

## 2020 Kansas Statutes

### **44-582. Same; certificate of authority; application; commissioner's review of surplus funds.**

(a) Application for a certificate of authority to operate a group-funded workers compensation pool shall be made to the commissioner of insurance not less than 60 days prior to the proposed inception date of the pool. The application shall include the following:

- (1) A copy of the bylaws of the proposed pool, a copy of the articles of incorporation, if any, and a copy of all agreements and rules of the proposed pool. If any of the bylaws, articles of incorporation, agreements or rules are changed, the pool shall notify the commissioner within 30 days after such change.
- (2) A copy of the trust agreement securing the payment of workers compensation benefits. If the trust agreement is changed, the pool shall notify the commissioner within 30 days after such change.
- (3) Designation of the initial board of trustees and administrator. When there is a change in the membership of the board of trustees or change of administrator, the pool shall notify the commissioner within 30 days after such change.
- (4) The address where the books and records of the pool will be maintained at all times. If this address is changed, the pool shall notify the commissioner within 30 days after such change.
- (5) An individual application for each initial member of the pool. Each individual application shall include a current certified financial statement on a form approved by the commissioner.
- (6) A current certified financial statement on a form approved by the commissioner showing that (1) the combined net worth of all members applying for coverage on the inception date of the pool is in an amount not less than \$1,000,000 in the case of a pool meeting the requirements of subsection (a) of K.S.A. 44-581, and amendments thereto, or (2) the combined net worth of all members applying for coverage on the inception date of the pool is in an amount of \$1,250,000 in the case of a pool meeting the requirements of subsection (b) of K.S.A. 44-581, and amendments thereto.
- (7) A current certified financial statement on a form approved by the commissioner showing the financial ability of the pool to meet its obligations under the workers compensation act.
- (8) Evidence that the annual Kansas gross premium of the pool will be (A) not less than \$250,000 in the case of a pool meeting the requirements of subsection (a) of K.S.A. 44-581, and amendments thereto, or (B) not less than \$500,000 in the case of a pool meeting the requirements of subsection (b) of K.S.A. 44-581, and amendments thereto. The annual Kansas gross premium shall be based upon the authorized rates as filed by the national council of compensation insurance.
- (9) An indemnity agreement jointly and severally binding the group and each member thereof to comply with the provisions of the workmen's compensation act. The indemnity agreement shall be in a form acceptable to the commissioner.
- (10) (A) Proof of payment by each member of a pool, which meets the requirements of subsection (a) of K.S.A. 44-581, and amendments thereto, of not less than 25% of the estimated annual premium into a designated depository; and  
(B) proof of payment by each member of a pool, which meets the requirements of subsection (b) of K.S.A. 44-581, and amendments thereto, of not less than 35% of the estimated annual premium into a designated depository.
- (11) A copy of the procedures adopted by the pool to provide services with respect to underwriting matters and safety engineering.
- (12) A copy of the procedures adopted by the pool to provide claims adjusting and reporting of loss data.
- (13) A confirmation of specific and aggregate excess insurance, or in lieu of the aggregate excess insurance required herein, adequate surplus funds as approved by the commissioner, except that, in the case of a pool authorized under subsection (b) of K.S.A. 44-581, and amendments thereto, such pool shall maintain an aggregate excess policy with a limit of not less than \$2,000,000 which attaches at no more than 125% of standard premium.
- (14) Any other relevant factors the commissioner may deem necessary.

(b) The commissioner may require an independent actuarial review of claims reserves as part of the commissioner's review of surplus funds.

(c) For the purposes of this section:

(1) "Surplus funds" means retained earnings of the pool after reserves have been established for all known and incurred, but not reported, losses of the pool after all other liabilities of the pool, including unearned premium reserves, have been deducted from total assets.

(2) "Adequate surplus funds" means the amount necessary for the pool to fund its self-insured obligations.

**History:** L. 1983, ch. 166, § 2; L. 1993, ch. 286, § 72; L. 2006, ch. 39, § 1; July 1.