

808 KAR 10:170. Exemption claims from securities registration; form.

RELATES TO: KRS 292.400(9), (12), 292.415(1), 292.420(3)

STATUTORY AUTHORITY: KRS 292.415(1), 292.500(3)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 292.500(3) authorizes the commissioner to promulgate administrative regulations necessary to carry out the provisions of KRS Chapter 292. KRS 292.415(1) requires that before a security may be issued as an exempt security under KRS 292.400(9) or (12), a claim of exemption shall be filed with the commissioner in the form prescribed by the commissioner. This administrative regulation establishes the form and content of the claim of exemption that shall be filed in order to claim an exemption under KRS 292.400(9) or (12).

Section 1. The provisions of this section shall apply to a matter relating to an exemption from registration pursuant to KRS 292.400(9).

(1) The claim of exemption required to be filed pursuant to KRS 292.415(1) shall contain the following:

- (a) A declaration that the KRS 292.400(9) exemption shall be relied upon;
- (b) A sample copy of the security that will be issued;
- (c) A copy of the articles of incorporation and bylaws of the issuer or the equivalent governing instruments;
- (d) A prospectus, offering circular, or memorandum making full disclosure of material facts, including a discussion of all salient risk factors;
- (e) A representation that an offeree or purchaser shall have access to information concerning the issuer;
- (f) Copies of all advertising or other material to be distributed in connection with the offering;
- (g) A copy of the subscription agreement or other similar agreement;
- (h) A copy of a proposed agreement or proposed form of agreement with a securities broker-dealer or underwriter;
- (i) A copy of the preliminary or definitive Trust Indenture or trust agreement, if any;
- (j) 1. Attesting to the authority of the issuer to offer and sell the security; and
2. Stating that after the sale the security shall be a valid, binding obligation of the issuer in accordance with the issuer's governing documents; and
- (k) A representation that a commission or other remuneration to be paid in connection with the offer or sale of the security shall be paid to a person licensed pursuant to KRS 292.330.

(2) For a one (1) time offering of securities pursuant to KRS 292.400(9) by a church or other non-profit entity, the commissioner shall apply the North American Securities Administrators Association's Statement of Policy Regarding Church Bonds.

(3) For a continuing offering of securities by a church or other nonprofit entity, the commissioner shall apply the North American Securities Administrators Association's Statement of Policy Regarding Church Extension Fund Securities.

Section 2. In a matter relating to an exemption from registration pursuant to KRS 292.400(12), the claim of exemption required to be filed pursuant to KRS 292.415(1) shall contain the following:

- (1) The filing fee of \$250 as required by KRS 292.420(3), payable to the Kentucky State Treasurer;
- (2) A declaration that the KRS 292.400(12) exemption shall be relied upon;
- (3) A sample copy of the security that will be issued;
- (4) A copy of the articles of incorporation and bylaws of the issuer or the equivalent governing instruments;

- (5) A prospectus, offering circular, or memorandum making full disclosure of material facts, including a discussion of all salient risk factors;
- (6) A representation that an offeree or purchaser shall have access to information concerning the issuer;
- (7) Current financial statements of the issuer;
- (8) A copy of the subscription agreement or other similar agreement;
- (9) A statement as to how the proceeds of the issue will be used; and
- (10) A representation that a commission or other remuneration to be paid in connection with the offer or sale of the security shall be paid to a person licensed pursuant to KRS 292.330.

Section 3. Incorporation by Reference. (1) The following material is incorporated by reference.

- (a) "The North American Securities Administrators Association's Statement of Policy Regarding Church Bonds", April 2002 edition; and
- (b) "The North American Securities Administrators Association's Statement of Policy Regarding Church Extension Fund Securities", April 2002 edition.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Department of Financial Institutions, 1025 Capital Center Drive, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m. (8 Ky.R. 184; eff. 10-7-81; Am. 11 Ky.R. 1914; eff. 7-9-85; 24 Ky.R. 2183; 25 Ky.R. 90; eff. 6-25-98; 33 Ky.R. 2212; 2954; eff. 4-6-07; TAm eff. 11-7-2012; Crt eff. 2-27-2020.)