

Proposed

**STATE OF KANSAS**  
**OFFICE OF THE SECURITIES COMMISSIONER**  
**NOTICE OF HEARING ON PROPOSED ADMINISTRATIVE REGULATIONS**

A public hearing will be conducted at 10:00 a.m., Tuesday, June 7, 2011, at the Office of the Securities Commissioner, 109 SW 9th St., Suite 600, Topeka, Kansas 66612, to consider the amendment of K.A.R. 81-22-1 and repeal of K.A.R. 81-20-1, 81-20-2, 81-22-2, 81-23-1, 81-23-2, 81-24-1, 81-25-1, 81-25-2, 81-25-3, 81-26-3, 81-28-1, 81-28-2, and 81-30-1. The regulations are proposed for adoption on a permanent basis.

These regulations were adopted in the early 1970's to implement the Uniform Land Sales Practices Act, K.S.A. 58-3301 et seq. Portions of **K.A.R. 81-22-1** are now outdated and unnecessary, and the proposed amendments would delete those portions. Specifically, K.A.R. 81-22-1(A)(1) and (A)(2) contain outdated contact information and business hours for the Office of the Securities Commissioner, and 81-22-1(A)(3) contains outdated policies for obtaining copies of forms and statutes. K.A.R. 81-22-1(C) and (D) contain unnecessary formatting guidelines, and 81-22-1(E) duplicates the 90 day review deadline found in K.S.A. 58-3308(a). Similarly, the following regulations are outdated, duplicative, or superfluous, and they are proposed for repeal in their entirety. **K.A.R. 81-20-1** contains a statement of general regulatory intent and a non-binding expression of general regulatory policy. It does not contain any substantive rules. **K.A.R. 81-20-2** repeats the requirements of K.S.A. 58-3304 by requiring registration of subdivided lands and delivery of a public offering statement to purchasers. **K.A.R. 81-23-1** repeats the fee calculation and refund provisions of K.S.A. 58-3320(a). **K.A.R. 81-23-2** currently caps the aggregate offering price for each registration of subdivided land at \$2,500,000. Additional increments of \$2,500,000 in subdivided land can be registered by using a



consolidated registration application and paying an additional fee pursuant to K.A.R. 81-22-2. The \$2,500,000 cap is not required by statute (see K.S.A. 58-3320(a)), and it has not been changed since 1972. Instead of amending the regulations to adjust for inflation, the proposed repeal of 81-23-2 and 81-22-2 would remove the cap and permit an entire offering of subdivided land to be registered at one time without an additional fee. **K.A.R. 81-24-1** is a non-binding expression of regulatory policy regarding the review of registration statements. It does not contain any substantive rules. **K.A.R. 81-25-1** and **81-25-2** contain the technical rules governing the format and content of a public offering statement. The rules are outdated and duplicate K.S.A. 58-3306(a). **K.A.R. 81-25-3** duplicates the substance of K.S.A. 58-3306(b) and (c) and K.S.A. 58-3304(2) governing the use of the public offering statement. **K.A.R. 81-26-3** duplicates the requirement of K.S.A. 58-3305(a)(6) for clear title opinions or title insurance. **K.A.R. 81-28-1** duplicates the requirements for orders of registration as contained in K.S.A. 58-3308 and 58-3306(b). **K.A.R. 81-28-2** duplicates the inspection authority and fees set forth in K.S.A. 58-3320(b). **K.A.R. 81-30-1** contains administrative procedures that are unnecessary because the Kansas Administrative Procedure Act provides sufficient guidelines for any administrative proceedings that are necessary under the Uniform Land Sales Practices Act.

The proposed amendments are not expected to have a significant economic impact upon the Office of the Securities Commissioner.

This 60-day notice of the public hearing shall constitute a public comment period for the purpose of receiving written public comments on the proposed rules and regulations. All interested parties may submit written comments prior to the hearing by addressing them to the Commissioner at the above-address. All interested parties will be given a reasonable opportunity to present their views orally on the adoption of the proposed regulations during the hearing. In





order to give all parties an opportunity to present their views, it may be necessary to request that each participant limit any oral presentation. Following the hearing, all written and oral comments submitted by interested parties will be considered by the Commissioner as a basis for making changes to the proposed regulations.

Any individual with a disability may request accommodation in order to participate in the public hearing and may request the proposed regulations and economic impact statements in an accessible format. Requests for accommodation to participate in the hearing should be made at least five working days in advance of the hearing by contacting Michelle Lancaster at (785) 296-5215 or the Kansas Relay Center at 1-800-766-3777. Handicapped parking is located on 9<sup>th</sup> Street or Kansas Avenue, and the hearing room is accessible to individuals with disabilities.

Copies of the full text of the proposed regulations and the economic impact statement may be obtained by writing to the Office of the Securities Commissioner at the above address, by emailing a request to [ksc@ksc.ks.gov](mailto:ksc@ksc.ks.gov), or by visiting <http://www.securities.state.ks.us/>.

Aaron Jack  
Securities Commissioner



**81-22-1. Applications for registration policy.** (A) ~~A~~ Each application for registration statement required by K.S.A. 58-3305 must, and amendments thereto, shall be filed with the commissioner in substantially the form and containing the exhibits required by the application (form K-20). Copies of the application, the act and its regulations, and other forms, form K-20, which may be obtained from the commissioner's office. Each application for registration shall provide complete and accurate disclosure of the information required by K.S.A. 58-3305, and amendments thereto.

~~(1) Address or deliver all communications and inquiries to securities commissioner, 4th floor, state office building, Topeka, Kansas 66612; phone (area code 913) 296-3307.~~

~~(2) The office of the securities commissioner shall be open for transaction of business between the hours of 7:50 a.m. and 4:50 p.m. on weekdays. Legally declared holidays excepted.~~

~~(3) Forms required for registration may be obtained upon request without charge. Copies of the Kansas uniform land sales practices act may also be obtained for \$1 payable in advance.~~

~~(B) The registration statement must fully describe the lands to be offered and be entirely complete as to form of information required for all lands sought to be registered. The applicant shall make specific statements of facts both as to the supporting documents required in the application, and the conclusions to be drawn therefrom. Each statement shall constitute the exhibit and precede the supporting documents which are required.~~

~~(C) The registration statement shall be securely fastened at the top (loose leaf rings not accepted), printed on one side of page only, shall be indexed and assembled in~~

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~~the order prescribed by paragraph 9 of the application (form K-20). Each exhibit shall be identified by affixing a tab on the right hand side of the cover sheet of the exhibit and marking the tab with the proper exhibit designation. Advertising material and plats or maps that are too bulky and not adaptable to binding may be submitted in a separate folder.~~

~~(D) A registration statement shall not be accepted and will be returned to the applicant if it is not in "proper form." "Proper form" means: A registration statement containing all required exhibits complete as to form, assembled in the required manner as prescribed pursuant to K-20 and the proper registration fee paid.~~

~~(E) Upon receipt of a registration statement in "proper form" the commissioner within five (5) business days shall issue a notice of filing to the applicant. Within ninety (90) days from the date of the notice of filing, the commissioner shall enter his order granting or denying the registration. (However, see rule 81-24-2, standards for approval, for extensions of this time.) (Authorized by K.S.A. 58-3310(a); implementing K.S.A. 58-3305; effective, E-70-34, July 16, 1970; effective Jan. 1, 1971; amended Jan. 1, 1972; amended P-\_\_\_\_\_.)~~

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81-20-1. (Authorized by K.S.A. 58-3310(a); effective, E-70-34, July 16, 1970; effective Jan. 1, 1971; amended, E-77-40, Aug. 12, 1976; amended Feb. 15, 1977; revoked P-\_\_\_\_\_.)

81-20-2. (Authorized by K.S.A. 58-3310(a); effective, E-70-34, July 16, 1970; effective Jan. 1, 1971; amended Jan. 1, 1972; amended, E-77-40, Aug. 12, 1976; amended Feb. 15, 1977; revoked P-\_\_\_\_\_.)

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81-22-2. (Authorized by K.S.A. 58-3310(a); effective, E-70-34, July 16, 1970; effective Jan. 1, 1971; amended Jan. 1, 1972; revoked P-\_\_\_\_\_.)

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81-23-1, 81-23-2. (Authorized by K.S.A. 58-3310(a); effective, E-70-34, July 16, 1970;  
effective Jan. 1, 1971; amended Jan. 1, 1972; revoked P-\_\_\_\_\_.)

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81-24-1. (Authorized by K.S.A. 58-3310(a); effective, E-70-34, July 16, 1970; effective Jan. 1, 1971; revoked P-\_\_\_\_\_.)

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81-25-1 through 81-25-3. (Authorized by K.S.A. 58-3310(a); effective, E-70-34, July 16, 1970; effective Jan. 1, 1971; revoked P-\_\_\_\_\_.)

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81-26-3. (Authorized by K.S.A. 58-3310(a); effective, E-70-34, July 16, 1970; effective Jan. 1, 1971; revoked P-\_\_\_\_\_.)

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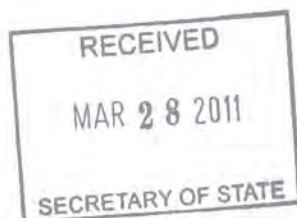
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81-28-1. (Authorized by K.S.A. 58-3310(a); effective, E-70-34, July 16, 1970; effective Jan. 1, 1971; revoked P-\_\_\_\_\_.)

81-28-2. (Authorized by K.S.A. 58-3310(a); effective, E-70-34, July 16, 1970; effective Jan. 1, 1971; amended, E-77-40, Aug. 12, 1976; amended Feb. 15, 1977; revoked P-\_\_\_\_\_.)



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81-30-1. (Authorized by K.S.A. 58-3310(a); effective, E-70-34, July 16, 1970; effective  
Jan. 1, 1971; revoked P-\_\_\_\_\_.)

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## ECONOMIC IMPACT STATEMENT

**Amendment of K.A.R. 81-22-1 and repeal of K.A.R. 81-20-1, 81-20-2, 81-22-2, 81-23-1, 81-23-2, 81-24-1, 81-25-1, 81-25-2, 81-25-3, 81-26-3, 81-28-1, 81-28-2, and 81-30-1.**

### Description of the proposed amendments:

The regulations within Articles 81-20 through 81-30 of the Kansas Administrative Regulations implement the Uniform Land Sales Practices Act, K.S.A. 58-3301 et seq.

Portions of **K.A.R. 81-22-1** are outdated and unnecessary, and the proposed amendments would delete those portions. Specifically, K.A.R. 81-22-1(A)(1) and (A)(2) contain outdated contact information and business hours for the Office of the Securities Commissioner, and 81-22-1(A)(3) contains outdated policies for obtaining copies of forms and statutes. K.A.R. 81-22-1(C) and (D) contain unnecessary formatting guidelines, and 81-22-1(E) duplicates the 90 day review deadline found in K.S.A. 58-3308(a).

Similarly, the following regulations are outdated, duplicative, or superfluous, and they are proposed for repeal in their entirety:

- **K.A.R. 81-20-1** contains a statement of general regulatory intent and a non-binding expression of general regulatory policy. It does not contain any substantive rules.
- **K.A.R. 81-20-2** repeats the requirements of K.S.A. 58-3304 by requiring registration of subdivided lands and delivery of a public offering statement to purchasers. The regulation goes slightly further than the statute by requiring a purchaser of land to acknowledge in writing that the purchaser received the public offering statement.
- **K.A.R. 81-23-1** repeats the fee calculation and refund provisions of K.S.A. 58-3320(a). The regulation also contains a \$10 fee for annual report filings that is not specifically authorized by K.S.A. 58-3309 and varies from the fee that is authorized for semiannual reports in K.S.A. 58-3320(b).
- **K.A.R. 81-24-1** is a non-binding expression of regulatory policy regarding the review of registration statements. It does not contain any substantive rules.
- **K.A.R. 81-25-1 and 81-25-2** contain the technical rules governing the format and content of a public offering statement. The rules are outdated and duplicate K.S.A. 58-3306(a), and they are unnecessary in light of the guidance provided in K.A.R. 81-25-4 and the broad authority of the Securities Commissioner to control the content of the public offering statement in K.S.A. 58-3306(c).





- **K.A.R. 81-25-3** duplicates the substance of K.S.A. 58-3306(b) and (c) and K.S.A. 58-3304(2) governing the use of the public offering statement.
- **K.A.R. 81-26-3** duplicates the requirement of K.S.A. 58-3305(a)(6) for clear title opinions or title insurance.
- **K.A.R. 81-28-1** duplicates the requirements for orders of registration as contained in K.S.A. 58-3308 and 58-3306(b).
- **K.A.R. 81-28-2** duplicates the inspection authority and fees set forth in K.S.A. 58-3320(b).
- **K.A.R. 81-30-1** contains administrative procedures that are unnecessary because the Kansas Administrative Procedure Act provides sufficient guidelines for any administrative proceedings that are necessary under the Uniform Land Sales Practices Act.

**K.A.R. 81-23-2** currently caps the aggregate offering price for each registration of subdivided land at \$2,500,000. Additional increments of \$2,500,000 in subdivided land can be registered by using a consolidated registration application and paying an additional fee pursuant to **K.A.R. 81-22-2**. The \$2,500,000 cap is not required by statute (see K.S.A. 58-3320(a)), and it has not been changed since 1972. Instead of amending the regulations to adjust for inflation, the proposed repeal of 81-23-2 and 81-22-2 would remove the cap and permit an entire offering of subdivided land to be registered at one time without an additional fee.

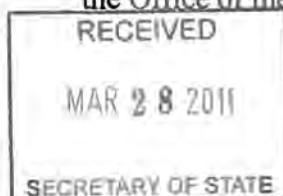
#### **Federal mandate:**

The amendments are not mandated by federal law as a requirement for participating in or implementing a federally subsidized or assisted program.

#### **Description of costs:**

Most of the proposed amendments and repeals would not result in any material change in the law governing land sales practices in Kansas. Therefore, they would not significantly alter the existing requirements for persons who propose to sell subdivided lands, and they are not expected to result in any increased costs to registrants or other regulated persons. The only substantive change is the revocation of K.A.R. 81-23-2 and 81-22-2, which would allow a person to register an entire offering of subdivided lands for a maximum fee of \$500 instead of registering the land in \$2.5 million increments and paying a \$500 fee for each increment.

The proposed amendments are not expected to have a significant economic impact upon the Office of the Securities Commissioner. The office receives, on average, fewer than 2



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registration applications per year under the Uniform Land Sales Practices Act, and the revocation of K.A.R. 81-23-2 and 81-22-2 will result in a decrease in revenues of less than \$1,000 per fiscal year, based on average fees received per fiscal year since 1981.

The amendments will have no known economic impact on the investing public, small employers, or any other governmental agency or entity.

**Less costly or less intrusive alternatives:**

There are no known alternatives to achieve the purposes of the regulation with less cost or intrusion.

**Impact on cities, counties, or school districts:**

The proposed amendments have no impact on the revenues, functions, or responsibilities of cities, counties or school districts.

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