

40-205. Application for permit to offer stock for sale; contents; duties of commissioner; findings; issuance or denial of permit; terms of permit; report by insurer; amendment or suspension of permit; notice and hearing; revocation, when; rules and regulations.

Each insurance company or health maintenance organization applicant for a permit to offer its stock for sale shall file with the commissioner an application therefor, verified by its president and secretary. The application shall set forth:

- (a) The name of the company and the address of its principal office.
- (b) The names and addresses of its officers.
- (c) An itemized account of its financial condition, including the amount and character of its assets and liabilities.
- (d) A detailed statement of the plan by which it proposes to offer its stock for sale and if the company has written no business in this state within the three years last preceding the date of the application, a detailed statement of any plan upon which it proposes to transact business in this state.
- (e) A description of the stock it proposes to issue.
- (f) Copies of any contracts, agreements or documents of any nature which have been made or are proposed to be made by the company or by those persons managing it or owning more than 10% of its stock which concern the stock to be offered.
- (g) A copy of any prospectus or advertisement or other description of its operation proposed to be used in connection with the offer of stock.
- (h) Such additional information concerning the company, its condition and affairs as the commissioner requires.

Upon the filing of such application the commissioner shall examine it and the papers and documents filed therewith. The commissioner may, if deemed advisable, cause to be made a detailed examination, audit and investigation of the applicant and its affairs.

The commissioner shall issue a permit if the commissioner finds that:

- (1) The plan by which the applicant proposes to offer its stock and transact its business is not unfair, unjust or inequitable.
- (2) The applicant company intends to fairly and honestly transact its business.
- (3) The stock the applicant company proposes to issue and the methods to be used by it are not such as will work a fraud upon the purchaser thereof, or upon other stockholders or policyholders of the applicant company.

Otherwise, the commissioner shall issue an order denying the application and notify the applicant in writing of such decision. The commissioner may prescribe in the permit the amounts, considerations, terms and conditions governing the issue and disposal of the stock and the permit shall authorize such issue and disposal only in accordance with its provisions. The commissioner may impose conditions requiring the deposit in escrow of stock and the impoundment of the proceeds from the sale thereof, limiting the expense in connection with the sale thereof, and otherwise requiring such method of dealing as the commissioner deems reasonable and either necessary or advisable to insure the disposition of the proceeds of such stock in the manner and for the purposes provided in the permit.

Every permit shall recite in bold type that the issuance thereof is permissive only and does not constitute a recommendation or endorsement of the stock permitted to be issued. The commissioner shall not issue a permit for the sale of any stock of a domestic insurer or health maintenance organization in any case where the commissioner finds that the expense of organization and promotion of the company or the expense of the proposed sale of stock will exceed 12 1/2% of the total amount actually paid for the capital stock.

Every insurer authorized by the commissioner to sell its stock shall thereafter, at such times and in such form as the commissioner requires, make and file in the commissioner's office a report setting forth:

- (a) The stock sold by it under the authority of any permit issued by the commissioner;
- (b) the proceeds derived therefrom;
- (c) the disposition of such proceeds; and
- (d) such other information concerning its property, officers or affairs, and relating to or affecting the value of such securities as the commissioner requires.

The commissioner may from time to time for cause order the amendment, alteration or suspension of any permit granted pursuant to this act. After issuing such order the commissioner may on the commissioner's motion, or if within 15 days requested in writing by the company affected the commissioner shall conduct a hearing in accordance with the provisions of the Kansas administrative procedure act. If upon the completion of such hearing the commissioner finds that cause for such order still exists, the commissioner may continue the order in effect or if the order has been one of suspension the commissioner may revoke the permit. Otherwise the prior order shall be vacated. The commissioner of insurance shall be specifically authorized to adopt such rules and regulations as are reasonable and necessary to carry out the purposes and provisions of this act.

History: L. 1927, ch. 231, 40-205; L. 1965, ch. 295, § 2; L. 1988, ch. 356, § 74; L. 1996, ch. 169, § 2; July 1.