last thought, the current limit on health benefits was established nearly 40 years ago, in 1972, when the Association was created and has not been increased since that time.

This section also amended to clarify coverage and limits under structured settlement annuities; adds provision to limit coverage of single owners of multiple life products to \$5 million; clarifies that the Association is responsible for the shortfall in estate assets (within coverage limits) and may use estate assets attributable to covered policies to fund its obligations; and clarifies that the guaranty association is not responsible for covering policy obligations that do not materially affect economic values or benefits.

EXAMPLE: The purpose of the coverage limit of \$5 million to single owners of multiple life products is to preserve capacity consistent with the notion that the guaranty system's main purpose is to provide a basic safety net for individual insurance consumers. Corporate owned and bank owned life insurance is used primarily as an investment mechanism to fund corporation's or bank's compensation plans for executives. These products are sold to highly sophisticated purchasers who have the ability to assess the creditworthiness of the issuing insurance company. The \$300,000 per insured limit still comes into play and the Association would provide coverage to the corporation or bank owner up to \$5 million for its multiple policies.

K.S.A. 40-3008(s) – Amended to provide the Association with the right to assume an insolvent company's ceded reinsurance.

K.S.A. 40-3008(t) – Amended to authorize the Association to continue coverage of index products by using substitute policies providing for fixed interest under stated provisions.

K.S.A. 40-3009(c)(1) – Amended to increase the maximum annual Class A assessment that can be made on a non-pro rata basis from \$150 to \$300 per insurer and modified (e) to clarify how to calculate the aggregate annual limitation on assessments when the association must make assessments in the same year for multiple insolvencies occurring in different years.