

40-2,133. Same; utilization by insurer; acts required to be performed by and prohibitions on insurer. (a) No insurer may utilize or continue to utilize the services of an MGA on and after the effective date of this act unless such utilization is in compliance with this act.

(b) The insurer shall have on file an independent financial examination in a form acceptable to the commissioner of each MGA with which it has done business.

(c) If an MGA establishes loss reserves, the insurer shall annually obtain the opinion of an actuary attesting to the adequacy of loss reserves established for losses incurred and outstanding on business produced by the MGA. Such requirement shall be in addition to any other required loss reserve certification.

(d) The insurer shall periodically, but not less frequently than semi-annually, conduct an on-site review of the underwriting and claims processing operations of the MGA.

(e) Binding authority for all reinsurance contracts or participation in insurance or reinsurance syndicates shall rest with an officer of the insurer who shall not be affiliated with the MGA.

(f) Within 30 days of entering into or termination of a contract with an MGA, the insurer shall provide written notification of such appointment or termination to the commissioner. Notices of appointment of an MGA shall include (1) a statement of duties which the applicant is expected to perform on behalf of the insurer, (2) the lines of insurance for which the applicant is to be authorized to act, (3) a notification fee in the amount of \$100, (4) and any other information the commissioner may request.

(g) An insurer shall each quarter review its books and records to determine if any agent or broker has become, by operation of subsection (d) of K.S.A. 40-2,130, and amendments thereto, an MGA as defined in that subsection. If the insurer determines that an agent or broker has become an MGA pursuant to the above, the insurer shall promptly notify the agent or broker and the commissioner of such determination, and the insurer and agent or broker shall fully comply with the provisions of this act within 30 days.

(h) An insurer shall not appoint to its board of directors an officer, director, employee or controlling shareholder of its MGAs. This subsection shall not apply to relationships governed by the applicable provisions of article 33 of chapter 40 of the Kansas Statutes Annotated.

History: L. 1990, ch. 158, § 5; L. 1992, ch. 154, § 4; July 1.