

MINUTES OF THE FINANCIAL INSTITUTIONS & INSURANCE COMMITTEE

The meeting was called to order by Chairman Ruth Teichman at 9:30 a.m. on February 17, 2011, in Room 152-S of the Capitol.

All members were present.

Committee staff present:

Ken Wilke, Office of the Revisor of Statutes  
Melissa Calderwood, Kansas Legislative Research Department  
Heather O'Hara, Kansas Legislative Research Department  
Beverly Beam, Committee Assistant

Conferees appearing before the Committee:

Kevin R. Davis, Director of Consumer Affairs, Kansas Insurance Department  
Linda Becker, Administrator, Kansas Life and Health Insurance Guaranty Association  
Dave Hanson, Kansas Life & Health Insurance Association (written only)

Others attending:

See attached list.

The Chair called the meeting to order.

Hearing on

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

Ken Wilke gave an overview of **SB 179**. He said this bill comes from the Kansas Insurance Department and proposes several changes. He stated that this bill would amend the Kansas Life and Health Guaranty Association Act to add language from the National Association of Insurance Commissioners Model Act to provide uniformity in coverage to Kansas residents as compared to other states' residents. The bill also makes clarifying amendments to the Kansas Life and Health Guaranty Association Act. Mr. Wilke went through the bill section by section pointing out the various changes. He said many of the changes are cleanup and modernization.

Kevin Davis, Kansas Insurance Department, testified in support of **SB 179**. He stated that this bill makes a number of amendments to the Life and Health Insurance Guaranty Association Act to add language to improve the operations and provide uniformity in coverage to Kansas residents as compared to other states' residents. He said it makes a number of technical changes to add clarity to a certain provision in the statutes. He said this bill will also make several changes to the limits of certain coverages provided for in the plan. He noted that when a life, health or other insurance company covered under the plan goes insolvent, this act will respond to claims of Kansas policyholders. He said the Department is recommending these proposed amendments in order to have consistency among all the states in the operations and the reimbursement of claims of insolvent insurance entities in order to protect Kansas consumers. (Attachment 1)

Linda Becker, Kansas Life and Health Insurance Guaranty Association, testified in support of **SB 179**. She stated that the Kansas Life and Health Insurance Guaranty Association 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. She said in order to provide this protection, the Kansas Life and Health Insurance Guaranty Association was created to enable the payment of benefits and to provide continuation of insurance coverages. She noted that through the years, Kansas has amended the Act to provide a safety net that is uniform and consistent with the model act and with other state guaranty association laws. She said 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 and consistent with the model act. She said **SB 179** will update the Act to comply with the more critical provisions of the model act and will offer policyholder protection to residents of Kansas that is uniform and consistent with today's national standards. (Attachment 2)

## CONTINUATION SHEET

The minutes of the Financial Institutions & Insurance Committee at 9:30 a.m. on February 17, 2011, in Room 152-S of the Capitol.

Following Q & A, the Chair said she would take up this bill at a later time. She closed the hearing on **SB 179.**

Dave Hanson, Kansas Life & Health Insurance Association, presented written testimony only.

Action on

**SB 85 - Removal of mandatory participation requirements for group life insurance**

Melissa Calderwood gave a brief over and reminded the committee that this bill was requested by the American Council of Life Insurers.

Senator Taddiken moved to pass this bill out. Senator Masterson seconded. Motion passed.

The next meeting is scheduled for February 21, 2011.

The meeting was adjourned at 10:30 a.m.

**SENATE FINANCIAL INSTITUTIONS & INS. COMMITTEE  
GUEST LIST**

DATE: 2-17-11

NAME	REPRESENTING
Kerri Spielman	KATA
Sandy Braden	GBA
Lee Wright	Farmers Ins
Helen Darnell	KennA
David Hanson	KS Insur Assoc
Jim Hall	ACHI
Kevin Davis	KID
Bill Sneed	State Farm
Michelle Guller	Cap. Strategies
Steve Garton	Barber County
<del>Frank Smith</del>	
Colin Curtis	Sandstone Group
Whitney Jammer	KS Automobile Dealers Assn.
James	" " " "
Al	



# Kansas Insurance Department

Sandy Praeger, Commissioner of Insurance

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## TESTIMONY ON SB 179

### SENATE FINANCIAL INSTITUTIONS AND INSURANCE COMMITTEE February 17, 2011

Madam Chair 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.

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 to improve the operations and provide uniformity in coverage to Kansas residents as compared to other states residents. It makes a number of technical changes to add clarity to a certain provisions in the statutes. This bill will also make several changes to the limits of certain coverage's provided for in the plan. When a life, health or other insurance company covered under the plan goes insolvent this act will respond to claims of Kansas policy holders. 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 to have consistency among all the states in the operations and the reimbursement of claims of insolvent insurance entities 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

*FI&I Committee  
2-17-11  
Attachment 1*

# *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**

### **FINANCIAL INSTITUTIONS AND INSURANCE COMMITTEE**

Madam Chair 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 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 is based upon a model act adopted by the National Association of Insurance Commissioners ("NAIC") in 1971. Since that time, there have been substantial changes to that model act that 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 the model act and 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 and consistent with the model act.

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 Act to comply with the more critical provisions of the model act and will offer policyholder protection to residents of Kansas that is uniform and consistent with today's national standards. 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

*FI&I Committee  
2-17-11  
Attachment 2*

# *Kansas Life and Health Insurance Guaranty Association*

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

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## **Summary Description of the Key Amendments in SB 179**

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 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.

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 as a result of some states not having the Model Act provisions for siting coverage.

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 single owner of multiple policies since amendment to K.S.A. 40-3008(o) provides for a coverage limit of \$5 million per owner for these products.

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.

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 guaranty association greater authority and flexibility to act in appropriate circumstances. Also, K.S.A. 40-3008(a)(3), which provided the guaranty 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 guaranty 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 guaranty 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 guaranty 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) – Amended to clarify 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.

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. Providing uniform and adequate protections for insurance consumers is a prime focus of the new Federal Insurance Office which has been charged with reviewing the state guaranty association safety net. The new 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.

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 guaranty 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.

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

K.S.A. 40-3008(t) – Amended to authorize the guaranty 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.

# KANSAS LIFE & HEALTH INSURANCE ASSOCIATION

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## **Senate Financial Institutions and Insurance Committee Testimony on Senate Bill 179**

February 17, 2011

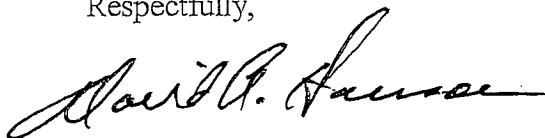
Madam Chair and Members of the Committee:

Thank you for this opportunity to present information on behalf of the Kansas Life & Health Insurance Association, whose members represent the domestic life and health insurance industry in Kansas.

Representative of our member companies also serve on the Kansas Life and Health Guaranty Association board and have been working with the Kansas Insurance Department on this proposed legislation over the past year. The bill before you reflects that work in bringing the essential amendments from the model act provisions that have been recommended for adoption.

We appreciate the work of the Insurance Commissioner and her staff in bringing this Bill to you today and urge your favorable consideration and passage of Senate Bill 179.

Respectfully,



DAVID A. HANSON  
Legislative Counsel

*FI&I Committee  
2-17-11  
Attachment 3*