

proposed

**KANSAS INSURANCE DEPARTMENT
Notice of Hearing on Proposed
Administrative Regulations**

A public hearing will be conducted at 2:00 p.m., July 12th, 2017, in the third floor conference room, Kansas Insurance Department ("KID"), 420 S.W. 9th, Topeka, Kansas, to consider the adoption of a proposed rule and regulation.

The 60-day notice of the public hearing shall constitute a public comment period for the purpose of receiving written public comments on the proposed rules and regulations. All interested parties may submit written comments prior to the hearing to Grace Lancaster, Kansas Insurance Department, 420 S.W. 9th, Topeka, Kansas, 66612-1678, via facsimile at 785-291-3190, or via email at glancaster@ksinsurance.org. All interested parties will be given a reasonable opportunity to present their views orally on the adoption of the proposed regulation during the hearing.

A summary of the proposed regulation and its economic impact follows:

K.A.R. 40-3-60. Workers compensation; affidavit of exempt status; premiums. This regulation will require insurers to accept all executed affidavits of exempt status unless the Kansas Insurance Department has found the affidavit to be fraudulent or a court of proper jurisdiction has found the presumption contained in K.S.A. 44-5,127 has been overcome. Payments made to the executor of the affidavit shall not be used in calculating the premium.

This regulation will not have an economic impact on the KID or other governmental agencies. The regulation will decrease the occurrence of unexpected costs to Kansas small employers and consumers of workers compensation insurance. KID considered several alternatives. However, the current proposed regulation was deemed to most closely abide by the plain meaning of K.S.A. 44-5,127.

Any individual with a disability may request accommodation in order to participate in the public hearing and may request any proposed regulation and the economic impact statement in an accessible format. Requests for accommodation to participate in the hearing should be made at least 5 working days in advance by contacting Diane Minear at (785) 296-2676 or via email at dminear@ksinsurance.org. Any individual desiring a copy of any regulation and/or the policy and procedure that is being adopted by reference, if applicable, may obtain a copy from our website, www.ksinsurance.org, under the Legal Issues link or by contacting Diane Minear by phone at (785) 296-7847 or via email at dminear@ksinsurance.org. The charge for copies is fifty cents per page.

RECEIVED

MAY 2 2017

**KRIS W. KOBACH
SECRETARY OF STATE**

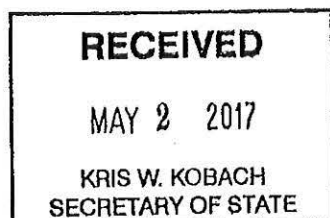
Proposed

K.A.R. 40-3-60. Workers compensation; affidavit of exempt status; premiums. (a) Each company that underwrites workers compensation insurance in Kansas shall accept each executed affidavit of exempt status provided by each insured, pursuant to K.S.A. 2016 Supp. 44-5,127 and amendments thereto, unless either of the following conditions is met:

(1) The Kansas insurance department has found the affidavit to be fraudulent under K.S.A. 44-5,120 and amendments thereto.

(2) A court of proper jurisdiction has found the executor of the affidavit to be an employee of the insured under K.S.A. 2016 Supp. 44-5,127 and amendments thereto.

(b) The payments made by the insured to each executor of an accepted affidavit of exempt status shall not be used in calculating the premium charged to the insured. (Authorized by and implementing K.S.A. 2016 Supp. 44-5,127; effective P-_____.)



APPROVED
APR 26 2017
GENERAL
ATTORNEY

APPROVED
APR 20 2017
DEPT. OF ADMINISTRATION

Proposed

KANSAS INSURANCE DEPARTMENT
ECONOMIC IMPACT STATEMENT
K.A.R. 40-3-60

I. Summary of proposed regulation and purpose

K.S.A. 44-5,127 allows any person who is paid by a company but is not an employee of that company to execute an Affidavit of Exempt Status. This typically refers to a self-employed subcontractor. The affidavit form is maintained by the Insurance Commissioner. K.A.R. 40-3-60 is a new regulation that requires insurance companies to accept all executed affidavits of exempt status, unless they have been found fraudulent by the Kansas Insurance Department or invalid under the Workers Compensation Act.

II. Whether the regulation is mandated by federal law and whether the regulation exceeds the requirements of applicable federal law.

This regulation is not mandated by federal law, and, therefore, does not exceed the requirements of federal law.

III. Anticipated economic impact on the Kansas Insurance Department.

This bill is revenue neutral and will not impact the continued operations of the Kansas Insurance Department.

IV. Anticipated financial impact upon other governmental agencies, small employers, private citizens, and consumers.

The proposed regulation will have no impact on other government agencies. The regulation will decrease the occurrence of unexpected costs to Kansas small employers derived from aggressive yearly insurance audits. Employers will no longer be asked to pay outstanding workers compensation premium for individuals who are not employees of the insured.

V. Less costly or intrusive methods considered, but rejected and the reason for rejection.

The Kansas Insurance Department considered several alternatives. However, based on the plain reading of the statute, the current regulation was determined to be the only viable option.

