2023 Kansas Statutes

40-3639.   Same; denial of claims; objections to denial; claims secured by the undertaking of another, rights to prove and file. (a) When a claim is denied in whole or in part by the liquidator, written notice of the determination shall be given to the claimant or the claimant's attorney by first-class mail at the address shown in the proof of claim. Within 60 days from the mailing of the notice, the claimant may file objections with the liquidator. If no such filing is made, the claimant may not further object to the determination.

(b)   Whenever objections are filed with the liquidator and the liquidator does not alter denial of the claim as a result of the objections, the liquidator shall ask the court for a hearing as soon as practicable and give notice as set by the court of the hearing to the claimant or the claimant's attorney and to any other persons directly affected. The matter may be heard by the court or by a court-appointed referee who shall submit findings of fact along with recommendation.

(c)   Whenever a creditor whose claim against an insurer is secured, in whole or in part, by the undertaking of another person, fails to prove and file that claim the other person may do so in the creditor's name, and shall be subrogated to the rights of the creditor, whether the claim has been filed by the creditor or by the person in the creditor's name, to the extent that the person discharges the undertaking. In the absence of an agreement with the creditor to the contrary, the other person shall not be entitled to any distribution; however, until the amount paid to the credit on the undertaking plus the distributions paid on the claim from the insurer's estate to the creditor equals the amount of the entire claim of the creditor. Any excess received by the creditor shall be held by such creditor in trust for such other person, the term "other person," as used in this section is not intended to apply to a guaranty association or foreign guaranty association.

History: L. 1991, ch. 125, § 35; July 1.