|  |  |  |  |
| --- | --- | --- | --- |
| LINE OF BUSINESS: | **Other Liability - Professional Errors and Omissions Liability** | LINE(S) OF INSURANCE | CODES |
|  |  | Claims Made | 17.1019 |
|  |  | Occurrence | 17.2019 |
| Code: | 17.0019 | Combination Filings | 17.0019 |
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| IF CHECKLIST IS NOT APPLICABLE, PLEASE EXPLAIN: | |  |  |
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| REVIEW REQUIREMENTS | REFERENCE | DESCRIPTION OF REVIEW STANDARDS REQUIREMENTS | LOCATION OF STANDARD IN FILING |
| --- | --- | --- | --- |
| GENERAL REQUIREMENTS FOR ALL FILINGS |  |  |  |
|  |  |  |  |
| COPIES, RETURN ENVELOPES ETC. |  |  |  |
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| COVER LETTER AND EXPLANATORY MEMORANDUM |  |  |  |
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| FILING SUBMISSION |  |  |  |
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| EFFECTIVE DATE WORDING | [K.S.A. 40-955](https://www.ksrevisor.org/statutes/chapters/ch40/040_009_0055.html)  [K.S.A. 40-216](https://www.ksrevisor.org/statutes/chapters/ch40/040_002_0016.html) | Filings shall be effective on effective date unless disapproved within 30 days. |  |
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| FREE CONTRACT PROHIBITED |  |  |  |
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| LIMITATIONS/RESTRICTIONS ON TRANSACTING BUSINESS |  |  |  |
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| LINE OF AUTHORITY | [K.S.A. 40-901](https://www.ksrevisor.org/statutes/chapters/ch40/040_009_0001.html)  [K.S.A. 40-1102](https://www.ksrevisor.org/statutes/chapters/ch40/040_011_0002.html) | Insurer must have at least general liability authority, and in most cases have malpractice liability authority to write professional liability coverage. |  |
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| NO FILE OR FILING EXEMPTIONS |  |  |  |
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| NAIC # |  |  |  |
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| SIDE BY SIDE COMPARISON |  |  |  |
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| THIRD PARTY FILERS AUTHORITY |  |  |  |
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| TRANSACTING OTHER BUSINESS |  |  |  |
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| FORMS⎯POLICY  PROVISIONS |  |  |  |
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| ACCESS TO COURTS |  |  |  |
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| AGGREGATE LIMITS |  |  |  |
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| AMBIGUOUS & MISLEADING | [K.S.A. 40-2404(1)(a)](https://www.ksrevisor.org/statutes/chapters/ch40/040_024_0004.html) | This statute provision prohibits policy provisions that misrepresent the benefits, advantages, conditions, or terms of any insurance policy. |  |
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| APPLICATIONS | [K.A.R. 40-3-23](https://insurance.ks.gov/documents/department/regulations-adopted/article-3/40-3-23.pdf) | Insurers must file applications only if they bind coverage. |  |
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| APPRAISALS |  |  |  |
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| ARBITRATION |  |  |  |
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| ASSESSIBLE POLICIES |  |  |  |
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| BANKRUPTCY PROVISIONS |  |  |  |
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| BLANK ENDORSEMENTS | [Bulletin 1998-13](https://insurance.ks.gov/department/LegalIssues/bulletins/1998-13.html)  K.S.A. 40-216  K.A.R. 40-1-32  K.A.R. 40-1-39  K.A.R. 40-3-32 | “Blank,” “Change” or “Manuscript” endorsement when used on an individual risk basis to broaden or restrict coverage must continue to be submitted for approval pursuant to K.S.A. 40-216 or K.A.R. 40-3-32(d) unless exempted by K.A.R. 40-3-32(b) and (c). Insurers are still required to comply with the filing requirements of K.A.R. 40-1-32 and K.A.R. 40-1-39. |  |
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| CANCELLATION & NON-RENEWAL | [K.S.A. 40-2,120](https://www.ksrevisor.org/statutes/chapters/ch40/040_002_0120.html)  [K.S.A. 40-2,121](https://www.ksrevisor.org/statutes/chapters/ch40/040_002_0121.html)  [K.A.R. 40-3-15](https://insurance.ks.gov/documents/department/regulations-adopted/article-3/40-3-15.pdf) | K.S.A. 40-2,120 establishes the grounds for a mid-term cancellation of the policy. K.S.A. 40-2,121 establishes the grounds to non-renew a policy and the notification requirements to the policyholder. K.A.R. 40-3-15 provides a 30-day notice must be given to the policyholder in the event of a mid-term cancellation. |  |
| Calculation of Unearned/Return Premium | [K.S.A. 40-2,112](https://www.ksrevisor.org/statutes/chapters/ch40/040_002_0112.html) | Refund for cancellation may accompany the notice or be returned within 10 days from the date of the notice. |  |
| Conditional Renewal |  |  |  |
| Minimum Retained Premium |  |  |  |
| Notice of Cancellation | [K.S.A. 40-2,122](https://www.ksrevisor.org/statutes/chapters/ch40/040_002_0122.html)  [K.A.R. 40-3-15](https://insurance.ks.gov/documents/department/regulations-adopted/article-3/40-3-15.pdf) | Written explanation and notice and establish the time limit notification to the policyholder. |  |
| Notice of Non-renewal | [K.S.A. 40-2,121](https://www.ksrevisor.org/statutes/chapters/ch40/040_002_0121.html)  [K.S.A. 40-2,122](https://www.ksrevisor.org/statutes/chapters/ch40/040_002_0122.html) | Written explanation and notice. |  |
| Permissible Reasons for Cancellation | [K.S.A. 40-2,120](https://www.ksrevisor.org/statutes/chapters/ch40/040_002_0120.html) | This statute establishes the grounds for cancellation. |  |
| Permissible Reasons for Non-renewal | [K.S.A. 40-2,121](https://www.ksrevisor.org/statutes/chapters/ch40/040_002_0121.html)  [K.S.A. 40-2,122](https://www.ksrevisor.org/statutes/chapters/ch40/040_002_0122.html) | These statutes establish the grounds for non-renewal and the time limit notification to the policyholder. |  |
| Required Policy Period |  |  |  |
| Return Premium | [K.A.R. 40-1-17](https://insurance.ks.gov/documents/department/regulations-adopted/article-1/40-1-17.pdf) | Request of the return of unearned premium by the insured shall not be required. |  |
| Suspension |  |  |  |
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| CERTIFICATIONS | [Bulletin 2010-2](https://insurance.ks.gov/department/LegalIssues/bulletins/2010-2.pdf)  [K.S.A. 40-955b](https://www.ksrevisor.org/statutes/chapters/ch40/040_009_0055b.html) | Insurance agents may not issue certificates of insurance that are not filed and approved by the Kansas Insurance Department or which violate K.S.A. 40-955b. |  |
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| CLAIMS MADE |  |  |  |
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| CONSUMER INFORMATION |  |  |  |
| Credit Scoring Notice | [K.S.A. 40-5107](https://www.ksrevisor.org/statutes/chapters/ch40/040_051_0007.html)  [K.S.A. 40-5103](https://www.ksrevisor.org/statutes/chapters/ch40/040_051_0003.html)  K.S.A. 40-5104  K.S.A. 40-5115 | These statutes pertain to the use of credit scoring. |  |
| Privacy notice | [K.A.R. 40-1-46](https://insurance.ks.gov/documents/department/regulations-adopted/article-1/40-1-46.pdf) | This regulation requires all licensees as defined in the regulation to provide privacy notices to its consumers. |  |
| VSI Warning |  |  |  |
| Notification Form |  |  |  |
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| CONTENT OF POLICIES | [K.S.A. 40-216](https://www.ksrevisor.org/statutes/chapters/ch40/040_002_0016.html)  [K.A.R. 40-3-32](https://insurance.ks.gov/documents/department/regulations-adopted/article-3/40-3-32.pdf)  [K.A.R. 40-1-15](https://insurance.ks.gov/documents/department/regulations-adopted/article-1/40-1-15.pdf)  [K.A.R. 40-1-19](https://insurance.ks.gov/documents/department/regulations-adopted/article-1/40-1-19.pdf) | Requires that all contracts of insurance or indemnity be filed with the Commissioner of Insurance.  Exceptions to the above  This regulation provides that a policy form shall not contain the name of an insurance company that is “unauthorized” to transact business in Kansas. May use an endorsement to “delete” an unauthorized company. “Unauthorized” means not licensed or has not filed program in question  Addresses combination policies |  |
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| COUNTERSIGNATURES |  |  |  |
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| DECLARATIONS PAGE | [K.A.R. 40-3-5](https://insurance.ks.gov/documents/department/regulations-adopted/article-3/40-3-5.pdf) | This regulation requires the filing of declaration pages, unless the company is a member of a rating organization and the rating organization has the authority to file on its behalf. |  |
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| DEFENSE WITHIN LIMITS | [K.S.A. 40-953](https://www.ksrevisor.org/statutes/chapters/ch40/040_009_0053.html) | Defense costs within the limit of liability may create an excess rate level |  |
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| DISCLOSURES |  |  |  |
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| DEFINITIONS | [Bulletin 1983-19](https://insurance.ks.gov/department/LegalIssues/bulletins/1983-19.html) | Actual cash value must be defined. |  |
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| DISCRIMINATION |  |  |  |
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| DUTY TO DEFEND |  |  |  |
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| EMPLOYERS LIABILITY |  |  |  |
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| EXCESS COVERAGE |  |  |  |
|  |  |  |  |
| EXCLUSIONS & LIMITATIONS |  |  |  |
| Asbestos |  |  |  |
| Terrorism | TRIA | It is acceptable to not provide terrorism coverage for Professional Liability but terrorism coverage must be offered for Directors & Officers. |  |
| FICTITIOUS GROUPS | [K.A.R. 40-3-6](https://insurance.ks.gov/documents/department/regulations-adopted/article-3/40-3-6.pdf) | This regulation prohibits offering a preferred rate, coverage, or premium based on any fictitious group. |  |
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| FORMS MISCELLANEOUS |  |  |  |
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| GROUP POLICIES | [K.S.A. 40-955(m)](https://www.ksrevisor.org/statutes/chapters/ch40/040_009_0055.html)(2) | Master and group policies are not allowed in P&C lines of coverage except as allowed in K.S.A. 40-955(m)(2). |  |
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| LIMITS |  |  |  |
|  |  |  |  |
| LOSS PAYEE |  |  |  |
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| LOSS SETTLEMENTS |  |  |  |
| Appraisal |  |  |  |
| Action Against Company | [K.S.A. 60-511](https://www.ksrevisor.org/statutes/chapters/ch60/060_005_0011.html) | K.S.A. 60-511 establishes the timeframe for legal actions. |  |
| After Market Parts |  |  |  |
| Arbitration |  |  |  |
| Deductibles |  |  |  |
| Defense Costs | [K.S.A. 40-953](https://www.ksrevisor.org/statutes/chapters/ch40/040_009_0053.html) | Defense costs within the limit of liability may create an excess rate level |  |
| Loss Valuation |  |  |  |
|  |  |  |  |
| NOTICE REQUIREMENTS |  |  |  |
| Payment of Loss Time Period | [K.S.A. 40-2,126](https://www.ksrevisor.org/statutes/chapters/ch40/040_002_0126.html) | This statute requires that an insurer pay a claim within 30 days, or the company will have to pay interest penalties. |  |
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| MEDICAL PAYMENTS |  |  |  |
|  |  |  |  |
| OTHER INSURANCE |  |  |  |
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| PARTICIPATING POLICIES | [K.A.R. 40-3-6](https://insurance.ks.gov/documents/department/regulations-adopted/article-3/40-3-6.pdf)  [K.A.R. 40-3-7](https://insurance.ks.gov/documents/department/regulations-adopted/article-3/40-3-7.pdf)  [K.A.R. 40-3-8](https://insurance.ks.gov/documents/department/regulations-adopted/article-3/40-3-8.pdf)  [K.A.R. 40-3-9](https://insurance.ks.gov/documents/department/regulations-adopted/article-3/40-3-9.pdf) | These regulations place restrictions on participating policies or the payment of dividends. |  |
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| PERSONAL INJURY PROTECTION |  |  |  |
|  |  |  |  |
| PREMIUM AUDIT |  |  |  |
|  |  |  |  |
| PRIMARY UNDERLYING COVERAGE |  |  |  |
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| PUNITIVE DAMAGES | [K.S.A. 40-2,115](https://www.ksrevisor.org/statutes/chapters/ch40/040_002_0115.html) | Punitive or Exemplary Damages are prohibited except for the insured being vicariously liable |  |
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| READABILITY |  |  |  |
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| REBATES | [K.S.A. 40-966](https://www.ksrevisor.org/statutes/chapters/ch40/040_009_0066.html) |  |  |
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| SUBROGATION | [K.A.R. 40-1-20](https://insurance.ks.gov/documents/department/regulations-adopted/article-1/40-1-20.pdf) | Subrogation clause prohibited for certain coverages |  |
| Suit | [K.S.A. 60-511](https://www.ksrevisor.org/statutes/chapters/ch60/060_005_0011.html) | K.S.A. 60-511 establishes the timeframe for legal actions. |  |
|  |  |  |  |
| TIMELINESS |  |  |  |
|  |  |  |  |
| VICARIOUS LIABILITY | [K.S.A. 40-2,115](https://www.ksrevisor.org/statutes/chapters/ch40/040_002_0115.html) | Punitive or Exemplary Damages are prohibited except for insured being vicariously liable. |  |
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| VOIDANCE | [K.S.A.](https://www.ksrevisor.org/statutes/chapters/ch40/040_002_0118.html) 40-2,120  K.S.A. 40-2,121  K.S.A. 40-2,122  K.A.R. 40-3-15 | Kansas insurance law makes no provisions for the voiding or rescinding of an insurance contract. The policy may be cancelled or non-renewed in accordance with the provisions of K.A.R. 40-3-15 and K.S.A. 40-2,120 through K.S.A. 40-2,122. |  |
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| WARRANTIES | [K.A.R. 40-3-16](https://insurance.ks.gov/documents/department/regulations-adopted/article-3/40-3-16.pdf) | Insurers cannot require insureds to make expressed or implied warranties of any fact or allegation in an application or policy. |  |
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| WORKERS’ COMPENSATION EXCESS |  |  |  |
|  |  |  |  |
| OTHER |  |  |  |
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| RATE, RULE, RATING PLAN, CLASSIFICATION, AND TERRITORY FILING REQUIREMENTS |  |  |  |
|  |  |  |  |
| INDIVIDUAL RISK RATING | [K.S.A. 40-954](https://www.ksrevisor.org/statutes/chapters/ch40/040_009_0054.html)  [K.A.R. 40-3-26](https://insurance.ks.gov/documents/department/regulations-adopted/article-3/40-3-26.pdf) | This statute and regulation provide the procedure for rates that are modified for individual risks. |  |
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| ACTUARIAL CERTIFICATIONS FOR RATES | [K.S.A. 40-955(e)](https://www.ksrevisor.org/statutes/chapters/ch40/040_009_0055.html) | Commissioner may require the insurer or rating organization to provide, at their expense info necessary to evaluate the reasonableness of the filing. |  |
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| ADOPTIONS OF RATE SERVICE ORGANIZATIONS (RSO) FILINGS |  |  |  |
| Loss Costs | [K.A.R. 40-3-47](https://insurance.ks.gov/documents/department/regulations-adopted/article-3/40-3-47.pdf) | This regulation establishes requirements and definitions for prospective loss costs and a link to applicable loss cost forms. |  |
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| CONSENT-TO-RATE | [K.S.A. 40-954](https://www.ksrevisor.org/statutes/chapters/ch40/040_009_0054.html)  [K.A.R. 40-3-25](https://insurance.ks.gov/documents/department/regulations-adopted/article-3/40-3-25.pdf)  [K.A.R. 40-3-26](https://insurance.ks.gov/documents/department/regulations-adopted/article-3/40-3-26.pdf) | This statute and regulation provide the procedure for rates that are modified for individual risks. |  |
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| CREDIT SCORING AND REPORTS | [K.S.A. 40-5103](https://www.ksrevisor.org/statutes/chapters/ch40/040_051_0003.html)  [K.S.A. 40-5104](https://www.ksrevisor.org/statutes/chapters/ch40/040_051_0004.html)  [K.S.A. 40-5107](https://www.ksrevisor.org/statutes/chapters/ch40/040_051_0007.html)  [K.S.A. 40-5115](https://www.ksrevisor.org/statutes/chapters/ch40/040_051_0015.html) | The insurance company is required to comply with the noted statutes when credit scores are used for rating. |  |
|  |  |  |  |
| CATASTROPHE HAZARDS |  |  |  |
|  |  |  |  |
| DEFENSE COSTS | [K.S.A. 40-953](https://www.ksrevisor.org/statutes/chapters/ch40/040_009_0053.html) | Defense costs within the limit of liability may create an excess rate level |  |
|  |  |  |  |
| DISCOUNTS | [K.S.A. 40-953](https://www.ksrevisor.org/statutes/chapters/ch40/040_009_0053.html)  [K.S.A. 40-954](https://www.ksrevisor.org/statutes/chapters/ch40/040_009_0054.html) | Discounts must be supported and justified with premium, loss or expense data and meet public policy concerns |  |
|  |  |  |  |
| EXPIRATION DATE(S) FOR APPROVED RATES |  |  |  |
|  |  |  |  |
| GROUP POLICIES | [K.S.A. 40-955(m)](https://www.ksrevisor.org/statutes/chapters/ch40/040_009_0055.html)(2). | Master and group policies are not allowed in P&C lines of coverage except as allowed in K.S.A. 40-955(m)(2). |  |
| Extra-Territorial Approval Authority |  |  |  |
|  |  |  |  |
| REVIEW REQUIREMENTS |  |  |  |
|  |  |  |  |
| LOSS RATIO STANDARDS |  |  |  |
|  |  |  |  |
| MID TERM CHANGES | [K.A.R. 40-1-32](https://insurance.ks.gov/documents/department/regulations-adopted/article-1/40-1-32.pdf)  [K.A.R. 40-1-39](https://insurance.ks.gov/documents/department/regulations-adopted/article-1/40-1-39.pdf) | These regulations establish that any mid-term changes must be done with the consent of the insured. |  |
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| LOSS COST MULTIPLIERS | [K.A.R. 40-3-47](https://insurance.ks.gov/documents/department/regulations-adopted/article-3/40-3-47.pdf) | This regulation provides the procedures for the filing of loss cost multipliers and a link to the applicable loss cost forms. |  |
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| PREMIUM REFUND OR RETENTION | [K.A.R. 40-1-17](https://insurance.ks.gov/documents/department/regulations-adopted/article-1/40-1-17.pdf)  [K.S.A. 40-2,112](https://www.ksrevisor.org/statutes/chapters/ch40/040_002_0112.html) | An insured is not required to request the return of unearned premium. Any unearned premium must be sent to the consumer with the cancellation notice. |  |
|  |  |  |  |
| PRICING |  |  |  |
| Minimum Premium Rules |  |  |  |
| Multi-tier | K.S.A. 40-955 | Tiered rating plan must include rules to specify how the rating plan is to be applied. Rules must be specific to assure a risk cannot qualify for more than one rate level. |  |
| Payment Plans | [K.A.R. 40-1-10](https://insurance.ks.gov/documents/department/regulations-adopted/article-1/40-1-10.pdf) | This regulation addresses the filing of payment plans. |  |
| Premiums |  |  |  |
| Service Charges | [K.A.R. 40-1-9](https://insurance.ks.gov/documents/department/regulations-adopted/article-1/40-1-9.pdf) | This regulation defines service charges as premium. |  |
| Surcharges |  |  |  |
| Other Fees |  |  |  |
|  |  |  |  |
| RATE RANGES | [K.S.A. 40-953](https://www.ksrevisor.org/statutes/chapters/ch40/040_009_0053.html)  K.S.A. 40-954  K.S.A. 40-955 | Range of Rates are not permitted in Kansas |  |
|  |  |  |  |
| RATING PLAN REQUIREMENTS |  |  |  |
| Expense Modification Plan | [K.A.R. 40-3-13](https://insurance.ks.gov/documents/department/regulations-adopted/article-3/40-3-13.pdf) | Risk modification shall not be applied to duplicate factors already fully recognized in the otherwise applicable rate. |  |
| Experience Rating | [K.A.R. 40-3-13](https://insurance.ks.gov/documents/department/regulations-adopted/article-3/40-3-13.pdf) | Risk modification shall not be applied to duplicate factors already fully recognized in the otherwise applicable rate. |  |
| Large Deductible |  |  |  |
| Retrospective Rating |  |  |  |
| Schedule Rating | [K.S.A. 40-955b](https://www.ksrevisor.org/statutes/chapters/ch40/040_009_0055b.html) | These establish the schedule rating requirements in Kansas |  |
| Small Deductible |  |  |  |
| Wrap-up Rating |  |  |  |
|  |  |  |  |
| RATE/LOSS COST SUPPORTING INFORMATION | [K.S.A. 40-954](https://www.ksrevisor.org/statutes/chapters/ch40/040_009_0054.html) | The insurance company must provide premium, loss and expense data. If losses or premiums are adjusted, the company must submit exhibits supporting the adjustments. This requirement applies to rates, loss cost multipliers, loss cost modification factors, changes to the classification plans, increased limit factors and territory revisions. |  |
| Competition |  |  |  |
| Expenses |  |  |  |
| Experience |  |  |  |
| Judgment |  |  |  |
| Credibility and factors trending |  |  |  |
| Profit Loading | [K.S.A. 40-954](https://www.ksrevisor.org/statutes/chapters/ch40/040_009_0054.html) | Profit load must be reasonable. |  |
|  |  |  |  |
| RETURN ON EQUITY / INVESTMENT INCOME | [K.A.R. 40-3-45](https://insurance.ks.gov/documents/department/regulations-adopted/article-3/40-3-45.pdf) | This regulation requires that investment income be factored into the rates. |  |
|  |  |  |  |
| SUPPORTING DATA | [K.S.A. 40-954](https://www.ksrevisor.org/statutes/chapters/ch40/040_009_0054.html) | The insurance company must provide premium, loss and expense data. If losses or premiums are adjusted, the company must submit exhibits supporting the adjustments. This requirement applies to rates, loss cost multipliers, loss cost modification factors, changes to the classification plans, increased limit factors and territory revisions. |  |
|  |  |  |  |
| OTHER |  |  |  |