

Kansas Administrative Regulations
Agency 40. Insurance Department
Article 15. Variable Annuities or Separate Accounts

40-15-5 Same; variable benefits requirements.

(a) The commissioner shall disapprove or withdraw approval of any contract form or certificate if:

(1) the contract or certificate contains provisions which are unjust, unfair, inequitable, ambiguous, misleading, likely to result in misrepresentation or contrary to law; or

(2) sales of the contracts are being solicited by any means of advertising, communication or dissemination of information which involves misleading or inadequate description of the provisions of the contract.

(b) Illustrations of benefits payable under any contract providing benefits payable in variable amounts shall not include projections of past investment experience into the future or attempted predictions of future investment experience. Use of hypothetical assumed rates of return to illustrate possible levels of annuity payments shall not be prohibited.

(c) An individual variable contract calling for the payment of periodic stipulated payments or premiums shall not be delivered or issued for delivery in this state unless it contains in substance one of the following provisions:

(1) A provision that there shall be a period of grace of 30 days or of one month, within which any stipulated payment or premium to the insurer falling due after the first day may be made, during which period of grace the contract shall continue in force. The contract may include a statement of the basis for determining the date for which the payment received during the period of grace shall be applied to produce the contract values;

(2) a provision that, at any time within three years from the date of default, in making periodic stipulated payments or premiums to the insurer during the life of the annuitant and unless the cash surrender value has been paid, the contract may be reinstated upon payment to the insurer of the overdue payments, and of all indebtedness to the insurer on the contract, including interest. The contract may include a statement of the basis for determining the date for which the amount to cover overdue payments and indebtedness shall be applied to produce the contract values; or

(3) a provision specifying the available options case of default in a periodic stipulated payment. The options may include an option to surrender the contract for a cash value as determined by the contract, and shall include an option to receive a paid-up annuity if the contract is not surrendered for cash. The amount of the paid-up annuity shall be determined by applying the value of the contract at the annuity commencement date in accordance with the terms of the contract.

(d) Each individual variable annuity contract delivered or issued for delivery in this state shall stipulate the expense, mortality, and investment increment factors used in computing the dollar amount of variable benefits or other contractual payments or values, and may guarantee that expense and/or mortality results shall not adversely affect the dollar amounts.

"Expense," as used in this paragraph, may exclude some or all taxes, as stipulated in the contract.

In computing the dollar amount of variable benefits or other contractual payments or values under an individual variable annuity contract:

(1) The annual net investment increment assumption shall not exceed five percent, except with the approval of the commissioner;

(2) To the extent that the level of benefits may be affected by mortality results, the mortality factor shall be determined from the annuity mortality table for 1949, ultimate, or any modification of that table not having a higher mortality rate at any age, or, if approved by the commissioner, from another table.

(e) The reserve liability for variable annuities shall be established pursuant to the requirements of the standard valuation law in accordance with actuarial procedures that recognize the variable nature of the benefits provided.

(Authorized by K.S.A. 40-103, 40-436; implementing K.S.A. 40-436; effective Jan. 1, 1969; amended May 1, 1986.)