requiring Kansas City Life to pay out more in annuity income than it had planned. Kansas City Life also assumes a mortality risk in that it may be obligated to pay a death benefit in excess of the Contract Value. The expense risk assumed by Kansas City Life is that the other fees may be insufficient to cover actual expenses.

11. If the mortality and expense risk charge is insufficient to cover the actual cost of the risks, Kansas City Life will bear the shortfall. Conversely, if the charge is more than sufficient, the excess will be profit to Kansas City Life and will be available for any proper corporate purpose.

12. If premium taxes are applicable to a Contract, they will be deducted upon surrender of the Contract or upon application of the Contract proceeds to an annuity payment option or lump sum payment at the maturity date.

Applicants' Legal Analysis

1. Applicants request an exemption pursuant to section 6(c) from sections 26(a)(2)(C) and 27(c)(2) to the extent necessary to permit the deduction from the Separate Account and Other Accounts that Kansas City Life may establish in the future of the 1.25% Mortality and Expense Risk Charge. Sections 26(a)(2)(C) and 27(c)(2) of the Act, in relevant part, prohibit a registered unit investment trust, its depositor or principal underwriter, from selling periodic payment plan certificates unless the proceeds of all payments, other than sales loads, are deposited with a qualified bank and held under arrangements which prohibit any payment to the depositor or principal underwriter except a reasonable fee, as the Commission may prescribe, for performing bookkeeping and other administrative duties normally performed by the bank itself.

2. Section 6(c) of the Act authorizes the Commission to exempt any person from any provision of the Act or any rule or regulation thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

3. Applicants also request relief with respect to Future Contracts that may be issued from the Separate Account and Other Accounts. Applicants represent that the terms of the relief requested with respect to any Future Contracts are consistent with the standards of section 6(c) of the Act. Without the requested relief, applicants represent that they would have to request and obtain exemptive relief for Future Contracts and any Other Account. Applicants represent that these additional requests for exemptive relief would present no issues under the Act not already addressed in this application, and that investors would not receive any benefit or additional protections thereby.

4. Applicants represent that the requested relief is appropriate in the public interest, because it would promote competitiveness in the variable annuity contract market by eliminating the need for applicants to file redundant exemptive applications, thereby reducing their administrative expenses and maximizing the efficient use of resources. Elimination of the delay and expense involved in repeatedly seeking exemptive relief would enhance applicants' ability effectively to take advantage of business opportunities as they arise. Applicants further represent that their requested relief is consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

5. Applicants represent that the 1.25% per annum mortality and expense risk charge is within the range of industry practice for comparable variable annuity contracts. This representation is based on an analysis of publicly available information regarding similar contracts of other companies, taking into consideration such features as current charge levels, death benefit guarantees, and investment options under the Contracts. Kansas City Life will maintain at its home office, and make available to the SEC upon request, a memorandum setting forth in detail the products analyzed and the methodology and results of applicants' comparative review.

6. Prior to relying on any exemptive relief granted herein with respect to Future Contracts issued by the Separate Account or Other Accounts, applicants will determine that the mortality and expense risk charge will be within the range of industry practice for comparable contracts. Kansas City Life will maintain at its home office a memorandum, available to the Commission upon request, setting forth the methodology used in making these determinations.

7. Kansas City Life acknowledges that distribution expenses may be paid from profits derived from the mortality and expense risk charges. Kansas City Life has concluded that there is a reasonable likelihood that the proposed distribution financing arrangement will benefit the Separate Account and the Contract owners. Kansas City Life will maintain and make available to the Commission upon request a memorandum at its home office setting forth the basis of such conclusion.

8. Prior to relying on any exemptive relief granted herein with respect to Future Contracts issued by the Separate Account or Other Accounts, applicants will determine that there is a reasonable likelihood that the distribution financing arrangement will benefit the Separate Account, Other Accounts, and their investors. Kansas City Life will maintain and make available to the Commission upon request a memorandum at its home office setting forth the basis of such conclusion.

9. The Separate Account will invest in a management investment company that has adopted a plan pursuant to rule 12b–1 under the Act only if that company has undertaken to have such plan formulated and approved by its board of directors, a majority of whom are not ''interested persons'' of the company within the meaning of section 2(a)(19) of the Act.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–16211 Filed 6–30–95; 8:45 am]

BILLING CODE 8010–01–M

SMALL BUSINESS ADMINISTRATION

[Declaration of Economic Injury Disaster Loan Area #8546]

Virginia (And a Contiguous County in North Carolina); Declaration of Disaster Loan Area

Henry County and the contiguous counties of Franklin, Patrick, and Pittsylvania, and the independent City of Martinsville in the Commonwealth of Virginia, and Rockingham County in the State of North Carolina constitute an economic injury disaster area as a result of damages caused by a fire in the City of Martinsville which occurred on April 25, 1995. Eligible small businesses without credit available elsewhere and small agricultural cooperatives without credit available elsewhere may file applications for economic injury assistance until the close of business on March 28, 1996, at the address listed below: U.S. Small Business Administration, Disaster Area 1 Office, 360 Rainbow Blvd. South, 3rd Floor, Niagara Falls, NY 14303, or other locally announced locations. The interest rate for eligible small businesses and small agricultural cooperatives is 4 percent.

The economic injury number for the State of North Carolina is 854700.