

Kansas Administrative Regulations
Agency 40. Insurance Department
Article 1. General

40-1-43 Reinsurance trust instruments; letters of credit.

(a) Sections 10 and 11 of the national association of insurance commissioners' "credit for reinsurance model regulation," January 1997 edition, with amended pages 5 through 22 dated July 2001, are adopted by reference, subject to the following exceptions:

(1) In section 10(B)(1), delete "Section [insert citation to state law equivalent to Section 4B of the Credit for Reinsurance Model Law]," and replace it with "K.S.A. 40-221a and amendments thereto."

(2) In section 10(B)(11)(c), delete "Section [insert citation to state law equivalent of Section 4B of the Credit for Reinsurance Model Law]," and replace it with "K.S.A. 40-221a and amendments thereto."

(3) Section 10(D)(4) is not adopted by reference.

(4) In section 11(A), delete "Section [insert citation to state law equivalent to 4A of the Credit for Reinsurance Model Law]," and replace it with "K.S.A. 40-221a and amendments thereto."

(5) In section 11(G), delete "Section [insert citation to state law equivalent to 4A of the Credit for Reinsurance Model Law]," and replace it with "K.S.A. 40-221a and amendments thereto."

(b) Each trust that is used by an insurer, organized under the laws of this state, to demonstrate compliance with K.S.A. 40-221a(b)(1) and (3), and amendments thereto, shall be established in a form approved by the commissioner. The trust instrument shall include all of the following provisions:

(1) Entry of the final order of any court of competent jurisdiction in the United States will make contested claims valid and enforceable.

(2) Legal title to the assets of the trust will be vested in the trustee for the benefit of the grantor's United States ceding insurers, their assigns, and successors in interest.

(3) The commissioner will have the power to examine the trust.

(4) The trust will remain in effect for as long as the assuming group or insurer has outstanding obligations under reinsurance agreements subject to the trust.

(5) On or before February 28 of each year, a written report prepared by the trustees will be sent to the commissioner of insurance containing the following:

(A) The balance in the trust;

(B) a listing of the trust's investments at the end of the preceding year; and

(C) a certification of the termination date of the trust, or a certification that the trust will not expire before the following December 31.

(b) Each amendment to the trust shall be reviewed and approved by the commissioner before that amendment becomes effective.

(c) The provisions in subsections (a) and (b) above shall not apply to a domestic title insurance company subject to the provisions of K.S.A. 40-1107a and amendments thereto.

(Authorized by K.S.A. 40-221a and K.S.A. 40-103; implementing K.S.A. 40-221a; effective Jan. 24, 1997; amended May 25, 2001; amended, T-40-12-11-01, Dec. 11, 2001; amended April 19, 2002.)