

40-3013a. Statement of existence of association not to be used to induce sales; description document, delivery to policyholder; disclaimer required; notice that policy is excluded from coverage under act. (a) No person, including an insurer, agent or affiliate of an insurer shall make, publish, disseminate, circulate or place before the public, or cause directly or indirectly, to be made, published, disseminated, circulated or placed before the public, in any newspaper, magazine or other publication, or in the form of a notice, circular, pamphlet, letter or poster, or over any radio station or television station, or in any other way, any advertisement, announcement or statement, written or oral, which uses the existence of the insurance guaranty association of this state for the purpose of sales, solicitation or inducement to purchase any form of insurance covered by the Kansas life and health insurance guaranty association act. This section shall not apply to the Kansas life and health insurance guaranty association or any other entity which does not sell or solicit insurance.

(b) Within 180 days of the effective date of this act, the association shall prepare a summary document describing the general purposes and current limitations of this act in complying with subsection (c). This document should be submitted to the commissioner for approval. Sixty days after receiving such approval, no insurer may deliver a policy or contract described in subsection (b) of K.S.A. 40-3003, and amendments thereto, to a policy or contract holder unless the document is delivered to the policy or contract holder prior to or at the time of delivery of the policy or contract except if subsection (d) applies. The document should also be available upon request by a policyholder. The distribution, delivery or contents or interpretation of this document shall not mean that either the policy or the contract or the holder thereof would be covered in the event of the impairment or insolvency of a member insurer. The description document shall be revised by the association as amendments to this act may require. Failure to receive this document does not give the policyholder, contract holder, certificate holder or insured any greater rights than those stated in this act.

(c) The document prepared under subsection (b) shall contain a clear and conspicuous disclaimer on its face. The commissioner shall promulgate a rule establishing the form and content of the disclaimer. The disclaimer shall:

(1) State the name and address of the life and health insurance guaranty association and insurance department;

(2) prominently warn the policy or contract holder that the life and health insurance guaranty association may not cover the policy or, if coverage is available, it will be subject to substantial limitations, exclusions and conditioned on continued residence in the state;

(3) state that the insurer and its agents are prohibited by law from using the existence of the life and health insurance guaranty association for the purpose of sales, solicitation or inducement to purchase any form of insurance;

(4) emphasize that the policy or contract holder should not rely on coverage under the life and health insurance guaranty association when selecting an insurer; and

(5) provide other information as directed by the commissioner.

(d) No insurer or agent may deliver a policy or contract described in subsection (b) of K.S.A. 40-3003, and amendments thereto, and excluded under subsection (n)(1) of K.S.A. 40-3008, and amendments thereto, from coverage under this act unless the insurer or agent, prior to or at the time of delivery, gives the policy or contract holder a separate written notice which clearly and conspicuously discloses that the policy or contract is not covered by the life and health insurance guaranty association. The commissioner, by rule, shall specify the form and content of the notice.

History: L. 1986, ch. 180, § 15; July 1.