

**44-505. Application of act.** (a) Subject to the provisions of K.S.A. 44-506 and amendments thereto, the workers compensation act shall apply to all employments wherein employers employ employees within this state except that such act shall not apply to:

(1) Agricultural pursuits and employments incident thereto, other than those employments in which the employer is the state, or any department, agency or authority of the state;

(2) any employment, other than those employments in which the employer is the state, or any department, agency or authority of the state, wherein the employer had a total gross annual payroll for the preceding calendar year of not more than \$20,000 for all employees and wherein the employer reasonably estimates that such employer will not have a total gross annual payroll for the current calendar year of more than \$20,000 for all employees, except that no wages paid to an employee who is a member of the employer's family by marriage or consanguinity shall be included as part of the total gross annual payroll of such employer for purposes of this subsection;

(3) any employment, other than those employments in which the employer is the state, or any department, agency or authority of the state, wherein the employer has not had a payroll for a calendar year and wherein the employer reasonably estimates that such employer will not have a total gross annual payroll for the current calendar year of more than \$20,000 for all employees, except that no wages paid to an employee who is a member of the employer's family by marriage or consanguinity shall be included as a part of the total gross annual payroll of such employer for purposes of this subsection;

(4) the employment of any firefighters who are members of a firemen's relief association for whom a valid statement of election to except such members from the provisions of the workers compensation act has been filed with the director by the governing body of such firemen's relief association as provided in K.S.A. 44-505d and amendments thereto; or

(5) services performed by a qualified real estate agent as an independent contractor. For the purposes of this act a qualified real estate agent shall be deemed to be an independent contractor if such qualified real estate agent is licensed by the Kansas real estate commission as a salesperson under the real estate brokers' and salespersons' license act and for whom: (A) Substantially all of the remuneration, whether or not paid in cash, for the services performed by such individual as a real estate salesperson is directly related to sales or other output, including the performance of services, rather than to the number of hours worked; and (B) the services performed by the individual are performed pursuant to a written contract between such individual and the person for whom the services are performed and such contract provides that the individual will not be treated as an employee with respect to such services for state tax purposes.

(b) Each employer who employs employees in employments which are excepted from the provisions of the workers compensation act as provided in subsection (a) of this section, shall be entitled to come within the provisions of such act by: (1) Becoming a member in and by maintaining a membership in a qualified group-funded workers' compensation pool, as provided by K.S.A. 44-581 to 44-591, inclusive, and amendments thereto; or (2) filing with the director a written statement of election to accept thereunder. Such written statement of election shall be effective from the date of filing until such time as the employer files a written statement withdrawing such election with the director. All written statements of election or of withdrawal of election filed pursuant to this subsection shall be in such form as may be required by the director by rules and regulations.

(c) This act shall not apply in any case where the accident occurred prior to the effective date of this act. All rights which accrued by reason of any such accident shall be governed by the laws in effect at that time.

**History:** L. 1927, ch. 232, § 5; L. 1935, ch. 202, § 1; L. 1953, ch. 243, § 1; L. 1955, ch. 250, § 2; L. 1959, ch. 219, §1; L. 1974, ch. 203, § 4; L. 1974, ch. 204, § 8; L. 1975, ch. 259, § 1; L. 1977, ch. 174, § 1; L. 1983, ch. 166, § 13; L. 1986, ch. 188, § 1; L. 1993, ch. 286, § 27; L. 1997, ch. 125, § 2; L. 1998, ch. 120, § 2; Apr. 30.