

Kansas Administrative Regulations

Kansas Department of Insurance

Article 3.—Fire and Casualty Insurance

40-3-48. Insurance companies; managing general agents; definitions; requirements.

(a) The terms "managing general agent" and "MGA," as defined in K.S.A. 40-2,130(d) and amendments thereto, shall include any person who, in addition to the criteria set forth in that statute, adjusts or pays any claim in excess of \$10,000 per claim or negotiates reinsurance on behalf of the insurer.

(b) The term "total annual written premium" shall include all direct premiums written by a managing general agent regardless of where the risks are located.

(c)(1) Each managing general agent shall acquire and maintain a fidelity bond for the protection of the insurer contracting with the managing general agent. The bond shall be in the amount of at least \$100,000 or 10 percent of the managing general agent's total annual written premium nationwide that was produced by the MGA for the insurer in the prior calendar year. The bond shall not exceed \$500,000. The bond amount shall be adjusted accordingly on or before April 1 of each year.

(2) Coverage shall not be written by the insurer or an affiliate of the insurer contracting with the managing general agent. The bond shall be executed by a fidelity insurer admitted to do business in Kansas, or an insurer appearing on the list maintained by the commissioner pursuant to K.S.A. 40-246e and amendments thereto, on a form supplied by the department.

(3) A copy of the executed bond shall be filed with the department.

(d) Each contract entered into between a managing general agent and a domestic insurer shall be retained by the insurer.

(e) Each managing general agent shall keep the usual and customary records pertaining to transactions taking place under the managing general agent agreements at the managing general agent's place of business. All books, bank accounts, and records shall be kept available and open to the inspection of the commissioner or the

commissioner's representatives at any time during business hours. These records shall be retained by the managing general agent until the insurer and the business to which the records pertain has been the subject of an examination pursuant to the provisions of K.S.A. 40-222 and amendments thereto.

(f) If the contract between an insurer and a managing general agent is terminated for any reason, the managing general agent shall, upon request of the insurer, deliver all records to the insurer within 90 days of the request.

(g) Each managing general agent shall send the insurer a claim file when the managing general agent first knows that the claim might exceed a limit set by the insurer, or one-quarter of one percent of the policyholder surplus as reported in the last annual statement of the insurer, whichever is less.

(h) Each managing general agent shall send the insurer a claim file when the managing general agent first knows that the claim file is closed by payment of an amount set by the insurer, or an amount in excess of one-quarter of one percent of the policyholder surplus as reported in the last annual statement of the insurer, whichever is less.

(i) Each insurer licensed to write business in the state of Kansas shall file with the department, on or before March 1 of each year, a current list of names and addresses of all managing general agents with which the insurer has a contract and the name of an officer of the insurer responsible for the contract. The insurer shall provide written notification of changes to the list on a continuing basis.

(j) An independent audit by a certified public accountant shall be conducted annually upon managing general agents currently under contract and shall be contracted for by the insurer. The independent audit shall include the following:

- (1) A report of an independent certified public accountant;
- (2) a balance sheet;
- (3) a statement of income;
- (4) a statement of cash flows;
- (5) a statement of income and retained earnings;
- (6) the notes to financial statements required by generally accepted accounting principles; and

(7) a listing of all exceptions and internal control weaknesses noted in the course of the audit.

(k) Each insurer shall retain a current independent audit report by a certified public accountant of each managing general agent with which the insurer has done business.

(l) The authority to examine a managing general agent shall be retained by the commissioner, notwithstanding termination of the managing general agent's contractual authority. The insurer employing the managing general agent shall reimburse the department for the expense of the examination according to the provisions of K.S.A. 40-223 and amendments thereto.

(Authorized by K.S.A. 40-103 and K.S.A. 40-2,136; implementing K.S.A. 40-2,130(d)(1), K.S.A. 2004 Supp. 40-2,131, K.S.A. 40-2,132, and K.S.A. 40-2,133; effective Dec. 16, 1991; amended Dec. 5, 2003; amended March 17, 2006.)

***** Authenticated Kansas Administrative Regulation *****