



Kansas Insurance Department

Ken Selzer, CPA, Commissioner of Insurance

BULLETIN 2016-1

To: All Insurance Companies Writing Workers Compensation Insurance in Kansas
From: Ken Selzer, CPA, Commissioner of Insurance
Subject: Waiver of Subrogation in Construction Contracts
Date: September 13, 2016

The purpose of this bulletin is to call your attention to the requirements found in the Kansas Fairness in Private Construction Contract Act. (K.S.A. 16-1801 through K.S.A. 16-1807). K.S.A. 16-1803 dictates that a provision in a contract for private construction may not purport to waive subrogation rights for losses covered by a workers compensation insurance policy. Such a contract provision will be void and unenforceable, absent a few isolated exceptions outlined within the act.

Insurers authorized to sell workers compensation insurance in Kansas should note that this statute does not apply to non-construction based policies. The definition of “construction” is found in K.S.A. 16-1802. This definition should be the only standard used when evaluating an application for waiver of subrogation. Class codes are imperfect indicators for whether the insured falls within the Act.

Questions about the requirements stated in this Bulletin should be addressed to Grace Lancaster, Staff Attorney, Kansas Insurance Department, 420 SW 9th Street, Topeka, Kansas 66612, by phone at 785-296-2061, or via email at glancaster@ksinsurance.org.