

2012 Kansas Statutes

17-12a605. Rules, forms, orders, interpretive opinions and hearings. (a) *Issuance and adoption of forms, orders, and rules.* The administrator may:

(1) Issue forms and orders and, after notice and comment, may adopt and amend rules necessary or appropriate to carry out this act and may repeal rules, including rules and forms governing registration statements, applications, notice filings, reports, and other records;

(2) by rule, define terms, whether or not used in this act, but those definitions may not be inconsistent with this act; and

(3) by rule, classify securities, persons, and transactions and adopt different requirements for different classes.

(b) *Findings and cooperation.* Under this act, a rule or form may not be adopted or amended, or an order issued or amended, unless the administrator finds that the rule, form, order, or amendment is necessary or appropriate in the public interest or for the protection of investors and is consistent with the purposes intended by this act. In adopting, amending, and repealing rules and forms, K.S.A. 17-12a608, and amendments thereto, applies in order to achieve uniformity among the states and coordination with federal laws in the form and content of registration statements, applications, reports, and other records, including the adoption of uniform rules, forms, and procedures.

(c) *Financial statements.* Subject to section 15(h) of the securities exchange act and section 222 of the investment advisers act of 1940, the administrator may require that a financial statement filed under this act be prepared in accordance with generally accepted accounting principles in the United States and comply with other requirements specified by rule adopted or order issued under this act. A rule adopted or order issued under this act may establish:

(1) Subject to section 15(h) of the securities exchange act and section 222 of the investment advisers act of 1940, the form and content of financial statements required under this act;

(2) whether unconsolidated financial statements must be filed; and

(3) whether required financial statements must be audited by an independent certified public accountant.

(d) *Interpretative opinions.* The administrator may provide interpretative opinions or issue determinations that the administrator will not institute a proceeding or an action under this act against a specified person for engaging in a specified act, practice, or course of business if the determination is consistent with this act. A rule adopted or order issued under this act may establish a reasonable charge for interpretative opinions or determinations that the administrator will not institute an action or a proceeding under this act.

(e) *Effect of compliance.* No provision of this act imposing any liability applies to any act done or omitted in good faith in conformity with any rules and regulations, form, or order of the commissioner, notwithstanding that the rules and regulations, form or order may later be amended, revoked or rescinded or be determined by judicial or other authority to be invalid for any reason.

(f) *Presumption for public hearings.* A hearing in an administrative proceeding under this act must be conducted in public unless the administrator for good cause consistent with this act determines that the hearing will not be so conducted.

History: L. 2004, ch. 154, § 44; July 1, 2005.