

40-401. Formation of company on stock or mutual plan; powers of companies; combination policies; specified disease and critical illness riders; organizational requirements; guaranty funds; deposits with joint custodians; withdrawals, when; paid-up capital stock, surplus and deposit requirements; rules and regulations. Any 10 or more persons, a majority of whom are citizens of this state, may associate in accordance with the provisions of this code and form an incorporated company, upon either the stock or mutual plan, to make insurance upon the lives of persons and every insurance appertaining thereto or connected therewith and to grant, purchase or dispose of annuities, and to issue funding agreements, guaranteed investment contracts and synthetic guaranteed investment contracts. Such companies may incorporate: (a) In their policies provisions or conditions for the waiver of premiums or for the granting of an annuity to the insured, or for special surrender values or other benefits in the event the insured shall from any cause become unemployed or totally and permanently disabled; (b) in their policies provisions for acceleration of life or annuity benefits in advance of the time they would otherwise be payable subject to such reserve and other regulatory standards as the commissioner may prescribe by rules and regulations, except that any provision providing for acceleration of life or annuity benefits for persons diagnosed as having a medical condition usually requiring continuous confinement for the rest of the person's life in a nursing home or other eligible facility as defined in the policy, may also provide for acceleration of benefits upon diagnosis of such condition even if the person is not confined in a nursing home or similar facility; (c) in their policies and annuity contracts provisions or conditions for waiver of surrender charges upon terms and conditions as specified in the policy or contract, subject to rules and regulations adopted by the commissioner of insurance; or (d) in their policies provisions for the payment of a larger sum if death is caused by accident than if it results from any other causes.

Prior to the payment of any accelerated benefit, the insurer shall receive from any assignee or irrevocable beneficiary of the policy a signed acknowledgment of concurrence for the payment. For the purposes of this section, "totally and permanently disabled" means disabled continuously for a period, such period to be specified in any such provision, of not less than 60 days nor more than one year, except this provision shall not apply to and specifically excludes group life insurance. Such company may make insurance on the health of individuals, against accidental personal injury, disablement or death and against loss, liability or expense on account thereof. Such company so transacting such health and accident insurance business, or either kind, shall maintain statutory and separate reserves for such business, shall issue such contracts only in separate policies except as otherwise permitted herein and shall make separate reports to the commissioner of insurance of the premiums received and expenses and losses incurred in connection with such business, except that such reports will not be required for accelerated benefits incorporated in a life or annuity policy. Long-term care insurance meeting the applicable requirements of K.S.A. 40-2227 and 40-2228, and amendments thereto, may be incorporated in life insurance policies and annuities if approved by the commissioner.

The business of life insurance in this state shall not be in any way conducted or transacted by any company which in this state makes insurance on marine, fire, inland or any other like risks, except that: (a) Life, health and accident insurance on the group or industrial plan may be combined in one policy, which shall show the premium charged for life insurance and the premium charged for health and accident insurance, and the insured, at the insured's option, may discontinue either and by payment of the stated premium continue the other; and (b) (1) specified disease or critical illness riders, or both, meeting the applicable requirements of K.S.A. 40-2201 et seq., and amendments thereto, and article 4 of the Kansas administrative regulations, may be incorporated in life insurance policies which shall show the premium charged for specified disease or critical illness, or both, insurance and the premium charged for life insurance; and (2) the insured, at the insured's option, may discontinue the disease or critical illness rider, or both, and continue the life insurance policy by payment of the stated premium. The amount of capital stock of a company organized on the stock plan shall be not less than \$600,000.

Companies organized on the mutual plan shall be required to have applications from at least 200 persons for insurance upon their lives, aggregating not less than \$400,000, upon which one full annual premium in cash shall have been paid. No such company shall transact any business of insurance until, if a stock company, all the capital stock named in its charter has been paid in cash including all contributions to surplus to be made by the original purchasers of such stock. The surplus shall be at least \$600,000, and at least \$400,000 in securities authorized by this code shall have been deposited with the commissioner of insurance pursuant to K.S.A. 40-229a, and amendments thereto, and if a mutual company, a guaranty fund of at least \$1,200,000, and at least \$400,000 of which shall be in securities as authorized in this code and deposited with the commissioner of insurance pursuant to K.S.A. 40-229a, and amendments thereto. The guaranty fund may be returned to the contributors with interest at 6% per annum whenever the surplus shall equal the amount of such guaranty fund and interest, and no company shall transact any business of insurance unless it shall maintain the capital or surplus or both required of a company commencing to transact business, or, if a mutual company, the required number and amount of applications for insurance have been received and the annual premiums collected in cash. The securities deposited pursuant to this section shall be held by the commissioner of insurance in trust for the benefit and protection of the policyholders or creditors, or both, of the company depositing the same and may be withdrawn only upon order of the commissioner of insurance.

The commissioner of insurance may adopt rules and regulations to implement the provisions of this section.

History: L. 1927, ch. 231, 40-401; L. 1965, ch. 300, § 1; L. 1969, ch. 237, § 1; L. 1975, ch. 242, § 2; L. 1984, ch. 169, § 1; L. 1989, ch. 135, § 1; L. 1990, ch. 164, § 1; L. 1993, ch. 92, § 1; L. 1995, ch. 46, § 1; L. 1996, ch. 25, § 5; L. 2005, ch. 42, § 1; L. 2010, ch. 103, § 1; L. 2013, ch. 109, § 1; July 1.