

40-2,130. Managing general agents; definitions. As used in this act:

- (a) "Actuary" means a person who is a member in good standing of the American academy of actuaries.
- (b) "Commissioner" means the commissioner of insurance of this state.
- (c) "Insurer" means any person, firm, association or corporation duly licensed in this state as an insurance company.

(d) "Managing general agent" or "MGA" means any person, firm, association or corporation who manages all or part of the insurance business of an insurer, including the management of a separate division, department or underwriting office, and acts as an agent for such insurer whether known as a managing general agent, manager or other similar term, who, with or without the authority, either separately or together with affiliates, produces, directly or indirectly, and underwrites an amount of gross written premium equal to or more than 5% of the policyholder surplus as reported in the last annual statement of the insurer in any one quarter or year together with one or more of the following:

- (1) Adjusts or pays claims in excess of an amount determined by the commissioner; or
- (2) negotiates reinsurance on behalf of the insurer.
- (e) Notwithstanding the above, the following persons shall not be considered as MGAs for the purposes of this act:

- (1) An employee of the insurer;
- (2) a United States manager of the United States branch of an alien insurer;
- (3) an underwriting manager which, pursuant to contract, manages all the insurance operations of the insurer, is under common control with the insurer, subject to the holding company regulatory act, and whose compensation is not based on the volume of premiums written;
- (4) an attorney-in-fact of a reciprocal exchange or inter-insurance exchange as described in K.S.A. 40-1602, and amendments thereto; and
- (5) an administrator registered in accordance with K.S.A. 40-3810, and amendments thereto.
- (f) "Underwrite" means the authority to accept or reject risk on behalf of the insurer.

History: L. 1990, ch. 158, § 2; L. 1994, ch. 47, § 1; July 1.