

**40-235. Misrepresentations regarding policy terms; title insurance policies, search and examination requirements.** (a) No insurance company or fraternal benefit society doing business in this state, and no officer, director, solicitor or other agent thereof, shall make, issue or circulate, or cause to be issued or circulated, any estimate, illustration, circular or statement of any sort misrepresenting the terms of any policy issued or to be issued by it or the benefits or advantages promised thereby, or the dividends or share of the surplus to be received thereon, or shall use any name or title of any policy or class of policies misrepresenting the true nature thereof. No officer, director, solicitor or agent of any insurance company shall make any misrepresentation to any person insured in any company for the purpose of inducing or tending to induce a policyholder in any company to lapse, forfeit or surrender such policyholder's insurance.

(b) No preliminary or final policy or contract of insurance of the class authorized to be transacted in this state pursuant to paragraph (e) of K.S.A. 40-1102, and amendments thereto, and as further defined in subsection (g) of K.S.A. 40-1136, and amendments thereto, may be written unless and until the insurance company or its agent has caused to be conducted a reasonable search and examination of the title to the property involved and has caused to be made a determination of insurability of title and the risk in accordance with sound underwriting practices.

(1) For owner's policies of title insurance and loan policies of title insurance insuring purchase money mortgages, such search and examination shall be conducted by a title insurance agent or an employee of a title insurance company licensed to do business in this state or an abstractor licensed to do business in this state. The search and examination shall be based upon a search of all applicable records of the county, state and federal offices in which the real estate is located, as may pertain to the marketability of title for a minimum period of 25 years, or from the date of the previously issued title insurance policy, whichever period is less.

(2) For the purposes of this provision, "sound underwriting practices" shall be defined as underwriting practices promulgated by the underwriter which has an agency agreement with the licensed title insurance company or which comply with the seventh edition of the title standards promulgated by the Kansas bar association as copyrighted in 2005.

**History:** L. 1927, ch. 231, 40-235; L. 1983, ch. 153, § 1; L. 2006, ch. 91, § 1; July 1.