

40-209. Foreign companies; requirements to transact business, waiver thereof; certificate of authority; application of corporation code and other laws. (a) Any insurance company organized under the laws of any other country, state or territory, upon application, may be authorized to transact business in this state, when possessed of the required amount of paid-up capital and surplus, or surplus only if a mutual company, and:

(1) Has made the deposit required by this code with the department of insurance of this or any other state in the United States;

(2) participates to the extent possible in the insurance regulatory information system administered by the national association of insurance commissioners;

(3) has submitted an examination report of its financial condition and affairs which has been conducted by the insurance department of the state of domicile within five years of the date of application unless the commissioner determines that an earlier report will satisfy the purpose of this provision;

(4) demonstrates that any majority ownership interests are in sound financial condition;

(5) is not owned, managed or controlled by persons previously convicted of criminal activity involving fraud or embezzlement or offenses of a similar nature;

(6) has been in operation at least three years and has been the subject of an examination of its affairs and financial condition other than its organizational examination. This requirement does not apply to subsidiary or affiliate companies with substantially the same management of an admitted company, a continuing corporation resulting from merger or consolidation or a company whose admission is determined by the commissioner to be in the best public interest;

(7) the company will not require immediate regulatory attention by the department upon admission pursuant to K.S.A. 40-222b, and amendments thereto.

(b) The authority shall not be granted, continued or renewed to any insurance company which is controlled, as such word is defined in subsection (c) of K.S.A. 40-3302, and amendments thereto, by another state of the United States or by a foreign government, or by any political subdivision of either.

(c) Every such company shall file a certified copy of its charter or deed of settlement with the commissioner of insurance, together with a statement, under oath of the president, vice-president or other chief officer and the secretary of the company for which they act, stating the name of the company, the place where located, and the amount of its capital, with a detailed statement of the facts and items required from companies organized under the laws of this state and a copy of the last annual report, if any was made, under any law of the state or country in which such company was incorporated.

(d) Upon the application of any such insurance company for a certificate of authority to transact business in this state, the commissioner of insurance shall be satisfied that the company is possessed of money and other admitted assets in excess of its liabilities, as herein provided, and that it has otherwise complied with all the other requirements of this code. The commissioner shall thereupon issue a certificate of authority to such company authorizing it to transact the classes of insurance permitted under its articles of incorporation and by the provisions of this code.

(e) The funds of any such insurance company, in excess of the minimum paid-up capital required by this code, may at all times be invested in such securities as are or may be authorized by the laws of the state in which such company is organized or in which it has and maintains its United States deposit.

(f) (1) Except as provided in paragraph (2), the commissioner of insurance may, upon renewal of a certificate of authority waive any of the above requirements except those relating to assets, capital and surplus.

(2) The commissioner of insurance may, at the commissioner's discretion, waive any of the above requirements for prescription drug plan sponsors as defined by 42 U.S.C. § 1395w-151, as in effect on January 1, 2006.

(g) Whenever any insurance company organized under the laws of any other country, state or territory is issued a certificate of authority to transact insurance in this state by the commissioner of insurance pursuant to this section, such company shall not be required to comply with the provisions of the general corporation code relating to foreign corporations, nor shall any such company be required to file with the secretary of state its articles of incorporation, charter, bylaws or other documents, or any amendments thereof, unless specifically required to do so by law.

History: L. 1927, ch. 231, 40-209; L. 1957, ch. 272, § 1; L. 1972, ch. 53, § 4; L. 1982, ch. 190, § 1; L. 1984, ch. 161, § 1; L. 2006, ch. 75, § 1; L. 2007, ch. 150, § 3; July 1.