

40-8-7. Excess lines insurance; agents; submission of affidavit required. (a) The excess lines agent who actually places business with a non-admitted insurer shall file the affidavit and annual statement reporting forms prescribed by the commissioner. ~~Other excess lines agents shall file only the affidavit form prescribed by the commissioner.~~ Each excess lines agent shall file the appropriate form or forms with the department, on or before March 1st of each year, and shall include a tax remittance in the amount of 63% of the gross premium for all policies written on risks that were placed during the preceding calendar year. No affidavit or annual statement reporting form is required if no business was placed by the excess lines agent during the preceding calendar year.

(1) "Gross premium" means the amount charged to the insured for the insurance procured. When an audit or gross receipts contract requires a deposit premium, the amount collected during the calendar year either as a deposit or partial payment shall be reported on the affidavit and annual statement reporting forms as gross premium for that calendar year. Gross premium shall not include the tax due on the premium nor shall that tax be charged to the insured unless specifically identified and provided for in the policy.

(2) When a policy is renewed or an adjustment, addition, or reduction is made on a risk previously placed, the excess lines agent shall make the appropriate adjusting entry on the annual statement reporting form.

(b) If the excess lines agent fails to submit a statement and pay the premium tax as required by subsection (a) of this regulation, an assessment ~~equaling~~ of up to two times the amount of excess premium tax required by K.S.A. 40-246c, and amendments thereto, shall be collected by the commissioner. This subsection shall not apply under the following circumstances:

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(1) If the required statement and excess premium tax payment is submitted by mail on or before the 1st day of March of each year; or

(2) if the required statement and the excess premium tax payment is received by the commissioner before the 1st day of January of each year and the statement and premium include all transactions of the excess coverage licensee during the year; ~~or~~

~~(3) if the required statement and excess premium tax payment is not received by the commissioner because no transactions contemplated by the statute occurred during the preceding year. (Authorized by K.S.A. 40-103; implementing K.S.A. 40-246b, as amended by L. 1996, Ch. 45, Sec. 3, and K.S.A. 2023 Supp. 40-246c; effective Jan. 1, 1966; amended Jan. 1, 1968; amended Jan. 1, 1970; amended Jan. 1, 1971; amended, E-76-29, June 19, 1975; amended May 1, 1976; amended May 1, 1979; amended, T-83-22, Aug. 11, 1982; amended May 1, 1983; amended May 1, 1984; amended May 1, 1986; amended May 1, 1987; amended, T-40-10- 23-92, Oct. 23, 1992; amended Feb. 8, 1993; amended May 16, 1997; effective P-_____.)~~

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DEPT. OF ADMINISTRATION

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ATTORNEY GENERAL

Kansas Administrative Regulations Economic Impact Statement (EIS)

Kansas Insurance Department
Agency

Philip Michael
Agency Contact

785-296-7809
Contact Phone Number

40-8-7
K.A.R. Number(s)

Permanent Temporary

Is/Are the proposed rule(s) and regulation(s) mandated by the federal government as a requirement for participating in or implementing a federally subsidized or assisted program?

- Yes If yes, continue to fill out the remaining form to be included with the regulation packet submitted in the review process to the Department of Administration and the Attorney General. Budget approval is not required; however, the Division of the Budget will require submission of a copy of the EIS at the end of the review process.
- No If no, do the total annual implementation and compliance costs for the proposed rule(s) and regulation(s), calculated from the effective date of the rule(s) and regulation(s), exceed \$1.0 million over any two-year period through June 30, 2024, or exceed \$3.0 million over any two-year period on or after July 1, 2024 (as calculated in Section III, F)?
- Yes If yes, continue to fill out the remaining form to be included with the regulation packet submitted in the review process to the Department of Administration, the Attorney General, AND the Division of the Budget. The regulation(s) and the EIS will require Budget approval.
- No If no, continue to fill out the remaining form to be included with the regulation packet submitted in the review process to the Department of Administration and the Attorney General. Budget approval is not required; however, the Division of the Budget will require submission of a copy of the EIS at the end of the review process.

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Section I

Brief description of the proposed rule(s) and regulation(s).

K.A.R. 40-8-7 establishes the annual statement reporting and premium tax remittance requirements for excess lines agents. The regulation also establishes the assessment for failure to submit the annual statement and premium tax. The amendment lowers the amount of annual tax remittance from 6% to 3% in compliance with the statutory amendments made to K.S.A. 40-246c, removes the requirement that annual reports and payments be submitted by mail, and removes the requirement that those excess lines agents that have placed no business file an annual report with the Department.

Section II

Statement by the agency if the rule(s) and regulation(s) exceed the requirements of applicable federal law, and a statement if the approach chosen to address the policy issue(s) is different from that utilized by agencies of contiguous states or the federal government. *(If the approach is different or exceeds federal law, then include a statement of why the proposed Kansas rule and regulation is different.)*

The amendment to the regulation is not mandated by federal law.

Section III

Agency analysis specifically addressing the following:

- A. The extent to which the rule(s) and regulation(s) will enhance or restrict business activities and growth;

The amendment will enhance business activities and growth by reducing the burden of unnecessary annual report filing.

- B. The economic effect, including a detailed quantification of implementation and compliance costs, on the specific businesses, sectors, public utility ratepayers, individuals, and local governments that would be affected by the proposed rule(s) and regulation(s) and on the state economy as a whole;

The amendment will have minimal implementation and compliance costs and will have a positive economic effect on insurers as the amendment complies with the statutory change to K.S.A. 40-246c that lowers the amount of taxes for the affected insurers.

The regulation will have no effect on other business sectors, public utility ratepayers, individuals or local governments.

- C. Businesses that would be directly affected by the proposed rule(s) and regulation(s);

Insurance companies and their distribution partners, i.e., insurance producers.

- D. Benefits of the proposed rule(s) and regulation(s) compared to the costs;

The benefit of the amendment is bringing the regulation into compliance with the statutory changes to K.S.A. 40-246c that lowers the premium tax burden on excess lines insurers. The amendment also removes the

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unnecessary filing burden placed on those excess lines agents that have not placed any business during the reporting year.

- E. Measures taken by the agency to minimize the cost and impact of the proposed rule(s) and regulation(s) on business and economic development within the State of Kansas, local government, and individuals;

N/A

- F. An estimate of the total annual implementation and compliance costs that are reasonably expected to be incurred by or passed along to businesses, local governments, or members of the public.

Note: Do not account for any actual or estimated cost savings that may be realized.

Costs to Affected Businesses – \$\$0

Costs to Local Governmental Units – \$\$0

Costs to Members of the Public – \$\$0

Total Annual Costs – \$\$0

(sum of above amounts)

Give a detailed statement of the data and methodology used in estimating the above cost estimate.

K.S.A. 40-2257 already provides the necessary protections to insureds.

- Yes If the total implementation and compliance costs exceed \$1.0 million over any two-year period through June 30, 2024, or exceed \$3.0 million over any two-year period on or after July 1, 2024, and prior to the submission or resubmission of the proposed rule(s) and regulation(s), did the agency hold a public hearing to find that the estimated costs have been accurately determined and are necessary for achieving legislative intent? If applicable, document when the public hearing was held, those in attendance, and any pertinent information from the hearing.
- No
- Not Applicable

If applicable, click here to enter public hearing information.

Provide an estimate to any changes in aggregate state revenues and expenditures for the implementation of the proposed rule(s) and regulation(s), for both the current fiscal year and next fiscal year.

N/A

Provide an estimate of any immediate or long-range economic impact of the proposed rule(s) and regulation(s) on any individual(s), small employers, and the general public. If no dollar estimate can be given for any individual(s), small employers, and the general public, give specific reasons why no estimate is possible.

N/A

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- G. If the proposed rule(s) and regulation(s) increases or decreases revenues of cities, counties or school districts, or imposes functions or responsibilities on cities, counties or school districts that will increase expenditures or fiscal liability, describe how the state agency consulted with the League of Kansas Municipalities, Kansas Association of Counties, and/or the Kansas Association of School Boards.

N/A

- H. Describe how the agency consulted and solicited information from businesses, associations, local governments, state agencies, or institutions and members of the public that may be affected by the proposed rule(s) and regulation(s).

The amendment is necessary to bring the regulation into compliance with the amended provisions of K.S.A. 40-246c, remove the unnecessary filing requirement for those agents that have placed no business, and to make necessary updates to the submission process to remove outdated mailing requirement language that no longer accurately reflects current processes.

Section IV

Does the Economic Impact Statement involve any environmental rule(s) and regulation(s)?

- Yes If yes, complete the remainder of Section IV.
 No If no, skip the remainder of Section IV.

- A. Describe the capital and annual costs of compliance with the proposed rule(s) and regulation(s), and the persons who would bear the costs.

[Click here to enter agency response.](#)

- B. Describe the initial and annual costs of implementing and enforcing the proposed rule(s) and regulation(s), including the estimated amount of paperwork, and the state agencies, other governmental agencies, or other persons who would bear the costs.

[Click here to enter agency response.](#)

- C. Describe the costs that would likely accrue if the proposed rule(s) and regulation(s) are not adopted, as well as the persons who would bear the costs and would be affected by the failure to adopt the rule(s) and regulation(s).

[Click here to enter agency response.](#)

- D. Provide a detailed statement of the data and methodology used in estimating the costs used.

[Click here to enter agency response.](#)

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Kansas Administrative Regulations
Economic Impact Statement
Public Hearing Certification
(To be completed after the public hearing)

Agency: [Click here to start typing](#)

Agency Contact: [Click here to start typing](#)

Phone Number or Email: [Click here to start typing](#)

K.A.R. Number(s): [Click here to start typing](#)

Public Hearing Date: [Select date](#)

Public Hearing Time: [Click here to start typing](#)

Public Hearing Location: [Click here to start typing](#)

Public Hearing Attendance: [Click here to start typing](#)

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