HOUSE BILL No. 2177

By Committee on Insurance

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AN ACT concerning life insurance; relating to fixed index annuity contracts; pertaining to the accounting treatment of certain derivative instruments; indexed product reserves.

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

Section 1. (a) As used in this section:

(1) "Eligible derivative asset" means an option, as defined in K.S.A. 40-2b25, and amendments thereto, that is purchased or written to hedge the growth in interest credited to an indexed product as a direct result of changes in each related external index.

(2) "External index" means a list of securities, commodities or other financial instruments that is published or disseminated by a source other than an insurance company, including Standard & Poor's, nasdaq and dow jones.

(3) "Hedging transaction" has the meaning specified in K.S.A. 40-2b25, and amendments thereto.

(4) "Indexed annuity products" means contracts that:

(A) Provide a minimum guaranteed interest accumulation on a portion of all premium payments; and

(B) include provisions under which interest is credited based upon the performance of one or more external indices.

(5) "Indexed life products" means life insurance policies that:

(A) Provide a minimum guaranteed interest accumulation on a portion of all premium payments; and

(B) include provisions under which interest is credited based upon the performance of one or more external indices.

(6) "Indexed products" means indexed annuity products and indexed life products.

(7) "Interest-crediting period" means the length of time over which the performance of each external index is measured for purposes of determining the amount of interest credited under an indexed product.

(b) (1) Any insurance company may account for eligible derivative assets at amortized cost if the insurance company can demonstrate that such eligible derivative assets meet the following criteria for an economic hedge:

(A) At inception of the hedge, or as of the date that an insurance company begins using the accounting practices set forth herein, if later, there must be a formal documentation of the economic hedging relationship and the insurance company's risk management objective and strategy for undertaking the economic hedge, including identification of the specific eligible derivative assets purchased to hedge indexed products, the nature of the particular risk being hedged, and how the eligible derivative assets' effectiveness will be assessed, retrospectively and prospectively, on a qualitative basis; and

(B) at inception of the hedge, or as of the date that an insurance company begins using the accounting practices set forth herein, if later, and at the end of each quarterly reporting period thereafter, the insurance company must maintain documentation that the economic hedge is expected to be and continues to be highly effective as defined by the criteria in subparagraph (A) in achieving offsetting changes in fair value attributable to the hedged risk during the period that the economic hedge is designated.

(2) Eligible derivative assets purchased or written with a year or less to maturity or expiration shall not be required to be amortized.

(c) (1) The following accounting practices shall apply to the indexed annuity product reserves:

(A) Indexed annuity product reserve calculations shall be based on actuarial guideline XXXV assuming the market value of the eligible derivative assets associated with the current interest crediting period is zero, regardless of the observable market for the eligible derivative assets.

(B) At the conclusion of each interest-crediting period, the interest credited to an indexed annuity product shall be reflected in the indexed annuity product reserve as realized, based on the actual performance of the relevant external index or external indices.

(2) The accounting practices specified in this subsection shall not apply to the calculation of indexed life product reserves.

(d) (1) If an insurance company elects to use the alternative accounting practices prescribed herein, it shall report quarterly to the commissioner of insurance, for analysis purposes, the market value of its eligible derivative assets and what the actuarial guideline XXXV reserve would be, using the market value of such eligible derivative assets.

(2) An insurance company that elects to use the alternative accounting practices prescribed herein shall not change its accounting practices back to those that would apply in the absence of the statute without the prior approval of the commissioner of insurance.

(e) The commissioner of insurance shall have the power to adopt all reasonable rules and regulations necessary to implement this section.

Sec. 2. This act shall take effect and be in force from and after its publication in the statute book.