

HOUSE BILL No. 2339

By Committee on Insurance

2-14

1 AN ACT concerning insurance; relating to adverse underwriting decisions;
2 allowing return of premiums separate from notice; amending K.S.A.
3 40-2,112 and repealing the existing section.
4

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

6 Section 1. K.S.A. 40-2,112 is hereby amended to read as follows: 40-
7 2,112. (a) In the event of an adverse underwriting decision the insurance
8 company, health maintenance organization or agent responsible for the
9 decision shall either provide the applicant, policyholder or individual
10 proposed for coverage with the specific reason or reasons for the adverse
11 underwriting decision in writing or advise such persons that upon written
12 request they may receive the specific reason or reasons in writing.

13 (b) Upon receipt of a written request within 60 business days from
14 the date of the mailing of notice or other communication of an adverse
15 underwriting decision to an applicant, policyholder or individual proposed
16 for coverage, the insurance company, health maintenance organization or
17 agent shall furnish to such person within 21 business days of the receipt of
18 such written request:

19 (1) The specific reason or reasons for the adverse underwriting
20 decision, in writing, if such information was not initially furnished in
21 writing pursuant to subsection (a); or

22 (2) if specific items of medical-record information are supplied by a
23 health care institution or health care provider it shall be disclosed either
24 directly to the individual about whom the information relates or to a health
25 care provider designated by the individual and licensed to provide health
26 care with respect to the condition to which the information relates,
27 whichever the insurance company, health maintenance organization or
28 agent prefers; and

29 (3) the names and addresses of the institutional sources that supplied
30 the specific items of information given pursuant to subsection (b)(2) if the
31 identity of any health care provider or health care institution is disclosed
32 either directly to the individual or to the designated health care provider,
33 whichever the insurance company, health maintenance organization or
34 agent prefers.

35 (c) The obligations imposed by this section upon an insurance
36 company, health maintenance organization or agent may be satisfied by

1 another insurance company, health maintenance organization or agent
2 authorized to act on its behalf.

3 (d) The company, health maintenance organization or the agent,
4 whichever is in possession of the money, shall refund to the applicant,
5 *policyholder* or individual proposed for coverage, the difference between
6 the payment and the earned premium, if any, in the event of a declination
7 of insurance coverage, termination of insurance coverage, or any other
8 adverse underwriting decision.

9 (1) If coverage is in effect, such refund ~~shall~~ *may* accompany the
10 notice of the adverse underwriting decision, ~~except such refund obligation~~
11 ~~shall not apply if:~~

12 ~~(A) Material underwriting information requested by the application~~
13 ~~for coverage is clearly misstated or omitted and the company or health~~
14 ~~maintenance organization attempts to provide coverage based on the~~
15 ~~proper underwriting information; or~~

16 ~~(B) or such refund may separately be returned in not more than 10~~
17 ~~days from the date of such notice. The notice shall contain language~~
18 ~~indicating that any refund due will be returned in not more than 10 days~~
19 ~~from the date on such notice. The refund requirement shall not apply to life~~
20 ~~insurance if the company or health maintenance organization includes with~~
21 ~~the notice of the adverse underwriting decision an offer of coverage to an~~
22 ~~applicant for life insurance under a different policy or at an increased~~
23 ~~premium. If such a counter-offer is made by the insurer, the insured or the~~
24 ~~insured's legal representative shall have 10 business days after receipt~~
25 ~~thereof in which to notify the company or health maintenance organization~~
26 ~~of acceptance of the counter-offer, during which time coverage will be~~
27 ~~deemed to be in effect under the terms of the policy for which application~~
28 ~~has been made, but such coverage shall not extend beyond 30 calendar~~
29 ~~days following the date of issuance of the counter-offer by the insurance~~
30 ~~company or health maintenance organization. The insurance company or~~
31 ~~health maintenance organization shall promptly refund the premium upon~~
32 ~~notice of the insured's refusal to accept the counter-offer or upon~~
33 ~~expiration of such 30 calendar day period, whichever occurs first.~~

34 (2) If coverage is not in effect and payment therefor is in the
35 possession of the company, health maintenance organization or the agent,
36 the underwriting decision shall be made within 20 business days from
37 receipt of the application by the agent unless the underwriting decision is
38 dependent upon substantive information available only from an
39 independent source. In such cases, the underwriting decision shall be made
40 within 10 business days from receipt of the external information by the
41 party that makes the decision. The refund ~~shall~~ *may* accompany the notice
42 of an adverse underwriting decision, *or such refund may separately be*
43 *returned in not more than 10 days from the date of such notice. The notice*

1 *shall contain language indicating that any refund due will be returned in*
2 *not more than 10 days from the date on such notice.*

3 Sec. 2. K.S.A. 40-2,112 is hereby repealed.

4 Sec. 3. This act shall take effect and be in force from and after its
5 publication in the statute book.