

40-222b. Insurance company in hazardous financial condition; order of commissioner, notice and hearing; requirements which may be imposed; transfer of special deposit to guaranty fund, when. (a) Whenever the financial condition of any insurance company, hereinafter referred to as "company," authorized to do business in this state attains a condition such that the continued operation of the company might be hazardous to the insuring public, the commissioner, after notice and hearing in accordance with the provisions of the Kansas administrative procedure act, may order the company to take such action as may be reasonably necessary to rectify the existing condition, including, but not necessarily limited to, one or more of the following measures:

(1) Require the company to reduce the volume of new, renewal or new and renewal business being accepted to an amount and for the period of time specified by the commissioner in the manner prescribed by the commissioner's order;

(2) require the submission of such reinsurance contracts for approval and make such requirements relative to the company's reinsurance program as the commissioner deems necessary to protect the interests of Kansas policyholders;

(3) require the company to reinsure on a bulk or portfolio basis all or any part of its Kansas business with a company duly authorized to transact such business in this state;

(4) require a contribution to surplus which will increase the company's surplus for such a period of time, and by such an amount, and in such a manner, as the commissioner may deem necessary and essential;

(5) require the company to maintain a special deposit with the commissioner of insurance of this state in cash or securities of the kinds in which a domestic insurer is permitted to invest its funds under the provisions of K.S.A. 40-2a01 to 40-2a05, inclusive, 40-2a07 and 40-2a10, and amendments thereto, if other than a life insurance company, or K.S.A. 40-2b01 to 40-2b06, inclusive, and 40-2b16, and amendments thereto, if a life insurance company.

Such securities held as a special deposit shall at all times have a market value at least equal to the gross reserves that would reasonably be required to discharge the company's liabilities for the claims and claims' expenses of Kansas policyholders and claimants. The amount of the special deposit required of any life insurance company may be reduced by policy loans and deferred and uncollected premiums related to the company's Kansas business. Any special deposit required by this subsection shall be for the protection and benefit of Kansas policyholders and claimants only and shall not be withdrawn until the commissioner abrogates the requirements imposed by any order issued or agreement reached pursuant to the provisions of this section. The provisions of this subsection shall not apply to any insurance company organized under the laws of this state;

(6) require the company to maintain a general deposit with the commissioner of insurance in this state in cash or securities of the kinds authorized by K.S.A. 40-2a01 et seq., and amendments thereto, if other than a life insurance company, or K.S.A. 40-2b01, and amendments thereto, if a life insurance company unless such statutes specifically exclude such securities for deposit. Any general deposit required by this subsection shall be in an amount designated by the commissioner for the protection and benefit of those persons and entities referred to in K.S.A. 40-3641, and amendments thereto, and shall not be withdrawn until the commissioner abrogates the requirements imposed by any order issued or agreement reached pursuant to the provisions of this section. The provisions of this subsection shall only apply to insurance companies organized under the laws of this state.

(b) Whenever a guaranty fund, established pursuant to article 29 or 30 of chapter 40 of the Kansas Statutes Annotated, is activated for the protection of Kansas policyholders and claimants of an insurance company that has made a special deposit under the provisions of this section, the commissioner shall transfer the special deposit to such guaranty fund under an agreement approved by the commissioner which will provide protection to all Kansas policyholders and claimants. Any funds from such special deposit which remain after the payment of all claims and claims' expenses of Kansas policyholders and claimants shall be returned to the insurance supervisory official of the company's state of domicile. If a Kansas domestic insurance company has made a deposit under the provisions of this section, any distribution of such deposit shall be made in accordance with the provisions of K.S.A. 40-3641, and amendments thereto.

History: L. 1972, ch. 177, § 1; L. 1986, ch. 169, § 1; L. 1988, ch. 356, § 75; L. 1991, ch. 125, § 55; July 1.