

Kansas Life and Health Insurance Guaranty Association Act—Amendments

SB 179 amends certain coverage, definitions, liability, and assessment provisions in the Kansas Life and Health Insurance Guaranty Association Act (Guaranty Association Act). The Guaranty Association Act enables the Guaranty Association to provide certain protections to Kansas residents who are holders of life and health insurance policies and individual annuities with an insolvent insurer.

Coverage for Policies and Contracts (KSA 40-3003)

Among the amendments to coverage requirements, the bill:

- Excludes structured settlement annuities (SSAs) from being governed by a certain coverage provision (limited to persons who are owners of or certificate holders under policies and contracts).
- Updates application to non-residents, including the clarification of when a person is not eligible for coverage (insurer not licensed in the state at the time specified in the state’s guaranty association laws).
- Addresses the siting of coverage by stating that the Act is intended to provide coverage to a person who is a payee under an SSA or that person’s beneficiary (results in a move of coverage from the contract owner’s state to the payee’s state of residence).
- Clarifies that coverage would be provided by only one state’s association (disallows the possibility of multiple states’ associations providing coverage to the same person).

Definitions (KSA 40-3005)

The bill also makes amendments to the definitions created under the Guaranty Association Act, including:

- Updating “impaired insurer,” “member insurer,” “resident,” and “supplemental contract.” Other technical changes are made to the listing of definitions. The amendment to the term “resident” deems U.S. citizens residing outside of the U.S. as residents of the insolvent insurer’s domiciliary state.
- Specifying an exclusion to the term “premium” to limit the assessable premium of a single owner of multiple non-group policies of life insurance. The coverage limitation provided under the Act would be \$5 million per owner.

- Adding definitions for the terms “policyholder” and “contract holder,” “structured annuity settlement” and “unallocated annuity contract.” The definition of “policyholder” and “contract holder” specifies that the person is the legal owner or is otherwise vested with legal title to the policy or contract.

Liability (KSA 40-3008)

The bill also addresses liability provisions under the Act to:

- Amend a discretionary trigger in the law to make the trigger for impaired insurers applicable to both foreign and domestic insurers.
- Limit the ability of the Association to loan money to an impaired insurer; under the bill, the Association will be permitted to provide loans and notes for funding its coverage obligations.
- Clarify application of the provisions to both insurance policies and annuity contracts.
- Allow the Association, with the approval of the receivership court, the ability to work with the domiciliary insurance commissioner to change premium rates when determined to be necessary.
- Amend a provision to allow for the Association’s standing to appear or intervene in a state court to include persons or property against which the Association may have rights through subrogation or otherwise.
- Address contractual obligations for a policy or contract by clarifying that coverage, including the Moody’s interest rate adjustment provision, applies to an indexed interest on equity index products and limits that coverage to contract values that have been credited and not subject to forfeiture (date of insolvency or impairment).
- Increase limits for certain health insurance benefits. The state limit will be \$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; and \$500,000 for basic hospital, medical and surgical insurance or major medical insurance.
- Clarify the coverage and limitations applicable to a payee under a structured settlement annuity.

- Insert a provision (see definition of “premium” and an exclusion created) to limit coverage of single owners of multiple nongroup life policies to \$5 million.
- Insert provisions for covered policies for which the Association becomes obligated after an entry of an order for liquidation (estate assets).
- Clarify that the Association will not be required to cover obligations that do not materially affect economic values or benefits of the covered policy or contract.
- Provide the Association with the right to assume an insolvent insurer’s ceded contract of reinsurance.
- Permit the Association to continue, subject to the receivership court’s approval, coverage of index products by using alternative policies or contracts for fixed interest under the stated provisions.

Assessments (KSA 40-3009)

Among the amendments to assessments provided for in the Act, the bill:

- Increases the maximum annual Class A assessment that can be made on a non-pro rata basis from \$150 to \$300 (per member insurer).
- Provides a calculation method for the annual aggregate limitation on assessments in the event the Association must make two or more assessments in one calendar year for multiple insolvencies occurring in different years.