

SESSION OF 2011

SUPPLEMENTAL NOTE ON SENATE BILL NO. 179

As Recommended by Senate Committee on
Financial Institutions and Insurance

Brief*

SB 179 would amend certain coverage, definitions, liability, and assessment provisions in the Kansas Life and Health Insurance Guaranty Association Act (Guarantee Association Act). The Guarantee 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 would:

- Exclude 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).
- Update 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).
- Address 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

*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>

in a move of coverage from the contract owner's state to the payee's state of residence).

- Clarify 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 would make 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” would deem 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 term “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 (40-3008)

The bill also would address liability provisions under the Act to:

- Amend a discretionary trigger in current 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 would 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 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; 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 would 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 (40-3009)

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

- Increase the maximum annual Class A assessment that can be made on a *non-pro rata* basis from \$150 to \$300 (per member insurer).
- Provide 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.

Background

The bill was introduced at the request of the Kansas Insurance Department whose representative indicated the bill was requested in order to have consistency among all the states in the operations and reimbursements of claims of insolvent insurance entities in order to protect Kansas consumers. The Administrator of the Kansas Life and Health Insurance Guaranty Association appeared in support of the bill and stated that the bill will update the Guaranty Association Act with the more critical provisions of the model act (National Association of Insurance Commissioners) and will offer policyholder protection to Kansas residents that is uniform and consistent with today's national standards. The Kansas Life & Health Insurance Association also submitted testimony in support of the bill. There were no opponents to the bill at the time of the Senate Committee hearing.

The fiscal note prepared by the Division of the Budget states that the Kansas Insurance Department indicates that passage of the bill would have no fiscal effect on its operations.