

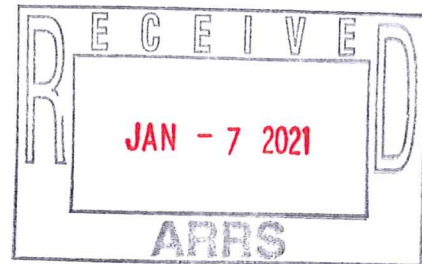
Andy Beshear
Governor



Lt. Gov. Jacqueline Coleman
Secretary
Education and Workforce
Development Cabinet

Jason E. Glass, Ed.D.
Commissioner and Chief Learner

KENTUCKY DEPARTMENT OF EDUCATION
300 Sower Boulevard • Frankfort, Kentucky 40601
Phone: (502) 564-3141 • www.education.ky.gov



January 6, 2021

Senator Stephen West, Co-Chair
Representative David Hale, Co-Chair
c/o Emily Caudill, Regulation Compiler
Administrative Regulation Review Subcommittee
Legislative Research Commission
029, Capitol Annex
Frankfort, KY 40601

Re: 701 KAR 5:150. Nontraditional Instruction Program.

Dear Co-Chairs:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 701 KAR 5:150, the Kentucky Board of Education proposes the attached amendment to 701 KAR 5:150.

Sincerely,

A handwritten signature in cursive script that reads "Todd G. Allen".

Todd G. Allen
General Counsel

attachment

Staff-suggested Amendment

**Final Version 1/5/2021 2:11 p.m.
EDUCATION AND WORKFORCE DEVELOPMENT CABINET
Kentucky Board of Education
Department of Education**

701 KAR 5:150. Nontraditional instruction program.

Page 1

Section 1(1)

Lines 18 through 20

After "Definitions. (1)", delete the following:

"Certified employee" means an employee of a local school district who is required to have a certification for his position pursuant to KRS 161.020.

(2)

Renumber subsequent subsections accordingly.

Page 2

Section 1(3)

Line 1

After "instructional techniques", delete "to be".

Page 2

Section 2(1)

Line 18

After "incorporate", insert "it".

Delete "such".

Page 3

Section 2(2)(b)7.

Lines 15 and 16

After "instruct, support", insert "and".

After "social and emotional", insert "well-being".

Delete "wellbeing".

Page 5
Section 2(5)
Line 20

After "or his designee", delete "(s)".

Page 6
Section 2(6)(c)
Lines 10, 11, and 12

After "or his designee", delete "(s)".

After "approve or deny", insert "it".
Delete "such".

Page 8
Section 3(1)
Lines 14 and 15

After "Instruction Days. (1)", insert "if".
Delete "Once".

After "or his designee", delete "(s)".

Page 9
Section 3(2)
Line 1

After "following the", insert "last".
After "day", delete "(s)".

Page 9
Section 3(3)
Lines 3 and 5

After "use of one", insert "(1)".

After "request to use", insert "one".
After "(1)", delete "one".

Page 9
Section 4(1)
Line 15

After "or his designee", delete "(s)".

Page 10

Section 4(3)

Lines 3, 4, and 5

After "of this section", delete "of this administrative regulation".

After "or his designee", delete "(s)".

Page 11

Section 4(4)

Lines 21 and 22

After "his designee", delete "(s)".

After "pursuant to this section", delete "of this administrative regulation".

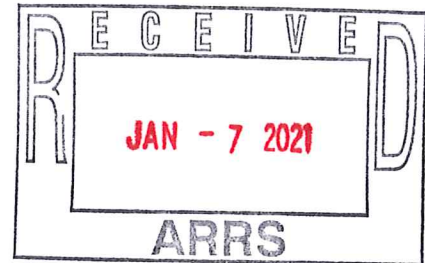
Andy Beshear
Governor



Lt. Gov. Jacqueline Coleman
Secretary
Education and Workforce
Development Cabinet

Jason E. Glass, Ed.D.
Commissioner and Chief Learner

KENTUCKY DEPARTMENT OF EDUCATION
300 Sower Boulevard • Frankfort, Kentucky 40601
Phone: (502) 564-3141 • www.education.ky.gov



January 6, 2021

Senator Stephen West, Co-Chair
Representative David Hale, Co-Chair
c/o Emily Caudill, Regulation Compiler
Administrative Regulation Review Subcommittee
Legislative Research Commission
029, Capitol Annex
Frankfort, KY 40601

Re: 702 KAR 4:090. Property disposal.

Dear Co-Chairs:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 702 KAR 4:090, the Kentucky Board of Education proposes the attached amendment to 702 KAR 4:090.

Sincerely,

A handwritten signature in black ink that reads "Todd G. Allen".

Todd G. Allen
General Counsel

attachment

Staff-suggested Amendment

**Final Version 1/5/2021 2:15 p.m.
EDUCATION AND WORKFORCE DEVELOPMENT CABINET
Kentucky Board of Education
Department of Education
(Amended After Comments)**

702 KAR 4:090. Property disposal.

Page 1

Category Line

Line 4

After "(Amended", capitalize "after" and "comments".

Page 1

STATUTORY AUTHORITY paragraph

Line 7

After "KRS", insert "156.070".

After "156.160", delete ", 156.070".

Page 2

Section 1(1)

Line 3

After "process using one", insert "(1)".

Page 3

Section 2(2)

Lines 20 and 21

After "agreements, including", delete "but not limited to".

After "access easement agreements", insert "L".

Page 4

Section 2(2)(e)

Line 6

After "easement boundaries, acreage", insert "L".

Page 4

Section 2(4)

Line 11

After "construction easements", insert "shall".

Delete "do".

Page 4

Section 3(2)

Line 21

After "shall include", delete ", but is not limited to".

Page 5

Section 3(2)(e)

Lines 4 and 5

After "term shall include", delete "an".

After "annual" insert "renewal and cancellation".

Delete "renewal/cancellation".

Page 5

Section 3(2)(h)

Line 9

After "maintenance", insert "1".

Page 6

Section 4(1)

Lines 6, 7, and 8

After "school board.", insert "If".

Delete "In the event".

After "commission, the third party", insert "shall".

Delete "must".

After "disclose his", insert "or".

Delete "/".

After "local school board and", insert "the".

Delete "said".

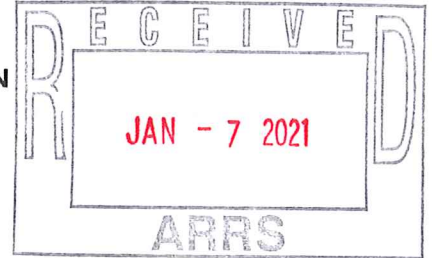
Andy Beshear
Governor



Lt. Gov. Jacqueline Coleman
Secretary
Education and Workforce
Development Cabinet

Jason E. Glass, Ed.D.
Commissioner and Chief Learner

KENTUCKY DEPARTMENT OF EDUCATION
300 Sower Boulevard • Frankfort, Kentucky 40601
Phone: (502) 564-3141 • www.education.ky.gov



January 6, 2021

Senator Stephen West, Co-Chair
Representative David Hale, Co-Chair
c/o Emily Caudill, Regulation Compiler
Administrative Regulation Review Subcommittee
Legislative Research Commission
029, Capitol Annex
Frankfort, KY 40601

Re: 704 KAR 3:035. Annual professional development plan.

Dear Co-Chairs:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 704 KAR 3:035, the Kentucky Board of Education proposes the attached amendment to 704 KAR 3:035.

Sincerely,

A handwritten signature in black ink that reads "Todd G. Allen".

Todd G. Allen
General Counsel

attachment

Staff-suggested Amendment

**Final Version 1/5/2021 2:19 p.m.
EDUCATION AND WORKFORCE DEVELOPMENT CABINET
Kentucky Board of Education
Department of Education**

704 KAR 3:035. Annual professional development plan.

Page 1

Section 1(1) and (2)

Lines 16 and 18

After "is defined", insert "by".

Delete "in".

Page 2

Section 1(4)

Lines 4 and 5

After "collective responsibility,", insert "which".

Delete "that".

After "for student achievement", insert "that".

Delete ", and".

Page 5

Section 4(7)

Line 8

After "food, lodging", insert "z".

Page 7

Section 5(2)(k)

Line 3

After "selecting, coordinating", insert "z".

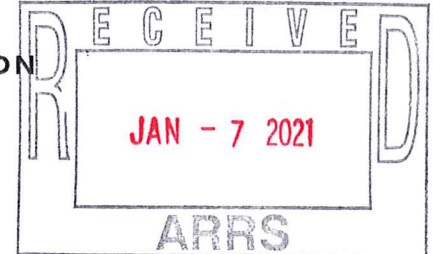
Andy Beshear
Governor



Lt. Gov. Jacqueline Coleman
Secretary
Education and Workforce
Development Cabinet

Jason E. Glass, Ed.D.
Commissioner and Chief Learner

KENTUCKY DEPARTMENT OF EDUCATION
300 Sower Boulevard • Frankfort, Kentucky 40601
Phone: (502) 564-3141 • www.education.ky.gov



January 6, 2021

Senator Stephen West, Co-Chair
Representative David Hale, Co-Chair
c/o Emily Caudill, Regulation Compiler
Administrative Regulation Review Subcommittee
Legislative Research Commission
029, Capitol Annex
Frankfort, KY 40601

Re: 704 KAR 3:305. Minimum requirements for high school graduation.

Dear Co-Chairs:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 704 KAR 3:305, the Kentucky Board of Education proposes the attached amendment to 704 KAR 3:305.

Sincerely,

A handwritten signature in black ink that reads "Todd G. Allen".

Todd G. Allen
General Counsel

attachment

Staff-suggested Amendment

**Final Version 1/5/2021 2:21 p.m.
EDUCATION AND WORKFORCE DEVELOPMENT CABINET
Kentucky Board of Education
Department of Education**

704 KAR 3:305. Minimum requirements for high school graduation.

Page 3

Section 3(1)

Line 14

After "entering grade", insert "9".

Delete "nine (9)".

Page 5

Section 4(1)

Line 16

After "enter grade", insert "9".

Delete "nine (9)".

Page 10

Section 4(5)(h)

Line 10

After "entering grade", insert "9".

Delete "nine (9)".

Page 14

Section 8(2)

Line 10

After "local board", insert "shall".

Delete "may".

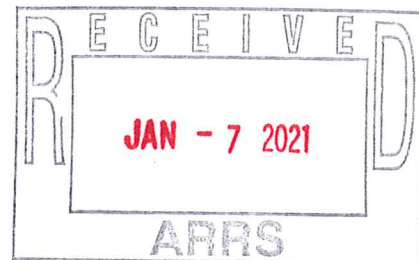
Andy Beshear
Governor



Lt. Gov. Jacqueline Coleman
Secretary
Education and Workforce
Development Cabinet

Jason E. Glass, Ed.D.
Commissioner and Chief Learner

KENTUCKY DEPARTMENT OF EDUCATION
300 Sower Boulevard • Frankfort, Kentucky 40601
Phone: (502) 564-3141 • www.education.ky.gov



January 6, 2021

Senator Stephen West, Co-Chair
Representative David Hale, Co-Chair
c/o Emily Caudill, Regulation Compiler
Administrative Regulation Review Subcommittee
Legislative Research Commission
029, Capitol Annex
Frankfort, KY 40601

Re: 704 KAR 3:325. Effective Instructional Leadership Act.

Dear Co-Chairs:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 704 KAR 3:325, the Kentucky Board of Education proposes the attached amendment to 704 KAR 3:325.

Sincerely,

A handwritten signature in black ink that reads "Todd G. Allen".

Todd G. Allen
General Counsel

attachment

Staff-suggested Amendment

**Final Version 1/5/2021 2:23 p.m.
EDUCATION AND WORKFORCE DEVELOPMENT CABINET
Kentucky Board of Education
Department of Education**

704 KAR 3:325. Effective Instructional Leadership Act.

Pages 1 and 2

Section 1(2)

Lines 20, 21, and 1

After "(2)", delete the following:

"Cycle" means a twenty-four (24) month period beginning with July 1 of even-numbered years and ending June 30 of even numbered years.

(3)

Renumber the subsequent subsection accordingly.

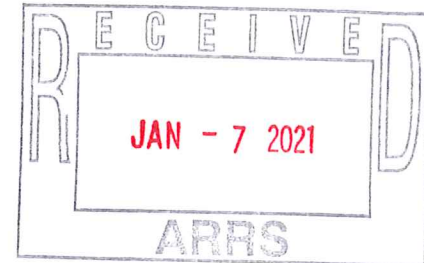
Andy Beshear
Governor



Lt. Gov. Jacqueline Coleman
Secretary
Education and Workforce
Development Cabinet

Jason E. Glass, Ed.D.
Commissioner and Chief Learner

KENTUCKY DEPARTMENT OF EDUCATION
300 Sower Boulevard • Frankfort, Kentucky 40601
Phone: (502) 564-3141 • www.education.ky.gov



January 6, 2021

Senator Stephen West, Co-Chair
Representative David Hale, Co-Chair
c/o Emily Caudill, Regulation Compiler
Administrative Regulation Review Subcommittee
Legislative Research Commission
029, Capitol Annex
Frankfort, KY 40601

Re: 704 KAR 8:100. Kentucky Academic Standards for Library Media Elective.

Dear Co-Chairs:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 704 KAR 8:100, the Kentucky Board of Education proposes the attached amendment to 704 KAR 8:100.

Sincerely,

A handwritten signature in black ink that reads "Todd G. Allen".

Todd G. Allen
General Counsel

attachment

Staff-suggested Amendment

**Final Version 1/5/2021 2:25 p.m.
EDUCATION AND WORKFORCE DEVELOPMENT CABINET
Kentucky Board of Education
Kentucky Department of Education**

704 KAR 8:100. Kentucky Academic Standards for Library Media Elective.

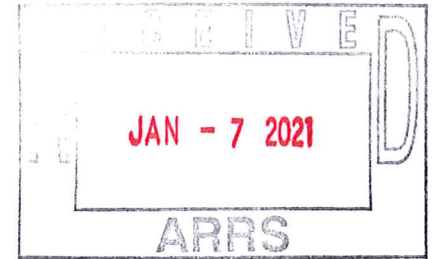
Page 1

RELATES TO paragraph

Line 6

After "156.160," insert "156.850, 158.102,".

After "158.6451," delete "156.850, 158.102,".



PUBLIC PROTECTION CABINET

Department of Insurance

P.O. Box 517
Frankfort, Kentucky 40602-0517
1-800-595-6053
<http://insurance.ky.gov>

Andy Beshear
Governor

Ray A. Perry
Deputy Secretary

Kerry B. Harvey
Secretary

Sharon P. Clark
Commissioner

January 7th, 2021

Senator Stephen West, Co-Chair
Representative David Hale, Co-Chair
c/o Emily Caudill, Regulation Compiler
Administrative Regulation Review Subcommittee
Legislative Research Commission
029, Capitol Annex
Frankfort KY 40601

Re: **806 KAR 2:095. Accounting and reporting requirements for collecting local government premium tax.**

Dear Co-Chairs West and Hale:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 806 KAR 2:095, the Department of Insurance proposes the attached agency amendments to 806 KAR 2:095.

Sincerely,

DJ Wasson, Deputy Commissioner
Department of Insurance
Mayo-Underwood Building
500 Mero Street
Frankfort, Kentucky 40601

SUGGESTED SUBSTITUTE

Final 1/5/2021 3:37 PM

**PUBLIC PROTECTION CABINET
Department of Insurance
Consumer Protection Division**

806 KAR 2:095. Accounting and reporting requirements for collecting local government premium tax.

RELATES TO: KRS 91A.080, ~~304.10-120~~**304.4-010**

STATUTORY AUTHORITY: KRS 91A.080~~(4)~~, 304.2-110~~(1)~~, **304.4-010**

NECESSITY, FUNCTION, AND CONFORMITY: ~~KRS 304.2-110(1)~~ authorizes the Commissioner of Insurance to promulgate administrative regulations necessary for or as an aid to the effectuation of any provision of the Kentucky Insurance Code as ~~established~~**defined** in KRS 304.1-010. ~~[KRS 304.2-110 authorizes the Commissioner of Insurance to make reasonable rules and administrative regulations necessary for and as an aid to the effectuation of any provision of the Kentucky Insurance Code, as defined in KRS 304.1-010.]~~ KRS 91A.080~~(4)~~ requires the ~~department to promulgate~~**Commissioner of Insurance to adopt** administrative regulations for the collection and reporting of local government premium taxes. This administrative regulation establishes requirements for the accounting and reporting procedures to be used for the collection and reporting of a local government premium tax.

Section 1. Definitions. (1) ~~["Agent" is established]~~~~[defined]~~~~[by KRS 304.9-020(1).~~

~~(2)]~~ "Commissioner" is ~~defined~~**established**~~[defined]~~ by KRS 304.1-050(1).

~~(2)~~~~(3)]~~ "Insurance company" shall mean ~~[means]~~: (a) An entity holding a certificate of authority in accordance with KRS ~~Subtitle 304.3~~**Chapter 304, Subtitle 3**; and (b) A surplus lines broker licensed in accordance with KRS 304.10-120.

~~(3)~~~~(4)]~~ "Local government" is ~~defined~~**established**~~[defined]~~ by KRS 91A.080~~(2)~~~~(4)~~.

~~(4)~~~~(5)]~~ "Local government premium tax" shall mean ~~[means]~~ a tax or license fee levied pursuant to KRS 91A.080.

Section 2. Quarterly Payment and Reporting of Local Government Premium Taxes. (1) Each insurance company with local government premium tax liability shall make payment of its tax liability based on premiums actually collected within a calendar quarter. Payment shall be made to each local government within thirty (30) days of the end of each calendar quarter~~;~~ and shall be accompanied by~~[a report in the following format]~~:

(a)1. Form LGT-141, City, County, or Urban County Government Quarterly Insurance Premium Tax Return; and

2. Form LGT-142, City Credit Against County Taxes; or

(b) A form ~~containing the same information as~~**substantially similar to** Form LGT-141 ~~and LGT-142.~~

(2) A copy of the report required in subsection (1) of this section shall not be filed with the commissioner.

Section 3. Annual Reports. (1) By March 31 of each year, an insurance company shall **submit to**:

(a) ~~[Submit to]~~~~[Furnish]~~ Each local government to which local government premium taxes have been paid during the preceding calendar year, a report on the local government premium taxes paid during the preceding calendar year **on**~~[in the following format]~~:

1.a. Form LGT-140, City, County, or Urban County Government Insurance Premium Tax Annual Reconciliation; and

b. Form LGT-142, City Credit Against County Taxes; or

2. A form substantially similar to Form LGT-140; and

(b) ~~[Submit to]~~ The department a report on the local government premium taxes paid during the preceding calendar year, accompanied by a fee of five (5) dollars per insurance company, through ~~the~~ [:

1. ~~The~~ Department of Insurance Web site,

<https://insurance.ky.gov/doeservices/UserRole.aspx>

~~[https://insurance.ky.gov/kentucky/secured/Eservices/default.aspx; or 2. File Transfer Protocol through prior arrangement with the Department of Insurance].~~

(2)(a) If an insurance company does not have any local government premium tax liability for the preceding calendar year, the insurance company shall submit a report to the department in accordance with subsection (1)(b) of this section.

(b) The **report**~~[reports]~~ required by paragraph (a) of this subsection shall be required if the insurance company held an active license or certificate of authority at any time during the preceding calendar year.

Section 4. Each insurance company shall maintain records adequate to support the reports required by this administrative regulation.

Section 5. Each insurance company shall file the reports required by this administrative regulation. Reports required by this administrative regulation and filed on a group basis shall not be acceptable.

Section 6. Incorporation by Reference. (1) The following material is incorporated by reference:

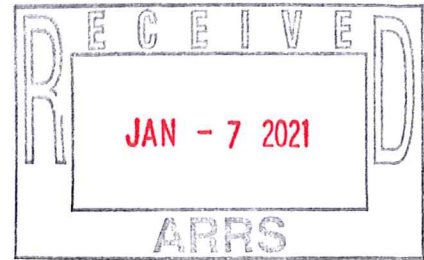
(a) Form LGT-140, "City, County, or Urban County Government Insurance Premium Tax Annual Reconciliation", 1/2012;

(b) Form LGT-141, "City, County, or Urban County Government Quarterly Insurance Premium Tax Return", 1/2012; and

(c) Form LGT-142 "City Credit Against County Taxes", 1/2012.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Department of Insurance, Mayo-Underwood Building, 500 Mero Street, 2 SE 11, ~~[215 West Main Street]~~, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m. This material is also available on the department's Web site ~~[website]~~ at: <http://insurance.ky.gov>.

Contact Person: DJ Wasson, Deputy Commissioner, 500 Mero Street, Frankfort, Kentucky 40601, phone +1 (502) 564-6026, fax +1 (502) 564-1453, email dj.wasson@ky.gov



PUBLIC PROTECTION CABINET

Andy Beshear
Governor

Department of Insurance
P.O. Box 517
Frankfort, Kentucky 40602-0517
1-800-595-6053
<http://insurance.ky.gov>

Kerry B. Harvey
Secretary

Ray A. Perry
Deputy Secretary

Sharon P. Clark
Commissioner

January 7th, 2021

Senator Stephen West, Co-Chair
Representative David Hale, Co-Chair
c/o Emily Caudill, Regulation Compiler
Administrative Regulation Review Subcommittee
Legislative Research Commission
029, Capitol Annex
Frankfort KY 40601

Re: **806 KAR 10:030. Surplus lines reporting and tax payment structure.**

Dear Co-Chairs West and Hale:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 806 KAR 10:030, the Department of Insurance proposes the attached agency amendments to 806 KAR 10:030.

Sincerely,

DJ Wasson, Deputy Commissioner
Department of Insurance
Mayo-Underwood Building
500 Mero Street
Frankfort, Kentucky 40601

SUGGESTED SUBSTITUTE

Final 1/5/2021 3:51 PM

**PUBLIC PROTECTION CABINET
Department of Insurance
Consumer Protection Division**

806 KAR 10:030. Surplus lines reporting and tax payment structure.

RELATES TO: KRS 304.1-070, 304.10-030, 304.10-040, ~~[304.10-050, 304.10-170,]~~304.10-180, 304.99-085

STATUTORY AUTHORITY: KRS 304.2-110~~(1)~~, 304.10-050, 304.10-170, 304.10-210,

NECESSITY, FUNCTION, AND CONFORMITY: KRS 304.2-110~~(1)~~ authorizes the Commissioner of Insurance to promulgate administrative regulations necessary for or as an aid to the effectuation of any provision of the Kentucky Insurance Code as ~~established~~***defined*** in KRS 304.1-010. ~~[KRS 304.2-110 authorizes the commissioner to make reasonable rules and administrative regulations necessary for or as an aid to the effectuation of any provision of the Kentucky Insurance Code.]~~ KRS 304.10-050 requires a surplus lines broker to file an affidavit setting forth facts from which it can be determined ~~if the~~***whether-such*** insurance was eligible for export under KRS 304.10-040. KRS 304.10-170 requires the commissioner to ~~establish~~***established***~~[prescribe]~~ the form of the verified statement of all surplus lines transactions for a preceding calendar quarter. KRS 304.10-210 requires the commissioner to promulgate administrative regulations to effectuate the Surplus Lines Law. This administrative regulation ~~establishes~~***provides for*** the reporting procedures to be used by surplus lines brokers for the reporting and payment of surplus lines tax pursuant to KRS 304.10-170 and 304.10-180.

Section 1. Affidavit Reporting.

(1) A licensed surplus broker shall file electronically a Kentucky Surplus Lines Affidavit of Insurance Transactions with the department within fifteen (15) days after the invoice date or effective date of each premium bearing surplus lines transaction, whichever occurs later.

(2) The affidavit shall be filed electronically through the Department of Insurance's secure Web site at <https://insurance.ky.gov/doeservices/UserRole.aspx> [~~http://insurance.ky.gov/kentucky/secured/Eservices/default.aspx~~].

Section 2. Quarterly Reporting and Payment of Surplus Lines Premium Taxes for Insurance Transactions.

(1) The department shall generate a quarterly report of all surplus lines transactions reported in a preceding calendar quarter, for each surplus lines broker based on the affidavits filed in accordance with Section 1 of this administrative regulation.

(2) The department shall make the quarterly report available to a licensed surplus lines broker on its secure Web site at <https://insurance.ky.gov/doeservices/UserRole.aspx> [~~https://insurance.ky.gov/kentucky/secured/Eservices/default.aspx, thirty (30) days following the end of each calendar quarter~~].

(3) Each licensed surplus lines broker shall:

(a) Reconcile the surplus lines taxes owed on the quarterly report with the broker's own records;

(b) Notify the department of any discrepancy in surplus lines taxes owed; and

(c) Pay all surplus lines premium tax and any applicable penalties owed pursuant to KRS 304.99-085 within thirty (30) days of the end of the calendar quarter [~~date of the quarterly report~~].

(4) Surplus lines premium tax shall be:

(a) Computed at the rate of three (3) percent on the premiums, assessments, fees, charges, or other consideration deemed part of the premium as shown on the quarterly report;

(b) Payable to the Kentucky State Treasurer; and

(c) Remitted to the Kentucky Department of Insurance electronically through the department's secure Web site at <https://insurance.ky.gov/doeservices/UserRole.aspx> [~~http://insurance.ky.gov/kentucky/secured/Eservices/default.aspx~~].

(5) Agencies paying a surplus lines premium tax on behalf of a broker shall submit payment electronically through the broker's Eservices account using the department's secure Web site at <https://insurance.ky.gov/doeservices/UserRole.aspx>

[~~http://insurance.ky.gov/kentucky/secured/Eservices/default.aspx~~].

(6) The department shall consider the payment of the surplus lines premium tax and any applicable penalty to be the submission of the broker's quarterly report and verified statement of transactions.

Section 3. Effective Date. ~~This~~**[The]** administrative regulation shall be effective beginning with the calendar quarter beginning July 1, 2021 [~~2019~~].

Section 4. Incorporation by Reference. (1) "Kentucky Surplus Lines Affidavit of Insurance Transaction", May 2019, is incorporated by reference.

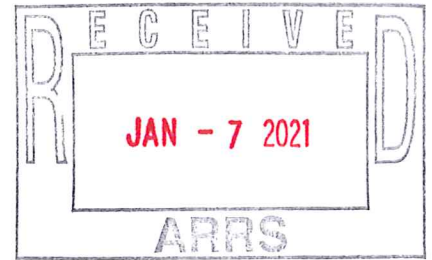
(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Department of Insurance, 215 West Main Street, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

(3) This material may also be obtained on the department's secure Web site at <https://insurance.ky.gov/doeservices/UserRole.aspx>. [Section 4. Incorporation by Reference.

(1) "Kentucky Surplus Lines Affidavit of Insurance Transactions", May 2019, is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Department of Insurance, 215 West Main Street, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m. The material is also available on the department's secure Web site at <https://insurance.ky.gov/doeservices/UserRole.aspx> [~~http://insurance.ky.gov/kentucky/secured/Eservices/default.aspx~~].

Contact Person: DJ Wasson, Deputy Commissioner, 500 Mero Street, Frankfort, Kentucky 40601, phone +1 (502) 564-6026, fax +1 (502) 564-1453, email dj.wasson@ky.gov



PUBLIC PROTECTION CABINET

Department of Insurance

P.O. Box 517
Frankfort, Kentucky 40602-0517

1-800-595-6053

<http://insurance.ky.gov>

Andy Beshear

Governor

Ray A. Perry

Deputy Secretary

Kerry B. Harvey

Secretary

Sharon P. Clark

Commissioner

January 7th, 2021

Senator Stephen West, Co-Chair
Representative David Hale, Co-Chair
c/o Emily Caudill, Regulation Compiler
Administrative Regulation Review Subcommittee
Legislative Research Commission
029, Capitol Annex
Frankfort KY 40601

Re: **806 KAR 12:010. Advertising.**

Dear Co-Chairs West and Hale:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 806 KAR 12:010, the Department of Insurance proposes the attached agency amendments to 806 KAR 12:010.

Sincerely,

DJ Wasson, Deputy Commissioner
Department of Insurance
Mayo-Underwood Building
500 Mero Street
Frankfort, Kentucky 40601

SUGGESTED SUBSTITUTE

Final 1/5/2021 3:40 PM

PUBLIC PROTECTION CABINET

Department of Insurance

Life and Health Division

806 KAR 12:010. Advertising.

RELATES TO: KRS ~~[304.1-010,]~~304.3-240, 304.12-010, ~~304.12-020,~~ 304.12-060, 304.12-120, 304.12-130~~[,]~~

STATUTORY AUTHORITY: KRS 304.2-110~~(1)~~

NECESSITY, FUNCTION, AND CONFORMITY: KRS 304.2-110~~(1)~~ authorizes the Commissioner of Insurance to promulgate administrative regulations necessary for or as an aid to the effectuation of any provision of the Kentucky Insurance Code as ~~established~~~~[defined]~~ in KRS 304.1-010. ~~[KRS 304.2-110 provides that the Executive Director of Insurance shall make reasonable rules and regulations necessary for or as an aid to the effectuation of any provision of the Kentucky Insurance Code.]~~ This administrative regulation clarifies the minimum standards for advertising as ~~established~~~~[set forth]~~ in KRS 304.12-010 and 304.12-020.

Section 1. **Definitions. (1) "Exception" means:**

(a) Any provision in a policy in which coverage for a specified hazard is entirely eliminated; and

(b) A statement of risk not assumed under the policy.

(2) "Limitation" means any provision that restricts coverage under the policy other than an exception or a reduction.

(3) "Reduction" means:

(a) Any provision that reduces the amount of the benefit; and

(b) A risk of loss is assumed but payment upon the occurrence of the loss is limited to some amount or period less than would be otherwise payable had the reduction clauses not been used.

Section 2. (1) An insurance advertisement for the purpose of this administrative regulation~~[the advertisement regulations]~~ shall include:

(a) Printed and published material and descriptive literature of an insurer used in newspapers, magazines, radio and TV scripts, ~~and~~ billboards and similar displays;~~[and]~~

(b) Descriptive literature and ~~[the]~~sales aids of all kinds issued by an insurer for presentation to members of the public, including ~~[but not limited to]~~ circulars, leaflets, booklets, depictions, illustrations, and form letters; and

(c) Prepared sales talks, presentations and material for use by agents and brokers, and representations made by agents and brokers ~~[in accordance therewith].~~

(2) Policy for the purpose of the advertisement regulations shall include any policy, plan, certificate, contract, agreement, statement of coverage, rider, or endorsement ~~that~~~~[which]~~ provides accident or sickness benefits or medical, surgical, or hospital expense benefits, whether on

a cash indemnity, reimbursement, or service basis, except **if[when]** issued in connection with another kind of insurance other than life, and except disability and double indemnity benefits included in life insurance and annuity contracts.

(3) Insurer for the purpose of the advertisement regulations shall include any corporation, association, partnership, reciprocal exchange, interinsurer, Lloyds, fraternal benefit society, and any other legal entity engaged in the advertisement of a policy [as herein defined].

Section ~~3.[2.]~~ ***This administrative regulation***~~[The advertisement regulations]~~ shall apply to agents and brokers to the extent that ***an agent and broker***~~[they]~~ are responsible for the advertisement of any policy.

Section ~~4.[3.]~~ (1) Advertisements shall be truthful and not misleading in fact or in implication. Words or phrases, the meaning of which is clear only by implication or by familiarity with insurance terminology, shall not be used.

(2) Words, phrases, or illustrations shall not be used in a manner ***that[which]*** misleads or has the capacity and tendency to deceive as to the extent of any policy benefit payable, loss covered, or premium payable. An advertisement relating to any policy benefit payable, loss covered, or premium payable shall be sufficiently complete and clear ***[as]*** to avoid deception or the capacity and tendency to deceive.~~[; to wit:]~~

(a) The words and phrases "all," "full," "complete," "comprehensive," "up to," "as high as," "this policy will pay your hospital and surgical bills," or "this policy will replace your income," or similar words and phrases shall not be used so as to exaggerate any benefit beyond the terms of the policy, ***and[but]*** may be used only in ***a[such]*** manner ***that[as]*** fairly describes ***a[such]*** benefit.

(b) A policy covering only one (1) disease or a list of specified diseases shall not be advertised ~~[se]~~ as to imply coverage beyond the terms of the policy. Synonymous terms shall not be used to refer to any disease ~~[se]~~ as to imply broader coverage than is the fact.

(c) The benefits of a policy ***that[which]*** pays varying amounts for the same loss occurring under different conditions or ***that[which]*** pays benefits only ***if[when]*** a loss occurs under certain conditions shall not be advertised without disclosing the limited conditions under which the benefits referred to are provided by the policy.

(d) Phrases ~~similar to~~ ~~[such as]~~ "this policy pays \$1,800 for hospital room and board expenses" ***shall be[are]*** incomplete without indicating the maximum daily benefit and the maximum time limit for hospital room and board expenses.

(3) ***If[When]*** an advertisement refers to any dollar amount, period of time for which any benefit is payable, cost of policy, or specific policy benefit or the loss for which ***a[such]*** benefit is payable, it shall also disclose those exceptions, reductions, and limitations affecting the basic provisions of the policy without which the advertisement would have the capacity and tendency to mislead or deceive.~~[; to wit:]~~

(a) ~~***If***~~~~[The term "exception" shall mean any provision in a policy where~~ ~~[whereby] coverage for a specified hazard is entirely eliminated; it is a statement of risk not~~ ~~[no] assumed under the policy.~~

(b) ~~***The term "reduction" shall mean any provision which reduces the amount of the benefit; a risk of loss is assumed but payment upon the occurrence of such loss is limited***~~

~~to some amount or period less than would be otherwise payable had the [such] reduction clause not been used.~~

~~(c) The term "limitation" shall mean any provision which restricts coverage under the policy other than an exception or a reduction.~~

~~(d) When~~ a policy contains a time period between the effective date of the policy and the effective date of coverage under the policy or a time period between the date of coverage under the policy or a time period between the date a loss occurs and the date benefits begin to accrue for the[such] loss, an advertisement shall disclose the existence of the[such] periods.

~~(b)[(e)]~~ An advertisement shall disclose the extent to which any loss is not covered if the cause of the[such] loss is traceable to a condition existing prior to the effective date of the policy. ~~If [When]~~ a policy does not cover losses traceable to preexisting conditions, ~~the [an]~~ advertisement of the policy shall not state or imply that the applicant's physical condition or medical history will not affect the issuance of the policy or payment of a claim ~~[thereunder]~~. This shall limit[limits] the use of phrase "no medical examination required" and similar phrases ~~[of similar import]~~.

Section 5.[4.] An advertisement that[which] refers to renewability, cancelability, or termination of a policy, that[or which] refers to a policy benefit, or that[which] states or illustrates time or age in connection with eligibility of applicants or continuation of the policy, shall disclose the provisions relating to renewability, cancelability, and termination and any modification of benefits, losses covered or premiums because of age or for other reasons, in a manner that[which] shall not minimize or render obscure the qualifying conditions.

Section 6.[5.] All information required to be disclosed by this administrative regulation[the advertisement regulations] shall be stated[set-out] conspicuously and in close conjunction with the statements to which the [such] information relates or under appropriate captions of [such] prominence that [is] shall not be minimized, rendered obscure, or presented in an ambiguous fashion or intermingled with the context of the advertisement so as to be confusing or misleading.

Section 7.[6.] Testimonials used in advertisements shall [must] be genuine, represent the current opinion of the author, be applicable to the policy advertising, and be accurately reproduced. The insurer, in using a testimonial shall make [makes] as its own all of the statements contained in the advertisement [therein], and all the advertisement including the [such] statements shall be [is] subject to all of the provisions of this administrative regulation [the advertisement regulations].

Section 8.[7.] An advertisement relating to the dollar amounts of claims paid, the number of persons insured, or similar statistical information relating to any insurer or policy shall not be used unless it accurately reflects all of the relevant facts. The [Such] advertisement shall not imply that [such] statistics are derived from the policy advertised unless that [such] is the fact.

Section **9.[8.]** An offer in an advertisement of free inspection of a policy or offer of a premium refund shall not be ~~[is not]~~ a cure for misleading or deceptive statements contained in the ~~[such]~~ advertisement.

Section **10.[9.]** (1) **If[When]** a choice of the amount of benefits is referred to, an advertisement shall disclose that the amount of benefits provided depends upon the plan selected and that the premium will vary with the amount of the benefits.

(2) **If[When]** an advertisement refers to various benefits that could~~[which may]~~ be contained in two (2) or more policies, other than group master policies, the advertisement shall disclose that the~~[such]~~ benefits are provided only through a combination of the~~[such]~~ policies.

Section **11.[10.]** An advertisement shall not directly or indirectly make unfair or incomplete comparisons of policies or benefits or otherwise falsely disparage competitors, ~~[their]~~ policies, services, or business methods.

Section **12.[11.]** (1) An advertisement that~~[which]~~ is intended to be seen or heard beyond the limits of the jurisdiction in which the insurer is licensed shall not imply licensing beyond these limits.

(2) Advertisements ~~[Such advertisements]~~ by direct mail insurers shall indicate that the insurer is licensed in a specified state or states only, or is not licensed in a specified state or states, by use of [some] language similar to ~~[such as]~~ "This company is licensed only in State A" or "This company is not licensed in State B."

Section **13.[12.]** The identity of the insurer shall be made clear in all of the insurers~~[its]~~ advertisements. An advertisement shall not use a trade name, service mark, slogan, symbol, or other device that~~[which]~~ has the capacity and tendency to mislead or deceive as to the true identity of the insurer.

Section **14.[13.]** An advertisement of a particular policy shall not state or imply that prospective policyholders become group or quasi-group members and as members ~~[such]~~ enjoy special rates or underwriting privileges, unless that ~~[such]~~ is the fact.

Section **15.[14.]** An advertisement shall not state or imply that a particular policy or combination of policies is an introductory, initial, or special offer and that the applicant shall ~~[will]~~ receive advantages by accepting the offer, unless that ~~[such]~~ is the fact.

Section **16.[15.]** (1) An advertisement shall not state or imply that an insurer or a policy has been approved or an insurer's financial condition has been examined and found to be satisfactory by a governmental agency, unless that ~~[such]~~ is the fact.

(2) An advertisement shall not state or imply that an insurer or a policy has been approved or endorsed by any individual, group of individuals, society, association, or other organization, unless that ~~[such]~~ is the fact.

Section ~~17.~~~~16.]~~ An advertisement shall not contain untrue statements with respect to the time within which claims are paid or statements ~~that~~~~which~~ imply that claim settlements will be liberal or generous beyond the terms of the policy.

Section ~~18.~~~~17.]~~ An advertisement shall not contain statements ~~that~~~~which~~ are untrue in fact or by implication misleading with respect to the insurer's assets, corporate structure, financial standing, age, or relative position in the insurance business.

Section ~~19.~~~~18.]~~ (1) Each insurer shall maintain at its home or principal office a complete file containing every printed, published, or prepared advertisement of individual policies and typical printed published or prepared advertisements of blanket, franchise, and group policies [hereafter] disseminated in this or any other state whether or not licensed in ~~the~~ ~~such~~ other state, with a notation attached to each ~~such~~ advertisement ~~that~~~~which~~ shall indicate the manner and extent of distribution and the form number of any policy advertised. ~~The~~ ~~Such~~ file shall be subject to regular and periodical inspection by ~~the~~ Department of Insurance ~~of this office~~. All ~~such~~ advertisements shall be maintained ~~by the insurer~~ ~~in said file~~ for a period of not less than three (3) years.

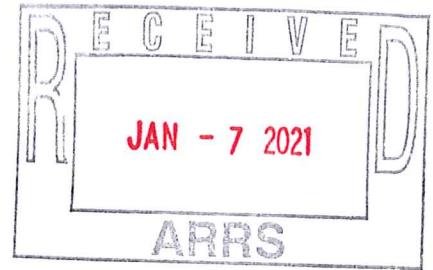
(2) Each insurer required to file an annual statement ~~in accordance with KRS 304.3-240~~, which is now or which [hereafter] becomes subject to the provisions of ~~this administrative regulation~~, shall ~~the advertisement regulations must~~ file with ~~the~~ Department of Insurance, ~~this office~~ together with its annual statement, a certificate executed by an authorized officer of the insurer ~~stating~~ ~~wherein it is stated~~ that to the best of his ~~or her~~ knowledge, information, and belief the advertisements ~~that~~~~which~~ were disseminated by the insurer during the preceding statement year complied or were made to comply in all respects with the provisions of ~~KRS Chapter 304~~~~the insurance laws of this state~~ ~~as implemented and interpreted by the advertisement regulations~~. ~~It is requested that the chief executive officer of each insurer to which the advertisement regulations are addressed acknowledge its receipt and indicate its intention to comply therewith.~~

Section ~~20.~~~~19.]~~ (1) ~~The~~ ~~purpose and intent of this administrative regulation shall be~~ ~~is~~ ~~to prohibit the transmission of information in the form of advertisements or otherwise which might be deceptive, misleading or untrue. The~~ ~~general~~ ~~intent~~ ~~therefore~~ ~~and the~~ provisions of this administrative regulation shall not be ~~not~~ expressly limited to a particular type of insurance and ~~it~~ shall be applied to all insurance on subjects of risk located in or to be performed in ~~Kentucky~~ ~~this state~~.

(2) ~~The use of advertising material previously filed with and approved by the Department of Insurance~~ ~~office~~ ~~shall not subject the filer to any disciplinary action or penalty by the department~~ ~~this office~~ ~~as long as such prior approval remains in effect.~~

(3) Any person, firm, corporation, or association who knowingly aids and abets an insurer in the violation of this administrative regulation or the applicable provisions of the Insurance Code shall be subject to the penalties ~~established by KRS Subtitle 304.99~~ ~~provided by law~~.

Contact Person: DJ Wasson, Deputy Commissioner, 500 Mero Street, Frankfort, Kentucky 40601, phone +1 (502) 564-6026, fax +1 (502) 564-1453, email dj.wasson@ky.gov



PUBLIC PROTECTION CABINET

Department of Insurance

P.O. Box 517
Frankfort, Kentucky 40602-0517
1-800-595-6053
<http://insurance.ky.gov>

Andy Beshear
Governor

Ray A. Perry
Deputy Secretary

Kerry B. Harvey
Secretary

Sharon P. Clark
Commissioner

January 7th, 2021

Senator Stephen West, Co-Chair
Representative David Hale, Co-Chair
c/o Emily Caudill, Regulation Compiler
Administrative Regulation Review Subcommittee
Legislative Research Commission
029, Capitol Annex
Frankfort KY 40601

Re: **806 KAR 12:020. Fair disclosure to consumers.**

Dear Co-Chairs West and Hale:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 806 KAR 12:020, the Department of Insurance proposes the attached agency amendments to 806 KAR 12:020.

Sincerely,

DJ Wasson, Deputy Commissioner
Department of Insurance
Mayo-Underwood Building
500 Mero Street
Frankfort, Kentucky 40601

SUGGESTED SUBSTITUTE

Final 1/5/2021 3:40 PM

PUBLIC PROTECTION CABINET

Department of Insurance

Life and Health Division

806 KAR 12:020. Fair disclosure to consumers.

RELATES TO: KRS ~~[304.1-010,]~~304.1-050, 304.2-310, 304.9-440, 304.12-010, 304.12-020, 304.12-040, 304.12-110, 304.12-130, 304.14-120 to 304.14-180

STATUTORY AUTHORITY: KRS 304.2-110(1)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 304.2-110(1) authorizes the Commissioner of Insurance to promulgate administrative regulations necessary for or as an aid to the effectuation of any provision of the Kentucky Insurance Code as **established[defined]** in KRS 304.1-010. ~~[304.2-110 provides that the Executive Director of Insurance shall make reasonable rules and regulations necessary for or as an aid to the effectuation of any provision of the Kentucky Insurance Code.]~~ This administrative regulation **establishes[~~further interprets and implements statutory~~]** standards to assure fair disclosure to **insurance** consumers.

Section 1. Definitions.

(1) **"Agent" is defined by KRS 304.9-020**

(2) "Commissioner" is defined by KRS 304.1-050(1).

(3) **"Consultant" is defined by KRS 304.9-040.**

(4)~~(2)~~ "Department" is defined by KRS 304.1-050(2).

(5) **"Insurer" is defined by KRS 304.1-050.**

(6) **"Person" is defined by KRS 304.1-020.**

(7)~~(3)~~ "Pure endowment benefit" means a guaranteed insurance benefit, actuarially determined, the payment of which is contingent upon the survival of the insured to a specified point in time.

Section 2 ~~[Deeming it to be in the highest degree of public interest that the insurance buying public will not be deceived or misled][in regard to][the purchase of life insurance, it is [therefore] considered proper and desirable to further implement and interpret the statutory standards which generally relate to the sale of life insurance.~~

Section 3[2]. Applicability. This administrative regulation shall apply to:

(1)(a) Any ~~[To any]~~ insurance company, person, ~~[broker,]~~ or consultant~~[, as those terms are defined in the insurance code, KRS Chapter 304].~~

(b) Acts ~~[(2) To acts]~~ and practices in the advertising, promotion, solicitation, **and** negotiation of or effecting the sale of life insurance policies; and

(c) Acts and practices **related to the sale of insurance**, whether **or not** they involve the use of language disseminated by means of sales kits, policy jackets or covers, letters, personal **presentations**~~[presentation]~~, visual aids, or other sales media.

(2) This ~~[(this)]~~ administrative regulation shall not apply to group insurance policies or to annuity contracts~~{}].~~

~~(3) To such acts and practices whether they involve the use of language disseminated by means of sales kits, policy jackets or covers, letters, personal presentation, visual aids or other sales media.]~~

Section ~~3~~~~[4]~~~~[3]~~. Statement of Policy. (1)~~[The purpose of this administrative regulation shall be]~~~~[, essentially, is]~~ To assure fair disclosure of relevant facts in the sale of life insurance and ~~[. This administrative regulation is also designed]~~ to protect purchasers and prospective purchasers of life insurance policies ~~[against the use of]~~ sales methods ~~that~~~~[which]~~ are misleading ~~shall not be used, including~~~~[because of]:~~

(a) The omission of facts fairly describing both the subject matter of a life insurance policy and the benefits obtainable under the policy ~~[thereunder];~~~~;~~

(b) An undue emphasis upon facts ~~that might~~~~[which may]~~ be true but ~~[, however, true,]~~ are not relevant to the sales of life insurance; ~~and~~~~;~~

(c) An undue emphasis upon features ~~that~~~~[which]~~ are of incidental or secondary importance to the life insurance aspects of a policy.

~~(2) [To assure] [such] [fair disclosure and to prevent the use of misleading sales methods this administrative regulation provides advance interpretations as to specific acts and practices which the Department] [Office] [of Insurance believes constitute violations of] [said] [statutes; provided, however, it shall be] [is] [recognized that whether particular conduct comes within the prohibition of] [said] [statutory provisions depends upon the facts in each case.]~~

~~(3)]~~ Although this administrative regulation is addressed to selected acts and practices ~~that~~~~[which]~~ have been of serious concern to the Department ~~[Office]~~ of Insurance, this ~~[delimitation]~~ shall not be ~~[is not]~~ a determination that any act of practice not established~~[specified]~~ in this administrative regulation ~~[herein]~~ is in conformance with the ~~[aforesaid]~~ statutory provisions.

~~(3) [However, this administrative regulation shall] [will] [be read as a guide in considering whether any unspecified act or practice is of the kind or character which may be within the prohibitions of the] [said] [statutory provisions.]~~

~~(4) In accordance with the purposes and limitations set out in Sections 3 and 4] [1 and 2] [of this administrative regulation,] The acts and practices established in Sections 7 through 7 of this administrative regulation shall be prohibited~~[set out in the following sections are declared to be unlawful when used in context or done under] [such] [circumstances or conditions as to have the capacity and tendency to mislead a purchaser or prospective purchaser to believe that he will receive, or that it is probable he will receive something other than an insurance policy, some benefit not available to other persons of the same class and equal expectation of life. Each of the] [said] [sections of this administrative regulation shall] [will, therefore,] [be construed and applied in concordance with the provisions of this section].~~~~

Section ~~4~~~~[5]~~~~[4]~~. Policy Forms.~~[From the effective date of this administrative regulation]~~ A company shall not ~~[no company shall]~~:

(1) Include coupons as a part of policies containing pure endowment benefits; ~~[- A pure endowment benefit is a guaranteed insurance benefit, actuarially determined, the payment of which is contingent upon the survival of the insured to a specified point in time.]~~

(2) Issue a policy of insurance containing pure endowment benefits unless the gross premium for these provisions is shown prominently and separately in the policy as distinct from the regular insurance gross premium. This subsection shall not apply to any policy in which the amount of any pure endowment or periodic benefit or benefits payable during any policy year is greater than the total annual premium for the [such] year.

(a) This separate gross premium for the series of pure endowments shall be based on reasonable assumptions and be consistent with the **[basic]** policy **[form]** as to interest, mortality, and expense.

(b) The amount of the guaranteed series of pure endowment benefits shall be expressed in dollar amounts and shall not be presented or defined, either in the policy or any sales and advertising material, as a "percentage" of any premiums or benefits contained in the policy [therein].

(c) All policies with pure endowments sold in Kentucky ~~[after the 60th day following the date of this order]~~ shall include [bear] the following statement ***stamped, -or similar wording approved by the department*** [office] ***set forth, rubberstamped*** on the face of the policy until present stocks are exhausted: "The premium includes \$ ___ for pure endowment benefits; [-]"

(3) Use a dividend illustration in connection with a participating life insurance policy unless the [such] dividend illustration is on file with the commissioner [Executive Director of Insurance] as a part of a rate book or as a separate filing; and [-]

(4) Use [such] words ***or phrases such*** as "investment or investment plan," "insured investment plan," "profitsharing," "charter plan," "founders plan," or similar language in a life insurance policy, either in context or under [such] circumstances or conditions as to have the capacity and tendency to mislead a purchaser or prospective purchaser to believe that he ***or she*** will receive or that it is probable he ***or she*** will receive something other than an insurance policy, some benefit not provided in the policy, or some benefit not available to other persons of the same class and equal expectation of life.

Section ~~5.6.~~ [5.] Sales Presentation and Solicitation. ***Sales presentations and solicitations shall not [From the effective date of this administrative regulation it shall be] [deemed] [unlawful to make]:***

(1) Reference to a policy using similar terminology as ***established in Section 4 [described in Section 5] [4] (4)*** of this administrative regulation, ***including [and more particularly]:***

(a) Statements or representations that the prospective policyholder shall [will] receive the right to benefits from the insurance company ***that [which]*** are not stipulated in the policy itself; or

(b) Statements or references that refer to premium payments in language stating the payment is a "deposit" unless:

1. The payment establishes a debtor-creditor relationship between the insurance company and the policyholder; or

2. The term is used in conjunction with the word "premium" in [such] a manner that clearly indicates ~~[as to indicate clearly]~~ the true character of the payment; [-]

(c) Statements **that[which]** describe a life insurance policy or premium payments in terms of "unit of participation", unless accompanied by other language fairly indicating their reference to a life insurance policy or to premium payments~~[, as the case may be]~~. Statements **that[which]** describe a life insurance policy or premium payments in terms of units ~~[henceforth]~~ shall be followed by the dollar amount representing the annual premium for each unit or units described~~[,]~~ and further wording clearly indicating that the unit or units represent a life insurance policy; **and**~~[,]~~

(d) Statements **that[which]** infer that the guaranteed endowments available under a policy are interest, earnings, return on investment, or anything other than benefits for which the cost is taken into consideration in calculating the total premium~~[,]~~

(2) Reference to any policy or contract in ~~[such]~~ a manner as to misrepresent its true nature and more particularly:

(a) Statements **that[which]** tend to lead the prospect to believe that the agent is dealing in other than a life insurance contract~~[,]~~

(b) Statements **that[which]** tend to lead the prospect to believe that life insurance is incidental to the purchase of the contract~~[,]~~

(c) Statements or reference relating to the growth of the life insurance industry or to the tax status of life insurance companies in a context **that[which]** would reasonably be understood to interest a prospect in the purchase of shares of stock in an insurance company rather than in the purchase of a life insurance policy~~[,]~~

(d) Statements **that[which]** reasonably give rise to the inference that the insured will enjoy a status common to a stockholder or will acquire a stock ownership interest in the insurance company by virtue of purchasing the policy; **and**~~[,]~~

(e) References or statements to a company's "investment department," "insured investment department," or similar terminology in ~~[such]~~ a manner as to imply that the policy was sold, ~~[or]~~ issued, or is serviced by the investment department of the insurance company~~[,]~~

(3) **Reference[References regarding]** the payment of dividends in ~~[such]~~ a manner as to misrepresent their true nature, **including[and more particularly]**:

(a) Providing any illustration as to projected dividends unless the dividend scale is based on the experience currently used by the company for dividends~~[,]~~ and unless the illustration is expressed in dollar amounts~~[,]~~

(b) Statements **that[which]** use the words "dividends," "cash dividends," "surplus," or similar phrases in ~~[such]~~ a manner as to state or imply that the payment of dividends is guaranteed or certain to occur~~[,]~~

(c) Statements or references that a purchaser of a policy will share in a stated percentage or portion of the earnings of the company~~[,]~~

(d) Statements **that[which]** use the word "dividend," "cash dividends," "surplus," or similar terminology **not expressed as a dollar amount[shall be expressed only in dollar amounts]**. This shall apply to projected dividends **and[as well as]** past experience on dividends; **and**~~[,]~~

(e) Statements or inferences that projected dividends under a participating policy **are[will be or can be]** sufficient at any time to assure the receipt of benefits~~[, such as a paid-up policy,]~~ without the further payment of premiums unless the statement is accompanied by an adequate explanation as to:

1. What benefits or coverage would be provided; **and** ~~[at such time.]~~

2. The conditions under which this would occur; ~~and~~;

(4) Reference to any policy or contract in [such] a manner as to suggest that certain policyholders will receive preferential treatment, ~~including and more particularly~~:

(a) Statements or references ~~that~~[which] would reasonably tend to imply that by purchasing a policy, the purchaser or prospective purchaser will become a member of a limited group of persons who may receive in the payment of dividends, special advantages, benefits, or favored treatment. This paragraph ~~shall not apply~~[has no relation or applicability] to policies under which insured persons of one (1) class of risk may receive dividends of a higher rate than persons of another class of risk;

(b) Statements or references that each policyholder is given the right to allocate a specific number of policies;

(c) Statements or inferences that only a limited number of person or a limited class of persons, will be eligible to buy a particular kind of policy, unless the [such] limitation is related to recognized underwriting practices;

(d) Statements or inferences that policyholders who act as "centers of influence" for an insurance company in that capacity will share in the company's surplus earnings in some manner not available to policyholders of the same class; ~~and~~;

(e) Comparisons to the past experience of other life insurance companies ~~in which~~[where] the comparison is based on an arbitrary selection as to either the companies or the statistics or other data[which are] used.~~[This paragraph shall be]~~[is]~~[intended to protect policyholders from being misled as to the character of a policy or its benefits, through the presentation of experience of companies with reverse experience.]~~

Section ~~6~~[7][6]. Dividends. (1) Policyholder premium or gross cost reductions on participating policies ~~shall~~ [will] be designated dividends. ~~[No]~~Other items shall ~~not~~ be designated as dividends.

~~(a)~~ Dividends shall not be guaranteed as to amount, percentage, or premium, or other basis.

~~(b)~~ The decision for declaration of a dividend shall be determined by the insurance company's board of directors, based solely on operating results or projection for those policies designated ["]participating["] policies.

(2) ~~If~~[When] dividends are ["]declared["] for a policy year classification [(]based on specific plan ~~or~~ [and/or] age classifications as they relate to contribution of company ability to declare dividends[)], dividends ~~shall~~ [will] be apportioned to all policies so entitled in that policy year.

(3) The date dividends are declared shall be the date liability is established for the dividends and the reserve established for this liability ~~shall~~ [will] be the full amount of the dividends declared.

~~[Section 8]~~[7][. ~~Other Provisions. (1) An~~[In order to implement this administrative regulation the office will exercise its right at its discretion to require the submission of any or all sales material.

~~(2) Each company will be held responsible for disseminating this administrative regulation to its representatives and assuring compliance.~~

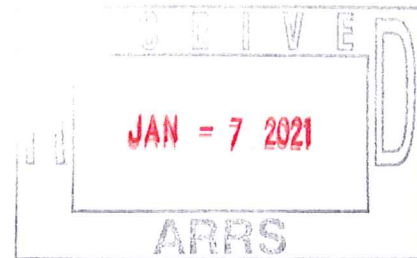
~~(3) The provisions of this administrative regulation are intended to apply only to policies issued on or after its effective date for delivery in this state, and it does not apply to contracts is-~~

sued prior to the effective date nor to contracts issued prior to the effective date nor to contracts issued for delivery outside the state. The adoption of this administrative regulation should not disturb or cast doubt about the validity of previously issued contracts described herein.

~~(4) No **[insurance company, insurance agent, consultant, or]** [nor] **[insurance company representative shall not]** [as a competitive or "twisting" device,] **[inform any policyholder or prospective policyholder that any insurance company was required to change a policy form or related material to comply with the provisions of this administrative regulation.**~~

~~(5) **The commissioner**~~ [executive director] ~~**[may suspend or revoke any license or certificate of authority for violation of the provisions of this administrative regulation after a hearing upon written notice as required by KRS 304.2-310**~~ [the insurance code] ~~**[.]**~~

Contact Person: DJ Wasson, Deputy Commissioner, 500 Mero Street, Frankfort, Kentucky 40601, phone +1 (502) 564-6026, fax +1 (502) 564-1453, email dj.wasson@ky.gov



PUBLIC PROTECTION CABINET

Department of Insurance

P.O. Box 517

Frankfort, Kentucky 40602-0517

1-800-595-6053

<http://insurance.ky.gov>

Andy Beshear

Governor

Ray A. Perry

Deputy Secretary

Kerry B. Harvey

Secretary

Sharon P. Clark

Commissioner

November 25th, 2020

Senator Stephen West, Co-Chair
Representative David Hale, Co-Chair
c/o Emily Caudill, Regulation Compiler
Administrative Regulation Review Subcommittee
Legislative Research Commission
029, Capitol Annex
Frankfort KY 40601

Re: **806 KAR 12:150. Annuity disclosures.**

Dear Co-Chairs West and Hale:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by **806 KAR 12:150**, the Department of Insurance proposes the attached amendment to **806 KAR 12:150**.

Sincerely,

DJ Wasson, Deputy Commissioner
Department of Insurance
Mayo-Underwood Building, 500 Mero St.
Frankfort, KY 40601

Staff-suggested Amendment

Final Version 12/17/2020 1:05 p.m.

PUBLIC PROTECTION CABINET

Department of Insurance

Health and Life Division

(Amended After Comments)

806 KAR 12:150. Annuity disclosures.

Page 1

Title paragraph

Line 5

After "Annuity disclosures", insert "1".

Page 2

Section 1(4)

Lines 3 through 10

After "(4)", delete the following:

"Determinable elements" means elements derived from processes or methods that are guaranteed at issue and not subject to company discretion, but ones in which the values or amounts cannot be determined until some point after issue. These elements include the premiums, credited interest rates including any bonus, benefits, values, noninterest based credits, charges, or elements of formulas used to determine at issue. An element is determinable if it was calculated from underlying determinable elements only, or from both determinable and guaranteed elements.

(5)

Page 2

Section 1(6)

Line 13

Before "(6)", insert "(5)".

Delete "(6)".

Page 2

Section 1(7)

Line 15

Before "(7)", insert "(6)".

Delete "(7)".

Page 2

Section 1(8)

Line 19

Before "(8)", insert "(7)".

Delete "(8)".

Page 3

Section 1(9)

Lines 1 through 8

Before "(9)", insert "(8)".

Delete the following:

(9) "Market Value Adjustment" or "MVA" feature means a positive or negative adjustment that may be applied to the account value or cash value of the annuity upon withdrawal, surrender, contract annuitization or death benefit payment based on either the movement of an external index or on the company's current guaranteed interest rate being offered on new premiums or new rates for renewal periods, if that withdrawal, surrender, contract annuitization or death benefit payment occurs at a time other than on a specified guaranteed benefit date.

(10)

Page 3

Section 1(11)

Line 13

Before "(11)", insert "(9)".

Delete "(11)".

Page 3

Section 1(12)

Line 15

Before "(12)", insert "(10)".

Delete "(12)".

Page 3

Section 2(1)

Line 21

After "deferred annuities that", insert "do not".

After "contain", delete "no".

Page 4

Section 2(2)(a)1.

Line 2

After "employee pension plan", insert "that".
Delete "which".

Page 5

Section 2(3)

Line 2

After "77a et seq.)", insert "i".

Page 5

Section 2(4)(a)

Lines 3 and 6

After "(4)", insert "(a)".
Delete "(a.)"

After "with Section 3", insert "of this administrative regulation".

After "January 1, 2014, unless", delete ", or until".

Page 5

Section 2(4)(b)

Line 9

Before "(b.)", insert "(b)".
Delete "(b.)"

After "Notwithstanding", insert the following:

subsection (4) of this section

Delete "Subsection (4)".

Page 5

Section 2(4)(c)

Lines 11 and 12

Before "(c.)", insert "(c)".
Delete "(c.)".

After "provisions of this", insert "administrative".

After "additional disclosure", insert "i".
Delete ".".

Page 7

Section 3(2)(b)

Line 8

After "website address", insert "L".

Page 7

Section 3(2)(c)1.

Line 14

After "rates, caps", insert "L".

Page 8

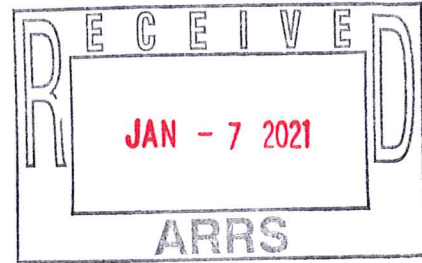
Section 3(2)(e)

Lines 8 and 9

After "crediting rate formula", delete ",".

After "contracts that", insert "contain".

Delete "contains".



PUBLIC PROTECTION CABINET

Department of Insurance

P.O. Box 517

Frankfort, Kentucky 40602-0517

1-800-595-6053

<http://insurance.ky.gov>

Andy Beshear

Governor

Ray A. Perry

Deputy Secretary

Kerry B. Harvey

Secretary

Sharon P. Clark

Commissioner

January 7th, 2021

Senator Stephen West, Co-Chair
Representative David Hale, Co-Chair
c/o Emily Caudill, Regulation Compiler
Administrative Regulation Review Subcommittee
Legislative Research Commission
029, Capitol Annex
Frankfort KY 40601

Re: **806 KAR 12:180. Military sales practices.**

Dear Co-Chairs West and Hale:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 806 KAR 12:180, the Department of Insurance proposes the attached agency amendments to 806 KAR 12:180.

Sincerely,

DJ Wasson, Deputy Commissioner
Department of Insurance
Mayo-Underwood Building
500 Mero Street
Frankfort, Kentucky 40601

SUGGESTED SUBSTITUTE

Final 1/5/2021 2:51 PM

PUBLIC PROTECTION CABINET

Department of Insurance

Life and Health Division

806 KAR 12:180. Military sales practices.

RELATES TO: KRS 304.1-040, 304.5-020, 304.5-030, ~~304.9-020[(10)]~~[304.9-020(7)], 304.12-010, 304.12-030, 304.15-310, 12 C.F.R. 205, 230, 707, 10 U.S.C. 992, 12 U.S.C. 4301, 26 U.S.C. 401(a), (k), 403(b), 408(k), (p), 414, 457, 501(c)(23), 29 U.S.C. 1001, 38 U.S.C. 1965, Pub.L. 109-290

STATUTORY AUTHORITY: KRS 304.2-110~~(1)~~, 304.12-257, 10 U.S.C. 992(9)(a)(2), Pub.L. 109-290

NECESSITY, FUNCTION AND CONFORMITY: KRS 304.12-257 authorizes the commissioner [~~executive director~~] to promulgate administrative regulations to protect service members of the United States Armed Forces from dishonest insurance marketing and sales practices. [~~EO 2008-507, effective June 16, 2008, reorganized the Office of Insurance as the Department of Insurance and established the Commissioner of Insurance, rather than executive director, as head of the department.~~] Pub.L. 109-290[~~10 U.S.C. 992 sec 9(a)(2)~~] requires the states to collectively work with the Secretary of Defense to ensure implementation of appropriate standards to protect members of the Armed Forces from dishonest and predatory insurance sales practices while on a military installation of the United States[;] and [~~further~~]requires each state to identify its role in promoting the standards in a uniform manner[; ~~not later than twelve (12) months after the date of enactment of the federal law~~]. This administrative regulation establishes[~~sets forth~~] standards to protect active duty service members of the United States Armed Forces from dishonest and predatory insurance sales practices by declaring certain identified practices to be false, misleading, deceptive, or unfair.

Section 1. Definitions. (1)[~~(a)~~] "Active duty":

(a) Means full-time duty in the active military service of the United States and includes members of the reserve component, both the National Guard and Reserve, while serving under published orders for active duty or full-time training; and

(b) Does not mean[~~(b) "Active duty" does not include~~] members of the reserve component who are performing active duty or active duty for training under military calls or orders specifying periods of less than thirty-one (31) calendar days.

(2) "Annuity" is defined by[~~established~~][~~defined~~][in] KRS 304.5-030.

(3) "Commissioner" is defined by[~~means the Commissioner of the Department of Insurance as established in~~] KRS 304.1-050(1).

(4) "Department of Defense Personnel" means all active duty service members and all civilian employees, including nonappropriated fund employees and special government employees, of the Department of Defense.

(5) "~~Door-to-door~~**[Door-to-door]**" means a solicitation or sales method in which an insurance producer proceeds randomly or selectively from household to household without a prior specific appointment.

(6) "General advertisement" means an advertisement having as its sole purpose the promotion of the reader's or viewer's interest in the concept of insurance, or the promotion of the insurer or the insurance producer.

(7) "Insurable needs" means the risks associated with premature death taking into consideration the financial obligations and immediate and future cash needs of the applicant's estate or survivors or dependents.

(8) "Insurer" is **defined by**~~established~~**[defined]**~~[in]~~ KRS 304.1-040.

(9) "Insurance producer" is **defined by**~~established~~**[defined]**~~[in]~~ KRS ~~304.9-020(10)~~ ~~[304.9-020(7)]~~.

(10) "Known" or "knowingly" means the insurance producer or insurer had actual awareness, or in the exercise of ordinary care should have known, when the act or practice complained of occurred, that the person solicited is a service member.

(11) "Life insurance" is **defined by**~~established~~**[defined]**~~[in]~~ 304.5-020.

(12) "Military installation" means any federally owned, leased, or operated base, reservation, post, camp, building, or other facility to which service members are assigned for duty, including barracks, transient housing, and family quarters.

(13) "MyPay" means the Defense Finance and Accounting Service Web-based system that enables service members to process certain discretionary pay transactions or provide updates to personal information data elements without using paper forms.

(14) "Other military survivor benefits" **means**~~mean~~ the death gratuity, funeral reimbursement, transition assistance, survivor and dependents' educational assistance, dependency and indemnity compensation, TRICARE healthcare benefits, survivor housing benefits and allowances, federal income tax forgiveness, and Social Security survivor benefits.

(15) "SGLI" means the Servicemembers' Group Life Insurance as ~~established~~**[authorized]** by 38 U.S.C. section 1965.

(16) "Service member" means an active duty officer, both commissioned and warrant, or enlisted member of the United States Armed Forces.

(17)(a) "Side fund":

(a) Means a fund or reserve that is part of or otherwise attached to a life insurance policy by rider, endorsement, or other mechanism ~~that~~**[which]** accumulates premium or deposits with interest or by other means; **and**

(b) ~~Does~~**[-(b) "Side fund" shall]**~~[does]~~ not mean:

1. Accumulated value or cash value or secondary guarantees provided by a universal life policy;

2. Cash values provided by a whole life policy ~~[which are]~~subject to standard nonforfeiture law for life insurance; or

3. A premium deposit fund ~~that~~**[which]**:

a. Contains only premiums paid in advance which accumulate at interest;

b. **Does not impose a**~~[imposes no]~~ penalty for withdrawal;

c. Does not permit funding beyond future required premiums;

d. Is not marketed or intended as an investment; and

e. Does not carry a commission, either paid or calculated.

(18) "Specific appointment" means a prearranged appointment agreed upon by both parties and definite as to place and time.

(19) "United States Armed Forces" means all components of the Army, Navy, Air Force, Marine Corps, and Coast Guard.

(20) "VGLI" means the Veterans' Group Life Insurance, as **established[authorized]** by **U.S.C. Title 38[U.S.C. section 1965]**.

Section 2. Scope. This **administrative[administration]** regulation shall apply only to the solicitation or sale of a life insurance policy or annuity by an insurer or insurance producer to an active duty service member of the United States Armed Forces.

Section 3. Exemptions. (1) This administrative regulation shall not apply to solicitations or sales involving:

(a) Credit insurance;

(b) Group life insurance or group annuities if:

1. An in-person, face-to-face solicitation of individuals by an insurance producer is not made; or

2. The contract or certificate does not include a side fund;

(c) An application to the existing insurer that issued the existing policy or contract if:

1. A contractual change or a conversion privilege is being exercised;

2. The existing policy or contract is being replaced by the same insurer pursuant to a program filed with and approved by the commissioner **in accordance with KRS Chapter 304;** or

3. A term conversion privilege is exercised among corporate affiliates;

(d) Individual stand-alone health policies, including disability income policies;

(e) Contracts offered by SGLI or VGLI;

(f) Life insurance contracts offered through or by a non-profit military association, qualifying under 26 U.S.C. 501(c)(23), and **that[which]** are not underwritten by an insurer; or

(g) Contracts used to fund:

1. An employee pension or welfare benefit plan that is covered by the Employee Retirement and Income Security Act, 29 U.S.C. **Chapter 18[1001];**

2. A plan **established[described]** by 26 U.S.C. 401(a), 401(k), 403(b), 26 U.S.C. 408(k) or 408(p), **[as-amended,]** if established or maintained by an employer;

3. A **governmental[government]** or church plan **established[defined]** in 26 U.S.C. 414;

4. A **governmental[government]** or church welfare benefit plan, or a deferred compensation plan of a state or local government or tax exempt organization under 26 U.S.C. 457;

5. A nonqualified deferred compensation arrangement established or maintained by an employer or plan sponsor;

6. Settlements of or assumptions of liabilities associated with personal injury litigation or any dispute or claim resolution or process; or

7. Prearranged funeral contracts.

(2) This administrative regulation shall not **[be construed to]** abrogate the ability of a non-profit organization or another organization to educate members of the United States Armed

Forces in accordance with Department of Defense Instruction 1344.07, ~~["]~~Personal Commercial Solicitation on DoD Installations.~~["]~~

(3)(a) General advertisements, direct mail, and internet marketing shall not constitute solicitation.

(b) Telephone marketing shall not constitute solicitation if the caller:

1. Explicitly and conspicuously discloses that the product concerned is life insurance; and
2. Does not make a statement that avoids a clear and unequivocal statement that life insurance is the subject matter of the solicitation.

(c) This subsection shall not ~~[be construed to]~~ exempt an insurer or insurance producer from the requirements of this administrative regulation in any in-person, face-to-face meeting established as a result of the exemptions established~~[identified]~~ in this subsection.

Section 4. Practices Declared False, Misleading, Deceptive, or Unfair on a Military Installation.

(1) The following acts or practices, if committed on a military installation by an insurer or insurance producer, with respect to the in-person, face-to-face solicitation of life insurance shall be false, misleading, deceptive, or unfair:

(a) Knowingly soliciting the purchase of any life insurance product:

1. Door to door; or
2. Without first establishing a specific appointment for each meeting with the prospective purchaser;

(b) Soliciting service members in a group or mass audience or in a captive audience ~~if~~if attendance is not voluntary;

(c) Knowingly making appointments with or soliciting service members during their normally scheduled duty hours;

(d) Making appointments with or soliciting service members in:

1. Barracks;
2. Day rooms;
3. Unit areas;
4. Transient personnel housing; or
5. Other areas where the installation commander has prohibited solicitation;

(e) Soliciting the sale of life insurance without first obtaining permission from the installation commander or the commander's designee;

(f) Posting unauthorized bulletins, notices, or advertisements;

(g) Failing to present Department of Defense Form 2885, ~~["]~~Personal Commercial Solicitation Evaluation,~~["]~~ to service members solicited or encouraging service members solicited not to complete or submit a Department of Defense Form 2885; or

(h) Knowingly accepting an application for life insurance or issuing a policy of life insurance on the life of an enlisted member of the United States Armed Forces without first obtaining for the insurer's files a completed copy of a required form, which confirms that the applicant has received counseling or fulfilled any other similar requirement for the sale of life insurance established by regulations, directives, or rules of the US Department of Defense, or any branch of the US Armed Forces.

(2) The following acts or practices, if committed on a military installation by an insurer or insurance producer, **shall** constitute corrupt practices, improper influences, or inducements and shall be false, misleading, deceptive, or unfair:

(a) Using **US** Department of Defense personnel, directly or indirectly, as a representative or agent in any official or business capacity with or without compensation with respect to the solicitation or sale of life insurance to service members; and

(b) Using an insurance producer to participate in any United States Armed Forces sponsored education or orientation program.

Section 5. Practices Declared False, Misleading, Deceptive, or Unfair Regardless of Location.

(1) The following acts or practices by an insurer or insurance producer **shall** constitute corrupt practices, improper influences, or inducements and shall be false, misleading, deceptive, or unfair:

(a)1. Submitting, processing, or assisting in the submission or processing of any allotment form or similar device used by the United States Armed Forces to direct a service member's pay to a third party for the purchase of life insurance including using or assisting in using a service member's "MyPay" account or other similar internet or electronic medium for those purposes;

2. This subsection **shall[does]** not prohibit assisting a service member by providing insurer or premium information necessary to complete an allotment form;

(b)1. Knowingly receiving funds from a service member for the payment of premium from a depository institution with which the service member does not have a formal banking relationship;

2. For purposes of this **subsection[section]**, a formal banking relationship **shall be[is]** established if the depository institution:

a. Provides the service member a deposit agreement and periodic statements and makes the disclosures required by the Truth in Savings Act, 12 U.S.C. 4301 et seq., and 12 C.F.R. 205, 230, and 707; and

b. Permits the service member to make deposits and withdrawals unrelated to the payment or processing of insurance premiums;

(c) Employing a device or method or entering into an agreement if funds received from a service member by allotment for the payment of insurance premiums are identified on the service member's leave and earnings statement or equivalent or successor form as "savings" or "checking" and **if[where]** the service member has no formal banking relationship;

(d) Entering into any agreement with a depository institution for the purpose of receiving funds from a service member if the depository institution, with or without compensation, agrees to accept direct deposits from a service member with whom it has no formal banking relationship;

(e) Using **US** Department of Defense personnel, directly or indirectly, as a representative or agent in an official or unofficial capacity with or without compensation with respect to the solicitation or sale of life insurance to service members who are junior in rank or grade, or to the family members of **[such]** personnel;

(f) Offering or giving anything of value, directly or indirectly, to **US** Department of Defense personnel to procure their assistance in encouraging, assisting, or facilitating the solicitation or sale of life insurance to another service member;

(g) Knowingly offering or giving anything of value to a service member for the member's attendance at any event **at which/where** an application for life insurance is solicited; or

(h) Advising a service member to change the member's income tax withholding or state of legal residence for the sole purpose of increasing disposable income to purchase life insurance.

(2) The following acts or practices by an insurer or insurance producer lead to confusion regarding source, sponsorship, approval, or affiliation and shall be false, misleading, deceptive, or unfair:

(a)1. Making any representation, or using any device, title, descriptive name, or identifier that has the tendency or capacity to confuse or mislead a service member into believing that the insurer, insurance producer, or product offered is affiliated, connected, or associated with, endorsed, sponsored, sanctioned, or recommended by the U.S. Government, the United States Armed Forces, or any state or federal agency or government entity;

2. This **subsection[section]** shall not **[be construed to]** prohibit a person from using a professional designation awarded after the successful completion of a course of instruction in the business of insurance by an accredited institution of higher learning; or

(b) Soliciting the purchase of any life insurance product through the use of or in conjunction with a third party organization that promotes the welfare of or assists members of the United States Armed Forces in a manner that has the tendency or capacity to confuse or mislead a service member into believing that either the insurer, insurance producer, or insurance product is affiliated, connected, or associated with, endorsed, sponsored, sanctioned, or recommended by the U.S. Government or the United States Armed Forces.

(3) The following acts or practices by an insurer or insurance producer lead to confusion regarding premiums, costs, or investment returns and shall be false, misleading, deceptive, or unfair:

(a) Using or describing the credited interest rate on a life insurance policy in a manner that implies that the credited interest rate is a net return on premium paid; or

(b) Excluding individually issued annuities, misrepresenting the mortality costs of a life insurance product, including stating or implying that the product "costs nothing" or is "free."

(4) The following acts or practices by an insurer or insurance producer regarding SGLI or VGLI shall be false, misleading, deceptive, or unfair:

(a) Making any representation regarding the availability, suitability, amount, cost, exclusions, or limitations to coverage provided to a service member or dependents by SGLI or VGLI, which is false, misleading, or deceptive;

(b) Making any representation regarding conversion requirements, including the costs of coverage, **[or]** exclusions, or limitations to coverage of SGLI or VGLI to private insurers **that/which** is false, misleading, or deceptive; or

(c) Suggesting, recommending, or encouraging a service member to cancel or terminate his or her SGLI policy or issuing a life insurance policy **that/which** replaces an existing SGLI policy unless the replacement shall take effect upon or after the service member's separation from the United States Armed Forces.

(5) The following acts or practices by an insurer or insurance producer regarding disclosure shall be false, misleading, deceptive, or unfair:

(a) Deploying, using, or contracting for a lead generating material designed exclusively for use with service members that does not clearly and conspicuously disclose that the recipient will

be contacted by an insurance producer, if that is the case, for the purpose of soliciting the purchase of life insurance;

(b) Failing to disclose that a solicitation for the sale of life insurance will be made if establishing a specific appointment for an in-person, face-to-face meeting with a prospective purchaser;

(c) Excluding individually issued annuities, failing to clearly and conspicuously disclose the fact that the product being sold is life insurance;

(d) Failing to make, at the time of sale or offer to an individual known to be a service member, the written disclosures required by Section 10 of the "Military Personnel Financial Services Protection Act," Pub. L. No. 109-290, p.16; or

(e) Excluding individually issued annuities, if the sale is conducted in-person face-to-face with an individual known to be a service member, failing to provide the applicant if the application is taken:

1. An explanation of a free look period with instructions on how to cancel if a policy is issued; and

2.a. A copy of the application; or

b.(i) A written disclosure.

(ii) The copy of the application or the written disclosure shall ~~state~~**[set out]** the type of life insurance and the death benefit applied for and ~~the policy or benefit~~ [its] expected first year cost. A basic illustration that ~~complies with~~**[meets the requirements of]** 806 KAR 12:140 shall be sufficient to meet this requirement for a written disclosure.

(6) The following acts or practices by an insurer or insurance producer ~~[with respect to the sale of certain life insurance products]~~ shall be false, misleading, deceptive, or unfair:

(a) Excluding individually issued annuities, recommending the purchase of any life insurance product ~~that~~**[which]** includes a side fund to a service member unless the insurer has reasonable grounds for believing that the life insurance death benefit, standing alone, is suitable;

(b) Offering for sale or selling a life insurance product ~~that~~**[which]** includes a side fund to a service member who is:

1. Currently enrolled in SGLI; and

2. Presumed unsuitable unless, after the completion of a needs assessment, the insurer demonstrates that the applicant's SGLI death benefit, together with any other military survivor benefits, savings and investments, survivor income, and other life insurance are insufficient to meet the applicant's insurable needs for life insurance;

(c) Excluding individually issued annuities, offering for sale or selling a life insurance contract that includes a side fund:

1. Unless interest credited accrues from the date of deposit to the date of withdrawal and permits withdrawals without limit or penalty;

2. Unless the applicant has been provided with a schedule of effective rates of return based upon cash flows of the combined product.

a. The effective rate of return shall consider all premiums and cash contributions made by the policyholder and all cash accumulations and cash surrender values available to the policyholder in addition to life insurance coverage.

b. The schedule shall be provided for at least each policy year from one (1) to ten (10) and for every subsequent fifth policy year ending at age 100, policy maturity, or final expiration; and

3. That by default diverts or transfers funds accumulated in the side fund to pay, reduce, or offset any premiums due; or

(d) Excluding individually issued annuities, offering for sale or selling a life insurance contract that after considering all policy benefits, does not comply with KRS 304.15-310.

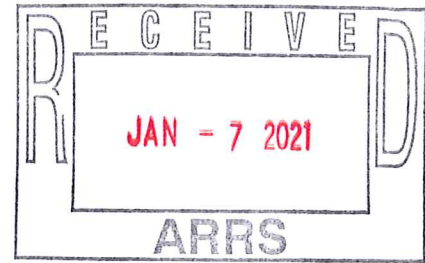
Section 6. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) "Department of Defense Instruction Number 1344.07, Personal Commercial Solicitation on DoD Installations", (March 30, 2006); and

(b) "Department of Defense Form 2885, Personal Commercial Solicitation Evaluation", (April 2006).

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Department of Insurance, Mayo-Underwood Building, 500 Mero Street [215 West Main Street], Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m. This material is also available on the department's website at: <http://insurance.ky.gov>.

Contact Person: DJ Wasson, Deputy Commissioner, 500 Mero Street, Frankfort, Kentucky 40601, phone +1 (502) 564-6026, fax +1 (502) 564-1453, email dj.wasson@ky.gov



PUBLIC PROTECTION CABINET

Department of Insurance

P.O. Box 517
Frankfort, Kentucky 40602-0517

1-800-595-6053

<http://insurance.ky.gov>

January 7th, 2021

Andy Beshear

Governor

Ray A. Perry

Deputy Secretary

Kerry B. Harvey

Secretary

Sharon P. Clark

Commissioner

Senator Stephen West, Co-Chair
Representative David Hale, Co-Chair
c/o Emily Caudill, Regulation Compiler
Administrative Regulation Review Subcommittee
Legislative Research Commission
029, Capitol Annex
Frankfort KY 40601

Re: **806 KAR 13:020. Excess rates; consent form..**

Dear Co-Chairs West and Hale:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 806 KAR 13:020, the Department of Insurance proposes the attached agency amendments to 806 KAR 13:020.

Sincerely,

DJ Wasson, Deputy Commissioner
Department of Insurance
Mayo-Underwood Building
500 Mero Street
Frankfort, Kentucky 40601

SUGGESTED SUBSTITUTE

Final 1/6/2021 8:35 AM

**PUBLIC PROTECTION CABINET
Department of Insurance
Consumer Protection Division**

806 KAR 13:020. Excess rates; consent form.

RELATES TO: KRS ~~[304.1-010,]~~304.13-051~~, 304.13-100~~

STATUTORY AUTHORITY: KRS 304.2-110, 304.13-100

NECESSITY, FUNCTION, AND CONFORMITY: KRS 304.2-110(1) authorizes the Commissioner of Insurance to promulgate administrative regulations necessary for or as an aid to the effectuation of any provision of the Kentucky Insurance Code as **established[defined]** in KRS 304.1-010. ~~[KRS 304.2-110 provides that the Executive Director of Insurance may make reasonable rules and administrative regulations necessary for or as an aid to the effectuation of any provision of the Kentucky Insurance Code.]~~ This administrative regulation **establishes that[requires]** an insurer and applicant **shall[to]** file a form confirming the~~[showing]~~ applicant's consent to the, if any, excess rate charged~~[to him]~~.

Section 1. (1) For rates required to be filed with the department in accordance with KRS 304.13-051, **if[when]**~~[When]~~ an insurer and an applicant for insurance contemplated by KRS **Subtitle 304.13[Chapter 304, Subtitle 13,]** consent to rates to be charged in any specific instance in excess of those filed by or on behalf of the ~~[such]~~ insurer, the insurer shall, within ten (10) days following the effective date of the policy, file with the commissioner ~~[executive director in triplicate]~~ a statement ~~[writing]~~ signed by the applicant **that[which]** shall include[recite]~~[the following]:~~

- (a) ~~[(1)]~~ The policy number;
- (b) ~~[(2)]~~ The inception and expiration dates;
- (c) ~~[(3)]~~ The name and address of the agent of record;
- (d) ~~[(4)]~~ The name of the insurer;
- (e) ~~[(5)]~~ The name and address of the insured;
- (f) ~~[(6)]~~ The limits of coverage;
- (g) ~~[(7)]~~ The total premium charged;
- (h) ~~[(8)]~~ The fact that the rate exceeds ~~[exceed]~~ the filed rate;
- (i) ~~[(9)]~~ The reasons that the rate exceeds the filed rate ~~[therefor]~~; and
- (j) ~~[(10)]~~ That the insured has consented to the excess rate ~~[thereto]~~.

(2) For rates not required to be filed with the department pursuant to KRS 304.13-051, **if[when]** an insurer and an applicant for insurance contemplated by KRS **Subtitle 304.13[Chapter 304, Subtitle 13,]** consent to rates to be charged in any specific instance in excess of those utilized by the insurer, the insurer shall prepare a statement, **which shall not be required to be filed with the department**, signed by the applicant **that[which]** shall include the:

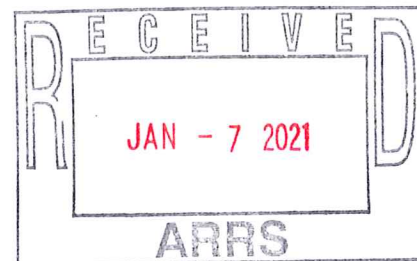
- (a) **Policy number;**

- (b) Inception and expiration dates;*
- (c) Name and address of the agent of record;*
- (d) Name of the insurer;*
- (e) Name and address of the insured;*
- (f) Limits of coverage;*
- (g) Total premium charged;*
- (h) Fact that the rate exceeds the utilized rate;*
- (i) Reasons that the rate exceeds the utilized rate; and*
- (j) Acknowledgement that the insured has consented to the excess rate*~~*[information required by subsection (1)(a) through (1)(j) of this subsection. The insurer shall not be required to file the statement with the department].*~~

Section 2. A copy of the [such] consent to rate statement required by Section 1 of this administrative regulation shall be submitted [furnished] to the insured.

Section 3. The commissioner [executive director] shall, *in accordance with KRS Subtitle 304.13, approve or deny the consent to rate statement required by Section 1(1) of this administrative regulation*~~*[take such action as he deems appropriate, as in the case of all rates filed], and shall return to the agent and to the insurer, one (1) copy of the [such] consent, indicating the action taken [with his action indicated thereon].*~~

Contact Person: DJ Wasson, Deputy Commissioner, 500 Mero Street, Frankfort, Kentucky 40601, phone +1 (502) 564-6026, fax +1 (502) 564-1453, email dj.wasson@ky.gov



PUBLIC PROTECTION CABINET

Department of Insurance

P.O. Box 517

Frankfort, Kentucky 40602-0517

1-800-595-6053

<http://insurance.ky.gov>

Andy Beshear

Governor

Ray A. Perry

Deputy Secretary

Kerry B. Harvey

Secretary

Sharon P. Clark

Commissioner

January 7th, 2021

Senator Stephen West, Co-Chair
Representative David Hale, Co-Chair
c/o Emily Caudill, Regulation Compiler
Administrative Regulation Review Subcommittee
Legislative Research Commission
029, Capitol Annex
Frankfort KY 40601

Re: **806 KAR 38:100. Risk-based capital for health organizations.**

Dear Co-Chairs West and Hale:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 806 KAR 38:100, the Department of Insurance proposes the attached agency amendments to 806 KAR 38:100.

Sincerely,

DJ Wasson, Deputy Commissioner
Department of Insurance
Mayo-Underwood Building
500 Mero Street
Frankfort, Kentucky 40601

SUGGESTED SUBSTITUTE

Final 1/6/2021 8:51 AM

**PUBLIC PROTECTION CABINET
Department of Insurance
Financial Standards and Examination Division**

806 KAR 38:100. Risk-based capital for health organizations.

RELATES TO: KRS 304.2-150, 304.2-250(3), 304.2-260, 304.2-270, 304.32-140, 304.38- 070, 304.38A-080, 304.38A-110

STATUTORY AUTHORITY: KRS 304.32-140(1), 304.38-070, 304.38A-080, 304.38-150, 304.38A-110(2)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 304.38-150 authorizes the Commissioner of the Kentucky Department of Insurance to promulgate administrative regulations necessary for the proper administration of KRS [Chapter] 304.38. KRS 304.32-140(1), 304.38-070, 304.38A-080, and 304.38A-110(2) require the Commissioner of the Kentucky Department of Insurance to promulgate administrative regulations establishing requirements for risk-based capital. KRS 304.38-150 *authorizes[provides]* that the Commissioner of Insurance *to promulgate[may make]* reasonable administrative regulations necessary for the proper administration of KRS Subtitle 304.38[304][Chapter 30][,][Subtitle][38]. This administrative regulation establishes requirements for health maintenance organizations, limited health service corporations, and non-profit health service corporations to comply with risk-based capital reporting requirements to aid in the department's financial monitoring.

Section 1. Definitions. (1) "Adjusted RBC report" means an RBC report *that[which]* has been adjusted by the commissioner in accordance with Section 2(3)[2(5)] of this administrative regulation.

(2) "Authorized control level event" means any of the following events:

(a) The filing of an RBC report by the health organization that indicates that the health organization's total adjusted capital is greater than or equal to its Mandatory Control Level RBC but less than its Authorized Control Level RBC;

(b) The notification by the commissioner to the health organization of an adjusted RBC report that indicates the event in paragraph (a) of this subsection, if the health organization does not challenge the adjusted RBC report under Section 7 of this administrative regulation;

(c) If, pursuant to Section 7 of this administrative regulation, the health organization challenges an adjusted RBC report that indicates the event in paragraph (a) of this subsection, notification by the commissioner to the health organization that the commissioner has, after a hearing, rejected the health organization's challenge;

(d) The failure of the health organization to respond to a corrective order, if the health organization has not challenged the corrective order under Section 7 of this administrative regulation; or

(e) If the health organization has challenged a corrective order under Section 7 of this administrative regulation and the commissioner has, after a hearing, rejected the challenge or modi-

fied the corrective order, the failure of the health organization to respond to the corrective order subsequent to rejection or modification by the commissioner.

(3) "Commissioner" is ~~defined~~~~established~~[defined] by KRS 304.1-050(1).

(4) "Company action level event" means any of the following events:

(a) The filing of an RBC report by a health organization that indicates that the health organization's total adjusted capital is greater than or equal to its Regulatory Action Level RBC but less than its Company Action Level RBC;

(b) Notification by the commissioner to the health organization of an adjusted RBC report that indicates an event in paragraph (a) of this subsection, if the health organization does not challenge the adjusted RBC report under Section 7 of this administrative regulation; ~~or~~

(c) Pursuant to Section 7 of this administrative regulation, if a health organization challenges an adjusted RBC report that indicates the event in paragraph (a) of this subsection, the notification by the commissioner to the health organization that the commissioner has, after a hearing, rejected the health organization's challenge; ~~or~~[-]

(d) A health maintenance organization that has total adjusted capital ~~[which is]~~ greater than or equal to its Company Action Level RBC but less than the product of its Authorized Control Level RBC and **three and zero-tenths (3.0)**~~[3.0]~~ and triggers the trend test determined in accordance with the trend test calculation included in the NAIC 2019 Risk-Based Capital Forecasting & Instructions, Health.

(5) "Corrective order" means an order issued by the commissioner specifying corrective actions ~~that~~~~which~~ the commissioner has determined are required, under the provisions of this administrative regulation.

(6) "Department" is defined by KRS 304.1-050(2).

(7) "Domestic health organization" means a health organization domiciled in this state.

(8) "Foreign health organization" means a health organization that is licensed to do business in this state under KRS **Subtitle 304.38, 304.38A, or 304.32**~~[Chapter 304.]~~~~[Subtitle]~~~~[38, 38A or 32]~~ but is not domiciled in this state.

(9) "Health organization" means a health maintenance organization, limited health service organization, dental or vision plan, hospital, medical and dental indemnity or service corporation, or other managed care organization licensed under KRS **Subtitle 304.38, 304.38A, or 304.32**~~[Chapter 304 Subtitle 38, 38A, or 32]~~, except for an organization that is licensed as either a life and health insurer or a property and casualty insurer under KRS **Subtitle 304.24 or 304.3**~~[Chapter 304 Subtitle 24 or 3]~~ and that is otherwise subject to either the life or property and casualty RBC requirements.

(10) "Mandatory control level event" means any of the following events:

(a) The filing of an RBC report ~~that~~~~which~~ indicates that the health organization's total adjusted capital is less than its Mandatory Control Level RBC;

(b) Notification by the commissioner to the health organization of an adjusted RBC report that indicates the event in paragraph (a) of this subsection, if the health organization does not challenge the adjusted RBC report under Section 7 of this administrative regulation; or

(c) Pursuant to Section 7 of this administrative regulation, the health organization challenges an adjusted RBC report that indicates the event in paragraph (a) of this subsection, notification by the commissioner to the health organization that the executive director has, after a hearing, rejected the health organization's challenge.

(11) "NAIC" means the National Association of Insurance Commissioners.

(12) "RBC" means risk-based capital.

(13) "RBC instructions" means the RBC report including risk-based capital instructions adopted by the NAIC, as these RBC instructions ***are[may-be]*** amended by the NAIC from time to time in accordance with the procedures adopted by the NAIC.

(14) "RBC level" means a health organization's company action level RBC, regulatory action level RBC, authorized control level RBC, or mandatory control level RBC ***in which[where]:***

(a) "Company Action Level RBC" means, with respect to any health organization, the product of ***two and zero-tenths (2.0)[2.0]*** and its Authorized Control Level RBC;

(b) "Regulatory Action Level RBC" means the product of one and five-tenths (1.5) and its Authorized Control Level RBC;

(c) "Authorized Control Level RBC" means the number determined under the risk-based capital formula in accordance with the RBC instructions; and

(d) "Mandatory Control Level RBC" means the product of ***0.70[-70]*** and the Authorized Control Level RBC.

(15) "RBC plan" means a comprehensive financial plan containing the elements ***established[specified]*** in Section 3(2) of this administrative regulation.

(16) "RBC report" means the report required in Section 2 of this administrative regulation.

(17) "Regulatory action level event" means, with respect to a health organization, any of the following events:

(a) The filing of an RBC report by the health organization that indicates that the health organization's total adjusted capital is greater than or equal to its Authorized Control Level RBC but less than its Regulatory Action Level RBC;

(b) Notification by the commissioner to a health organization of an adjusted RBC report that indicates the event in paragraph (a) of this subsection, ***if[provided]*** the health organization does not challenge the adjusted RBC report under Section 7 of this administrative regulation;

(c) If, pursuant to Section 7 of this administrative regulation, the health organization challenges an adjusted RBC report that indicates the event in paragraph (a) of this subsection, the notification by the commissioner to the health organization that the commissioner has, after a hearing, rejected the health organization's challenge;

(d) The failure of the health organization to file an RBC report by the filing date, unless the health organization has provided an explanation for the failure and has cured the failure within ten (10) days after the filing date;

(e) The failure of the health organization to submit an RBC plan to the commissioner within the time period ***established[set forth]*** in Section 3(3) of this administrative regulation;

(f) Notification by the commissioner to the health organization that:

1. The RBC plan or revised RBC plan submitted by the health organization is unsatisfactory; and

2. Notification constitutes a regulatory action level event with respect to the health organization, if the health organization has not challenged the determination under Section 7 of this administrative regulation;

(g) If, pursuant to Section 7 of this administrative regulation, the health organization challenges a determination by the commissioner under this paragraph, the notification by the com-

missioner to the health organization that the commissioner has, after a hearing, rejected the challenge;

(h) Notification by the commissioner to the health organization that the health organization has failed to adhere to its RBC plan or revised RBC plan, but only if the failure has a substantial adverse effect on the ability of the health organization to eliminate the company action level event in accordance with its RBC plan or revised RBC plan and the commissioner has ~~[so]~~ stated ~~so~~ in the notification, if the health organization has not challenged the determination under Section 7 of this administrative regulation; or

(i) If, pursuant to Section 7 of this administrative regulation, the health organization challenges a determination by the commissioner under this paragraph, the notification by the commissioner to the health organization that the commissioner has, after a hearing, rejected the challenge.

(18) "Revised RBC plan" means an RBC plan that ~~was~~:

(a) ~~[Was]~~ Rejected by the commissioner; and

(b) ~~[Was]~~ Revised by the health organization, with or without the commissioner's recommendation.

(19) "Total adjusted capital" means the sum of:

(a) A health organization's statutory capital and surplus (~~[i.e.,]~~ net worth) as determined in accordance with the statutory accounting applicable to the annual financial statements required to be filed under KRS 304.3-240 or 304.32-090; and

(b) Other items, if any, as the RBC instructions ~~[may]~~ provide.

Section 2. RBC Reports. (1) A domestic health organization shall, on or prior to each March 1 (~~[the "~~filing date~~"]~~), prepare and submit to the commissioner a report of its RBC levels as of the end of the calendar year just ended, in the ~~["~~NAIC 2019 Risk-Based Capital Forecasting & Instructions, Health~~"]~~ ~~[2013 NAIC Health Risk-Based Capital Report Including Overview and Instructions for Companies]~~. In addition, a domestic health organization shall file its RBC report ~~with the~~:

(a) ~~[With the]~~ NAIC in accordance with the RBC instructions; and

(b) ~~[With the]~~ insurance commissioner in any state in which the health organization is authorized to do business, if the insurance commissioner has notified the health organization of its request in writing, in which case the health organization shall file its RBC report not later than the later of:

1. Fifteen (15) days from the receipt of notice to file its RBC report with that state; or

2. The filing date.

(2) A health organization's RBC shall be determined in accordance with the formula ~~estab-~~ ~~lished~~ ~~[set forth]~~ in the RBC instructions. The formula shall take the following into account, and may adjust for the covariance between, determined in each case by applying the factors in the manner ~~established~~ ~~[set forth]~~ in the RBC instructions:

(a) Asset risk;

(b) Credit risk;

(c) Underwriting risk; and

(d) All other business and relevant risks as are ~~established~~ ~~[set forth]~~ in the RBC instructions.

(3) If a domestic health organization files an RBC report that ~~[in the judgment of the commissioner]~~ is inaccurate, then the commissioner shall adjust the RBC report to correct the inaccuracy and shall notify the health organization of the adjustment. The notice shall contain a statement of the reason for the adjustment. ~~[An RBC report as so adjusted is referred to as an "adjusted RBC report".]~~

Section 3. Company Action Level Event. (1) If a company action level event occurs, the health organization shall prepare and submit to the commissioner an RBC plan that shall:

(a) Identify the conditions that contribute to the company action level event;

(b) Contain proposals of corrective actions that the health organization intends to take and that would be expected to result in the elimination of the company action level event;

(c) Provide projections of the health organization's financial results in the current year and at least the two (2) succeeding years, both in the absence of proposed corrective actions and giving effect to the proposed corrective actions, including projections of statutory balance sheets, operating income, net income, capital and surplus, and RBC levels. The projections for both new and renewal business may include separate projections for each major line of business and separately identify each significant income, expense, and benefit component;

(d) Identify the key assumptions impacting the health organization's projections and the sensitivity of the projections to the assumptions; and

(e) Identify the quality of, and problems associated with, the health organization's business, including its assets, anticipated business growth and associated surplus strain, extraordinary exposure to risk, and mix of business and use of reinsurance, if any, in each case.

(2) The RBC plan shall be submitted:

(a) Within forty-five (45) days of the company action level event; or

(b) If the health organization challenges an adjusted RBC report pursuant to Section 7 of this administrative regulation, within forty-five (45) days after notification to the health organization that the commissioner has, after a hearing, rejected the health organization's challenge.

(3) Within sixty (60) days after the submission by a health organization of an RBC plan to the commissioner, the commissioner shall notify the health organization whether or not the RBC plan shall be implemented or is unsatisfactory. If the commissioner determines the RBC plan fails to address the requirements of subsection (1)(a) through (e)[is unsatisfactory], the notification to the health organization shall state[set forth] the reasons for the determination, and establish revisions to correct[may set forth proposed revisions which will render] the RBC plan [satisfactory]. Upon notification from the commissioner, the health organization shall prepare a revised RBC plan, which may incorporate by reference any revisions proposed by the commissioner, and shall submit the revised RBC plan to the commissioner:

(a) Within forty-five (45) days after the notification from the commissioner; or

(b) If the health organization challenges the notification from the commissioner under Section 7 of this administrative regulation, within forty-five (45) days after a notification to the health organization that the commissioner has, after a hearing, rejected the health organization's challenge.

(4) If the commissioner notifies a health organization that the health organization's RBC plan or revised RBC plan is unsatisfactory, the commissioner may, subject to the health organization's

right to a hearing under Section 7 of this administrative regulation, specify in the notification that the notification constitutes a regulatory action level event.

(5) Every domestic health organization that files an RBC plan or revised RBC plan with the commissioner shall file a copy of the RBC plan or revised RBC plan with the insurance commissioner in any state in which the health organization is authorized to do business if:

(a) The state has an RBC provision substantially similar to Section 8(1) of this administrative regulation; and

(b) The insurance commissioner of that state has notified the health organization of its request for the filing in writing, in which case the health organization shall file a copy of the RBC plan or revised RBC plan in that state no later than the later of:

1. Fifteen (15) days after the receipt of notice to file a copy of its RBC plan or revised RBC plan with the state; or

2. The date on which the RBC plan or revised RBC plan is filed under subsections (3) and (4) of this section.

Section 4. Regulatory Action Level Event. (1) If a regulatory action level event occurs, the commissioner shall:

(a) Require the health organization to prepare and submit an RBC plan or, if applicable, a revised RBC plan;

(b) Perform an examination or analysis of the assets, liabilities, and operations of the health organization including a review of its RBC plan or revised RBC plan; and

(c) Subsequent to the examination or analysis, issue an order specifying corrective actions ***[as the commissioner shall determine are required]***.

(2) In determining corrective actions, the commissioner ***shall[may]*** take into account relevant factors with respect to the health organization, based upon the commissioner's examination or analysis of the assets, liabilities, and operations of the health organization, including the results of any sensitivity tests undertaken pursuant to the RBC instructions. The RBC plan or revised RBC plan shall be submitted:

(a) Within forty-five (45) days after the occurrence of the regulatory action level event;

(b) If the health organization challenges an adjusted RBC report pursuant to Section 7 of this administrative regulation and the challenge is made in good faith within forty-five (45) days after the notification to the health organization that the commissioner has, after a hearing, rejected the health organization's challenge; or

(c) If the health organization challenges a revised RBC plan pursuant to Section 7 of this administrative regulation and the challenge is made in good faith, within forty-five (45) days after the notification to the health organization that the commissioner has, after a hearing, rejected the health organization's challenge.

(3) The commissioner may retain actuaries and investment experts and other consultants as ***[may-be]*** necessary to review the health organization's RBC plan or revised RBC plan; ***[;]*** examine or analyze the assets, liabilities, and operations, including contractual relationships, of the health organization, and formulate the corrective order with respect to the health organization. The fees, costs, and expenses relating to consultants shall be borne by the affected health organization or other party as directed by the commissioner.

Section 5. Authorized Control Level Event. If an authorized control level event occurs with respect to a health organization, the commissioner shall:

(1) Take action as required under Section 4 of this administrative regulation regarding a health organization with ~~a~~**[respect to which an]** regulatory action level event~~[has occurred]~~; or

(2) If ~~[the commissioner determines]~~it ~~is~~**[to be]** in the best interests of the policyholders and creditors of the health organization and of the public, take action as necessary to cause the health organization to be placed under regulatory control under KRS ~~Subtitle 304.33~~**[Chapter 304 Subtitle 33]**. If the commissioner takes action, the authorized control level event shall be sufficient grounds for the ~~[commissioner to take]~~action~~[under KRS Chapter 304 Subtitle 33, and the commissioner shall have the rights, powers, and duties with respect to the health organization as are set forth in KRS Chapter 304 Subtitle 33]~~. If the commissioner takes actions under this ~~subsection~~**[paragraph]** pursuant to an adjusted RBC report, the health organization shall be entitled to protections as are afforded to health organizations under the provisions of Section KRS 304.33-130 pertaining to summary proceedings.

Section 6. Mandatory Control Level Event. (1) If a mandatory control level event occurs, the commissioner shall take action as necessary to place the health organization under regulatory control under KRS ~~Subtitle 304.33~~**[Chapter 304 Subtitle 33]**. The mandatory control level event shall be sufficient grounds for the commissioner to take action~~[under KRS Chapter 304 Subtitle 33, and the commissioner shall have the rights, powers, and duties with respect to the health organization as are set forth in KRS Chapter 304 Subtitle 33]~~.

(2) If the commissioner takes actions pursuant to an adjusted RBC report, the health organization shall be entitled to the protections of Section KRS 304.33-130 pertaining to summary proceedings.

(3) The commissioner may forego action for up to ninety (90) days after the mandatory control level event if ~~[the commissioner finds]~~there is a reasonable expectation that the mandatory control level event ~~will~~**[may]** be eliminated within the ninety (90) day period.

Section 7. Hearings. Upon the occurrence of any of the following events the health organization shall have the right to a confidential departmental hearing, on a record, at which the health organization may challenge any determination or action by the commissioner. The health organization shall notify the commissioner of its request for a hearing within five (5) days after the notification by the commissioner of any of the following events:

(1) Notification to a health organization by the commissioner of an adjusted RBC report;

(2) Notification to a health organization by the commissioner that:

(a) The health organization's RBC plan or revised RBC plan is unsatisfactory; and

(b) Notification constitutes a regulatory action level event with respect to the health organization;

(3) Notification to a health organization by the commissioner that the health organization has failed to adhere to its RBC plan or revised RBC plan and that the failure has a substantial adverse effect on the ability of the health organization to eliminate the company action level event with respect to the health organization in accordance with its RBC plan or revised RBC plan; or

(4) Notification to a health organization by the commissioner of a corrective order with respect to the health organization.

Section 8. Confidentiality; Prohibition on Announcements, **and** Prohibition on Use in Rate-making. (1)(a) If in the possession or the control of the Department of Insurance, the following shall be confidential:

1. RBC reports, to the extent that the information is not required to be **stated[set forth]** in a publicly available annual statement schedule; and

2. RBC plans, including the results or report of any examination or analysis of a health organization performed **[pursuant to this statute]** and any corrective order issued by the commissioner pursuant to examination or analysis with respect to a domestic health organization or foreign health organization.

(b) The commissioner may use the documents, materials, or other information in paragraph (a) of this subsection, in accordance with KRS 304.2-150, 304.2-250(3), 304.2-260, and 304.2-270.

(2) In order to assist the performance of the commissioner's duties, the commissioner **may**:

(a) **[May]** Share documents, materials, or other information obtained under this administrative regulation, in accordance with KRS 304.2-150, 304.2-250(3), 304.2-260(5), and 304.2-270;

(b) **[May]** Receive documents, materials, or information, including otherwise confidential and privileged documents, materials, or information, from the NAIC and its affiliates and subsidiaries, and from regulatory and law enforcement officials of other foreign or domestic jurisdictions, and shall maintain as confidential or privileged any document, material, or information received with notice or the understanding that it is confidential or privileged under the laws of the jurisdiction that is the source of the document, material, or information; and

(c) **[May]** Enter into agreements governing sharing and use of information consistent with this section.

(3)(a) Except as otherwise required or authorized under the provisions of this administrative regulation, a health organization, agent, broker, or other person engaged in any manner in the insurance business shall not make an assertion, representation, or statement with regard to the RBC levels of any health organization, or any component derived in the calculation, by:

1.a. Making, publishing, disseminating, circulating, or placing before the public; or

b. Causing, directly or indirectly, to be made published, disseminated, circulated, or placed before the public; and

2. Using:

a. A newspaper, magazine, or other publication;

b. A notice, circular, pamphlet, letter, or poster;

c. A radio or television station;

d. An advertisement, announcement, or statement; or

e. Any other means **that[which]** places the information before the public.

(b) A health organization may publish an announcement in a written publication:

1. If the sole purpose is to rebut:

a. A materially false statement with respect to the comparison of the health organization's total adjusted capital to its RBC levels; or

b. An inappropriate comparison of any other amount to the health organization's RBC levels;

2. If these materially false statements or inappropriate comparisons are published in a written publication; and

3. If the health organization is able to demonstrate to the commissioner, with substantial proof, the falsity or inappropriateness of the statement.

(4) The RBC instructions, RBC reports, adjusted RBC reports, RBC plans, and revised RBC plans ***shall be[are intended]*** solely for use by the commissioner in monitoring the solvency of health organizations and the need for possible corrective action with respect to health organizations and shall not be used by the commissioner for ratemaking, nor considered or introduced as evidence in any rate proceeding, nor used by the commissioner to calculate or derive any elements of an appropriate premium level or rate of return for any line of insurance that a health organization or any affiliate is authorized to write.

Section 9. Supplemental Provisions; Rules; Exemption. (1) The provisions of this administrative regulation ***shall be[are]*** supplemental to any other provisions of the laws of this state[;] and shall not preclude or limit any other powers or duties of the commissioner under the law, including KRS ***Subtitle 304.32, 304.33, 304.37, or 304.38[Chapter 304 Subtitles 32, 33, 37 or 38]***, 304.2-065, or 806 KAR 3:150.

(2) ***If requested***, the commissioner ***shall[may]*** exempt from the application of this administrative regulation a domestic health organization that:

- (a) Writes direct business only in this state;
- (b) Assumes no reinsurance in excess of five (5) percent of direct premium written; and
- (c) Writes direct annual premiums for comprehensive medical business of \$2,000,000 or less or is a limited health service organization that covers less than 2,000 lives.

Section 10. Foreign Health Organizations. (1)(a) A foreign health organization shall, upon the written request of the commissioner, submit to the commissioner an RBC report as of the end of the calendar year just ended the later of:

1. The date an RBC report would be required to be filed by a domestic health organization under this administrative regulation; or
2. Fifteen (15) days after the request is received by the foreign health organization.

(b) A foreign health organization shall, ***within thirty (30) days of[at]*** the written request of the commissioner, ***[promptly]*** submit to the commissioner a copy of any RBC plan that is filed with the insurance commissioner of any other state.

(2)(a) The commissioner may require a foreign health organization to file an RBC plan if a company action level event, regulatory action level event, or authorized control level event occurs with respect to the foreign health organization:

1. As determined under the RBC statute applicable in the foreign health organization's state of domicile;
2. Under the provisions of this administrative regulation, if no RBC statute is in force in the state of domicile; or

3. If the insurance commissioner of the state of domicile fails to require the foreign health organization to file an RBC plan in the manner ***established[specified]*** under the RBC statute of the domicile state.

(b) If the commissioner chooses to require the filing specified in paragraph (a) of this subsection, the failure of the foreign health organization to file the RBC plan shall be grounds to order

the organization to cease and desist from writing new insurance business in the state of Kentucky.

(3) If a mandatory control level event occurs with respect to a foreign health organization~~[7]~~ and no domiciliary receiver has been appointed with respect to the foreign health organization under the rehabilitation and liquidation statute applicable in the state of domicile of the foreign health organization:

(a) The commissioner may make application to the Franklin Circuit Court permitted under the KRS ~~Subtitle 304.33~~~~[Chapter 304 Subtitle 33]~~ with respect to the liquidation of property of foreign health organizations found in this state; and

(b) The occurrence of the mandatory control level event shall be considered adequate grounds for the application.

Section 11. Incorporation by Reference. (1) ~~"NAIC 2019 Risk-Based Capital Forecasting & Instructions Health"~~ ~~["2013 NAIC Health Risk-Based Capital Report Including Overview and Instructions for Companies, National Association of Insurance Commissioners, 9/6/2013,]~~ is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Department of Insurance, Mayo-Underwood Building, 500 Mero Street, [215 West Main Street], Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

Contact Person: DJ Wasson, Deputy Commissioner, 500 Mero Street, Frankfort, Kentucky 40601, phone +1 (502) 564-6026, fax +1 (502) 564-1453, email dj.wasson@ky.gov

***General Reviewer's Note:** Please file one (1) revised REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT, paginated as pages 23 through 25, with the Compiler in conjunction with filing this suggested substitute. The revisions should reflect changes based on changes that also apply more broadly to health organizations.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Regulation: 806 KAR 38:100

Contact Person: DJ Wasson

Phone: +1 (502) 564-6026

Email: dj.wasson@ky.gov

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes risk-based capital requirements for all health organizations authorized to transact insurance business in Kentucky. This regulation also sets forth the required actions to be taken by both the commissioner and the insurer if the health organization fails to meet the risk-based capital requirements.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to provide the department with the appropriate monitoring and enforcement tools to ensure the financial solvency of health organizations doing business in Kentucky.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 304.38-070 requires risk-based capital to be determined in accordance with the risk-based capital requirements established under KRS 304, Subtitle 38 and any administrative regulations promulgated pursuant to KRS 13A. KRS 304.38-150 provides that the Commissioner of Insurance may make reasonable administrative regulations necessary for the proper administration of KRS Chapter 304, Subtitle 38. This administrative regulation requires health organizations to comply with risk-based capital reporting requirements to aid in the department's financial monitoring of health organizations.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation sets forth the process that the department will use in monitoring solvency and the required corrective action for a health organization that does not meet the risk-based capital requirements.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: The amendment to this administrative regulation establishes the conformity with Chapter 13A formatting guidelines, updates the physical address of the department as well as the material incorporate by reference. This amendment also adds new regulatory RBC guidelines for trend tests based on the newly incorporated materials.

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary to provide the Department of Insurance with appropriate regulatory tools to take appropriate regulatory action against a health organization, limited service health organization and non-profit health service corporation that is exhibiting a negative trend in its financial status. The amended to this regulation was noted as a required element for the Department's financial accreditation.

(c) How the amendment conforms to the content of the authorizing statutes: KRS 304.38-070 requires risk-based capital to be determined in accordance with the risk-based capital requirements established under KRS Chapter 304, Subtitle 38 and any administrative regulations promulgated pursuant to KRS 13A. KRS 304.38-150 provides that the Commissioner of Insurance may make reasonable administrative regulations necessary for the proper administration of KRS Chapter 30 Subtitle 38. This administrative regulation requires the health organizations, limited health service corporations, and nonprofit health service corporations to comply with risk-based capital reporting requirements to aid in the department's financial monitoring. KRS 304.32-140(1) requires a corporation subject to the requirements of KRS 304, Subtitle 32 to comply with the risk-based capital requirements as established in administrative regulations promulgated by the commissioner.

(d) How the amendment will assist in the effective administration of the statutes: This amendment sets forth the process that the department will use in monitoring solvency of a health organizations, limited service health benefit plans and non-profit health service corporation

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Approximately 25 regulated entities will be impacted by this administrative regulation.

(4) Provide an analysis of how the entities identified in the previous question will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions each of the regulated entities have to take to comply with this regulation or amendment: Regulated entities are responsible for maintaining capital and surplus in accordance with the requirements set forth in this administrative regulation. Should a regulated entity fail to maintain the capital and surplus required by this administrative regulation, the entity is responsible for following the corrective action set forth in this administrative regulation

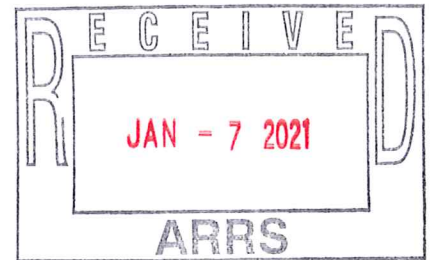
(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities: Regulated entities have been complying with these requirements for numerous years. There should not be a cost for complying with the updates included in this amendment.

(c) As a result of compliance, what benefits will accrue to the entities: As a result of compliance, regulated entities will be able to fulfill their financial obligations to their insureds.

(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:

- (a) Initially: Implementation of this amendment is not anticipated to have an initial cost on the Department of Insurance.
- (b) On a continuing basis: Implementation of this amendment is not anticipated to have an on-going cost on the Department of Insurance.
- (6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The Department will use funds from its current operational budget to perform the tasks necessary.
- (7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: An increase of fees will not be necessary because additional personnel is likely unnecessary.
- (8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: This administrative regulation does not directly establish any new fees.

- (9) TIERING: Is tiering applied? Explain why or why not. Tiering is not applied.



PUBLIC PROTECTION CABINET

Department of Insurance

P.O. Box 517
Frankfort, Kentucky 40602-0517
1-800-595-6053
<http://insurance.ky.gov>

Andy Beshear
Governor

Ray A. Perry
Deputy Secretary

Kerry B. Harvey
Secretary

Sharon P. Clark
Commissioner

January 7th, 2021

Senator Stephen West, Co-Chair
Representative David Hale, Co-Chair
c/o Emily Caudill, Regulation Compiler
Administrative Regulation Review Subcommittee
Legislative Research Commission
029, Capitol Annex
Frankfort KY 40601

Re: **806 KAR 47:010. Fraud prevention.**

Dear Co-Chairs West and Hale:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 806 KAR 47:010, the Department of Insurance proposes the attached agency amendments to 806 KAR 47:010.

Sincerely,

DJ Wasson, Deputy Commissioner
Department of Insurance
Mayo-Underwood Building
500 Mero Street
Frankfort, Kentucky 40601

SUGGESTED SUBSTITUTE

Final 1/6/2021 10:14 AM

PUBLIC PROTECTION CABINET

Department of Insurance

Fraud Division

806 KAR 47:010. Fraud prevention.

RELATES TO: KRS 304.2-140, 304.47-010, 304.47-020, 304.47-040, 304.47-050[, ~~304.47-055, 304.47-080~~]

STATUTORY AUTHORITY: KRS 304.2-110, ~~304.47-055, 304.47-080~~

NECESSITY, FUNCTION, AND CONFORMITY: KRS 304.2-110(1) authorizes the Commissioner of Insurance to promulgate administrative regulations necessary for or as an aid to the effectuation of any provision of the Kentucky Insurance Code as ~~established~~ **defined** in KRS 304.1-010. [~~KRS 304.2-110 authorizes the Commissioner of Insurance to promulgate administrative regulations necessary for or as an aid to the effectuation of any provision of the Kentucky Insurance Code.~~] This administrative regulation establishes insurer requirements and a comprehensive process for reporting and investigating fraudulent insurance acts.

Section 1. Definitions.

(1) "Division" is ~~defined~~ **defined** by KRS 304.47-010(6).

(2) "Special investigative unit" or "SIU" means a unit to investigate fraudulent insurance acts as ~~established~~ **required** by KRS 304.47-080.

Section 2. Scope. This administrative regulation shall apply to all insurers ~~authorized~~ **admitted** to do business in the Commonwealth that are not otherwise exempted by KRS 304.47-080(1).

Section 3. Primary Anti-fraud Contacts. To facilitate communication with the division, an insurer shall designate two (2) primary contact persons, one (1) of whom shall be the head of the SIU, who shall communicate with the division on matters relating to the reporting, investigation, and prosecution of suspected fraudulent insurance acts, as ~~established~~ **defined** in KRS 304.47-020.

Section 4. Special Investigative Units and Anti-fraud Plans.

(1) An insurer shall maintain an SIU to fulfill the requirements of KRS 304.47-080.

(2) In conjunction with its SIU, an insurer shall:

(a) Implement systematic and effective methods to detect and investigate suspected fraudulent insurance claims;

(b) Educate and train all claims handlers to identify possible insurance fraud;

(c) Develop policies for the SIU to cooperate, coordinate, and communicate with:

1. The insurer's claims handlers, legal personnel, technical support personnel, and database support personnel; and

2. The division and other relevant law enforcement agencies; and
- (d) Develop and submit to the division a written anti-fraud plan, which shall include:
 1. Acknowledgment of duty to report to the division, including mandatory reporting of the determination that a suspected fraudulent act has been committed within fourteen (14) days;
 2. SIU contact information;
 3. SIU investigative ethics;
 4. Procedures to detect and deter fraud; and
 5. Continuing education plans for SIU staff.

Section 5. Compliance Report.

(1) Within ninety (90) days of admission, and at least once every two (2) years, an insurer shall submit to the division a written report **stating how**~~[setting forth the manner in which]~~ the insurer is complying with Section 4 of this administrative regulation. The report shall also include:

(a) The total number of SIU investigative staff responsible for cases in Kentucky, and whether **or not** any staff member also investigate cases in other jurisdictions; and

(b)1. If the insurer formed the SIU in house and solely governs it, the year that the SIU was ~~[Legislative Research Commission PDF Version Page: 2]~~formed; or

2. If the insurer has contracted SIU services through another company, the identity of the company providing SIU services and the initial year of the contract between the insurer and the company.

(2) Within thirty (30) days of a material change of the information provided in the compliance report, the insurer shall amend the compliance report and resubmit it to the division.

Section 6. Reporting Fraudulent Insurance Acts.

(1) All persons identified in KRS 304.47-050(2) shall report suspected fraudulent insurance acts to the division within fourteen (14) days of determination that a suspected fraudulent act has been committed. Reports submitted to a person or entity other than the division shall not satisfy the reporting duty of KRS 304.47-050(2). Reports shall be submitted by:

(a) Completing a report on the department's electronic services portal at <https://insurance.ky.gov/eservices/default.aspx>; or

(b) Submitting a completed Uniform Suspected Insurance Fraud Reporting Form.

(c) 1. To supplement the report required by **this subsection and in addition to the reports required by paragraph (a) or (b) of this subsection**~~[(1) of this section]~~, persons identified in KRS 304.47-050(2) may also report suspected fraudulent insurance acts through intermediaries including:

a. the National Association of Insurance Commissioners' Online Fraud Reporting System;

b. The National Health care Anti-Fraud Association; or

c. The National Insurance Crime Bureau.

2. A report submitted through an intermediary shall be subject to the confidentiality provisions in KRS 304.47-055.

(2) All persons identified in KRS 304.47-050(1) **shall**~~[may]~~ report suspected fraudulent insurance acts to the division by:

(a) Completing a report on the department's electronic services portal at <https://insurance.ky.gov/eservices/default.aspx>; or

(b) Submitting a completed Uniform Suspected Insurance Fraud Reporting Form.

Section 7. Incorporation by Reference.

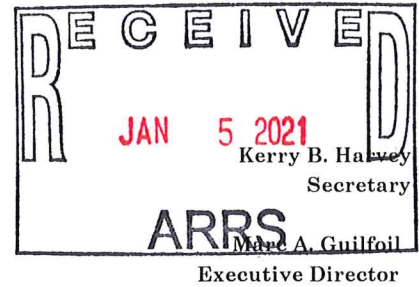
(1) The "Uniform Suspected Insurance Fraud Reporting Form," 7/2019, is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Department of Insurance, Mayo-Underwood Building, 500 Mero Street [~~215 W. Main St.~~], Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

Contact Person: DJ Wasson, Deputy Commissioner, 500 Mero Street, Frankfort, Kentucky 40601, phone +1 (502) 564-6026, fax +1 (502) 564-1453, email dj.wasson@ky.gov

Andy Beshear
Governor

Jonathan Rabinowitz
Chairman



Public Protection Cabinet
KENTUCKY HORSE RACING COMMISSION
Established 1906
4063 Iron Works Pkwy., Bldg. B
Lexington, Kentucky 40511
Telephone: (859) 246-2040 Fax: (859) 246-2039
Website: <http://khrc.ky.gov>

January 5, 2021

Emily Caudill, Regulations Compiler
Legislative Research Commission
029, Capitol Annex
702 Capitol Ave.
Frankfort, KY 40601

Re: 810 KAR 3:020 Agency Amendment

Via Electronic Mail

Dear Ms. Caudill:

Following the Administrative Regulation Review Subcommittee meeting on December 3, 2020, the Kentucky Horse Racing Commission proposes the attached agency amendment to 810 KAR 3:020. Please do not hesitate to contact me if you have questions or concerns.

Very truly yours,

A handwritten signature in cursive script that reads "Jennifer Wolsing".

Jennifer Wolsing
General Counsel

**Agency Amendment
Public Protection Cabinet
Kentucky Horse Racing Commission**

810 KAR 3:020: Licensing of Racing Participants

Page 14

Section 12(2)

Lines 16 – 20

Delete the following:

“Failure to meet the financial responsibility requirements of KRS 230.310 is defined as a licensee’s failure to satisfy a final and unappealable judgment rendered against him or her by any administrative, state, or federal court for goods, supplies, services, or fees that are in any way related to the business of horse racing.”

Insert the following:

A licensee’s failure to satisfy a final, unappealable judgment rendered against him or her for goods, supplies, services, or fees used in the course of any occupation for which a license is required by this administrative regulation shall constitute a failure to meet the financial responsibility requirements of KRS 230.310.

Pages 14-15

Section 12(3)

Lines 14: 21-23; 15: 1-2

Delete the following:

“(3) A licensee’s failure to meet the financial responsibility requirements may be brought to the commission’s attention by anyone, including a successful plaintiff or third party with knowledge of the final judgment.”

Page 15

Section 12(4)

Lines 15: 3-4

Delete the following:

“(4)”

Insert the following:

(3)

Page 15

Section 12(5)

Lines 15: 6-8

Delete the following:



“(5)”

Insert the following:

(4) Additionally, a licensee’s failure to satisfy a final, unappealable judgment rendered against him or her for goods, supplies, services, or fees used in the course of any occupation directly relating to horse racing, such as the following occupations, shall constitute a failure to meet the financial responsibility requirements of KRS 230.310:

(a) Boarding;

(b) Breeding;

(c) Consigning (purchase or sale of horse on behalf of someone else);

(d) Equine-related supplies;

(e) Farm leases;

(f) Feed; and

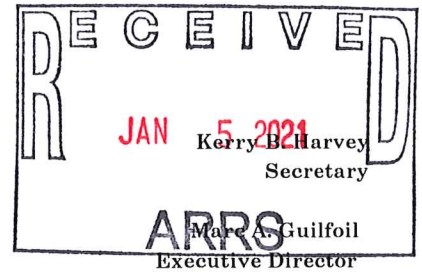
(g) Transportation.

(5) A licensee’s failure to meet the financial responsibility requirements may be brought to the commission’s attention by anyone, including a successful plaintiff or third party with knowledge of the failure to meet the financial responsibility requirement, through the presentation of a final, unappealable judgment from a state, federal, or administrative court.

(6)

Andy Beshear
Governor

Jonathan Rabinowitz
Chairman



Public Protection Cabinet
KENTUCKY HORSE RACING COMMISSION
Established 1906
4063 Iron Works Pkwy., Bldg. B
Lexington, Kentucky 40511
Telephone: (859) 246-2040 Fax: (859) 246-2039
Website: <http://khrc.ky.gov>

January 5, 2021

Emily Caudill, Regulations Compiler
Legislative Research Commission
029, Capitol Annex
702 Capitol Ave.
Frankfort, KY 40601

Re: 811 KAR 2:120 Agency Amendment

Via Electronic Mail

Dear Ms. Caudill:

Attached, please find line-item agency amendments, as well as a version with the agency amendments incorporated within for the convenience of those who review it. Please contact me anytime if you have questions or concerns.

Very truly yours,

Jennifer Wolsing
General Counsel

AGENCY AMENDMENT

**PUBLIC PROTECTION CABINET
Kentucky Horse Racing Commission**

811 KAR 2:120. Kentucky Horse Breeders' Incentive Fund.

Page 1

NECESSITY, FUNCTION, AND CONFORMITY

Line 9

After "230.804(2)(b)", insert "requires".

Delete "authorizes".

Lines 9-10

After "Racing Commission", delete "(the "commission")".

Page 3

Section 1(10)

Line 1

After "Fund.", insert the following:

(11) "Show horse" means a horse that participates in judged exhibition competitions.

Page 3

Section 2(2)

Line 4

After "(2)", insert the following:

Kentucky affiliates shall have an Internal Revenue Service 501(c) designation.

(3)

Renumber remaining subsections accordingly.

Page 3

Section 2(2)(a)

Line 7

After "Incentive Fund", insert "KHRC".

Delete "KHRA".

Page 3

Section 2(3)

Line 10

After "KHBIF", insert the following:
, unless the thoroughbred breed consists exclusively of show horses

Page 3

Section 2(6)

Lines 16-17

After "Advisory Committee", insert "{".

Pages 3-4

Section 2(6)

Line 22

After "without the recommendation.", insert the following:

At least one (1) member of the advisory committee shall have established knowledge of gaited horses.

Line 3

After "reimbursement for all", insert "reasonable".

Page 4

Section 2(7)(a)

Line 6

After "(a) The", delete "KHBIF".

Page 5

Section 2(9)

Line 2

After "January 1,", insert "2022".

Delete "2006".

After "December 31,", insert "2024".

Delete "2008".

Page 5

Section 2(10)

Line 3

After "registration period", insert a comma.

Line 4

After "on or prior to", insert the following:

November 1, 2021. Any Kentucky affiliate that registered with the commission under any previously effective version of this administrative regulation shall re-register

Delete "March 31, 2007".

Page 5

Section 2(11)

Line 5

After "January 1,", insert "2022".

Delete "2009".

Page 5

Section 2(12)

Lines 8-9

After "following the November 1 deadline", insert the following:

established in subsections (11) and (12)

Delete the following:

set forth in subsection (11)

Page 5

Section 2(13)

Line 12

After "shall", insert "include".

Delete "set forth".

Page 5

Section 2(13)(c)

Line 17

After "residing in Kentucky", insert the following:

. If the Kentucky affiliate is the national breed organization, then an independent third party approved by the commission shall certify the number of horses. Optionally, if the Kentucky affiliate demonstrates to the commission that it is unable to obtain an independent third party to certify horse numbers as required in this subsection, the commission may certify horse numbers at a fee of \$120.00 per hour.

1. For a horse to be included in the certification, the horse shall be the result of parentage verified by DNA verification of either the horse's sire or dam. A three (3) generation pedigree on one (1) side shall be displayed on the certificate of registration, so that the horse, at least one (1) of the horse's parents, and at least (1) set of the horse's grandparents are displayed on the certificate.

2. Each horse shall be registered with only one (1) Kentucky affiliate.

3. The affiliate shall provide the data electronically to the commission and in a format agreeable to the commission

Page 5

Section 2(13)(d)

Line 18

After "from the", insert "national".

Delete "nation".

Page 7

Section 3(4)(a)

Lines 11-12

After "organization pursuant to Section 2", insert "(14)".

Delete "(13)".

Line 13

After "certified pursuant to Section 2", insert "(14)".

Delete "(13)".

Line 15

After "December 31 deadline", insert the following:

established in Section 2(13) of this administrative regulation

Delete the following:

preceding the three (3) year registration period

Pages 7-8

Section 3(6)

Lines 21-22

After "(6) The", insert "commission".

Delete "Kentucky affiliate".

Lines 22, 1, 2

After "March 1 of each year,", insert the following:

notify the Kentucky affiliate of the total dollars allocated to that affiliate

Delete the following:

determine the names of the incentive winners who are entitled to awards for contests held during the previous year and provide the names of the incentive winners to the commission

Page 8

Section 3(7)

Lines 3-5

After "(7) The", insert the following:

Kentucky affiliate shall, by October 1 of each year, notify the commission of the names of the incentive winners who are entitled to awards for contests held during the previous year. The Kentucky affiliate shall also, by October 1 of each year, notify

the commission of the names of the horses registered to that affiliate, and the date of each horse's registration. If a horse is registered with more than one (1) affiliate, the commission shall not count that horse's award, and the funds for that award shall revert back to the KHBIF to be distributed in future awards.

(a) Within thirty (30) calendar days of receiving the names of the incentive winners from the Kentucky affiliate, the commission shall generate claim forms for the appropriate Kentucky affiliate.

(b) The Kentucky affiliate shall provide the claim forms received from the commission to its incentive winners from the previous year.

(c) The Kentucky affiliate shall provide a letter to the commission, which certifies that it has notified all incentive winners of their awards from the previous year. The commission shall not issue an award check for any of that Kentucky affiliate's incentive winners prior to receiving this letter

Delete the remainder of this subsection in its entirety except for the final period.

Page 8

Section 3(9)

Line 12

After "Incentive Fund", insert "KHRC".

Delete "KHRA".

Page 8

Section 3(10)

Lines 13-15

After "(10)", delete the remainder of this subsection in its entirety.

Page 8

Section 3(11)

Line 16

Before "Failure to", delete "(11)".

Renumber remaining subsection accordingly.

Page 9

Section 4(2)(a)

Line 7

After "stand;", delete "and".

Page 9

Section 4(2)(b)

Line 9

After "scheduled to participate", insert the following:

;

(c) A list of all horses registered with the Kentucky affiliate and the horse's date of registration with that affiliate;

(d) A current list of the Kentucky affiliate's board members; and

(e) The current contact information of the Kentucky affiliate's preferred contacts

Page 9

Section 5(1)

Line 14

After "to the dispute", insert the following:

, as established in 810 KAR 7:070

Pages 9-12

Section 6(1)-(7)

Lines 19-20, 1-22, 1-22, 1-11

After "(1)", insert the following:

Violations, discipline, disputes, and investigation shall take place according to 810 KAR 7:070.

(2) In addition to the procedures established in 810 KAR 7:070, and notwithstanding any contrary provisions of 810 KAR 7:070, the commission may take the following actions, which would be subject to appeal as established in 810 KAR 7:070:

(a) For a violation of 810 KAR 7:070, the commission may bar a Kentucky affiliate or national breed organization from registering for a period of from one (1) to ten (10) years, based on the seriousness of the violation.

(b) For a second or subsequent violation of 810 KAR 7:070, the commission may bar the Kentucky affiliate or national breed organization from eligibility to receive an incentive from the KHBIF for period of from one (1) to twenty (20) years.

(c) If the evidence available to the commission indicates that an individual who is a member of, or acting on behalf of, a Kentucky affiliate or national breed organization has, without the knowledge or consent of the Kentucky affiliate or national breed organization, violated 810 KAR 7:070, then the commission may condition the continuing registration of the Kentucky affiliate in the KHBIF upon

the exclusion of that individual from any further participation in work related to the KHBIF.

Delete the remainder of this section in its entirety.

Page 12

Section 7(1)(a)

Line 14

After "Registration of", insert "Kentucky".

Delete "State".

Line 15

After "Incentive Fund", insert "KHRC".

Delete "KHRA".

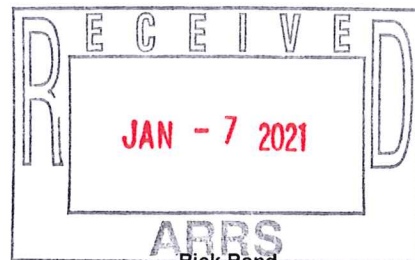
Page 12

Section 7(1)(b)

Line 17

After "Incentive Fund", insert "KHRC".

Delete "KHRA".



Andy Beshear
Governor

PUBLIC PROTECTION CABINET
Department of Housing, Buildings and Construction

Rick Rand
Commissioner

Kerry B. Harvey
Secretary

500 Mero Street, Floor 1
Frankfort, Kentucky 40601
Phone: 502-573-0365
Fax: 502-573-1057
www.dhbc.ky.gov

Max Fuller
Deputy Commissioner

Ray Perry
Deputy Secretary

January 7, 2021

Senator Stephen West, Co-Chair
Representative David Hale, Co-Chair
c/o Emily Caudill, Regulation Compiler
Administrative Regulation Review Subcommittee
Legislative Research Commission
029, Capitol Annex
Frankfort KY 40601

Re: **815 KAR 20:150** Inspections and tests
815 KAR 35:015 Certification of electrical inspectors

Dear Co-Chairs West and Hale:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 815 KAR 20:150 and 815 KAR 35:015, the Department of Housing, Buildings & Construction proposes the attached amendments to 815 KAR 20:150 and 815 KAR 35:015.

Sincerely,

/s/ Benjamin Siegel

Benjamin Siegel
General Counsel
Department of Housing,
Buildings & Construction
500 Mero Street
Frankfort, Kentucky 40601

SUGGESTED SUBSTITUTE

Final 1/6/2021 3:13 PM

**PUBLIC PROTECTION CABINET
Department of Housing, Buildings and Construction
Division of Plumbing**

815 KAR 20:150. Inspections and tests.

RELATES TO: KRS 318.090, 318.130, 318.134, 318.140, 318.160, 318.170

STATUTORY AUTHORITY: KRS 198B.040(10), 318.130

NECESSITY, FUNCTION, AND CONFORMITY: KRS 318.130 requires the department to promulgate an administrative regulation establishing the Kentucky State Plumbing Code. KRS 318.160 requires a person who constructs, installs, or extensively alters any plumbing, sewerage, or water supply system of any public building or establishment to obtain approval of the department in writing. This administrative regulation establishes the requirements for the tests and inspections that are necessary in order to ensure compliance with 815 KAR Chapter 20, the Kentucky State Plumbing Code.

Section 1. Required Inspections and Tests. (1) Required inspections. The department shall inspect the following to ensure compliance with the code:

- (a) The water distribution system;
- (b) The soil, waste, and vent system;
- (c) The fixtures and fixture traps;
- (d) Appurtenances; and
- (e) All connections in a plumbing system.

(2) Required tests. Tests shall be made separately or as follows:

- (a) The house sewer and its branches from the property line to the house drain;
- (b) The house drain including its branches;
- (c) The soil, waste, and vent system;
- (d) Inside rain water conductors; and
- (e) The final inspection and air test which shall include the complete plumbing system as required by Section 3(2) of this administrative regulation, exclusive of the house sewer.

(3) Rough-in inspection.

(a) The plumbing system shall not be covered until it has been inspected, tested, and approved.

(b) A rough-in inspection shall be conducted prior to the covering or concealment of the plumbing system.

(c) If any part of a plumbing system is covered or concealed before being inspected, tested, and approved, it shall be uncovered, or unconcealed and tested as required.

(4) Condemned buildings. In buildings condemned by other authorities because of unsanitary conditions of the plumbing system, necessary alterations shall be considered a new plumbing system.

(5) Tests of alterations, extensions, or repairs. Any alterations, repairs, or extensions that re-

quire more than ten (10) feet of soil, waste, or vent piping shall be inspected and tested as required by Section 3(2) of this administrative regulation.

Section 2. Permit Holder Requirements. The person procuring the plumbing permit shall:

- (1) Furnish all equipment, material, and labor necessary for inspections and tests;
- (2) Notify the department representative and request a rough-in inspection for the plumbing system prior to the plumbing system being concealed or covered within the floors or walls of a building; and
- (3) Notify a department representative and request a final inspection and air test upon completion of the installation.

Section 3. Requirements for Remote Inspection. (1) A master plumber may request a plumbing inspection from the department conducted by live video or submission of recorded video or photograph if the master plumber holds a certificate of completion issued by the department.

(2) Certificate of completion. (a) The department shall issue a certificate of completion to a master plumber who has successfully completed a training course provided by the department that shall cover the following topics:

1. Technology necessary for effective remote inspection;
2. Information to be conveyed and shown by the master plumber to the department; and
3. How to show corrections made to installations that failed remote inspection.

(b) A certificate of completion issued to a master plumber pursuant **paragraph (a) of this subsection**~~[section 3(2)(a) of this administrative regulation]~~ shall be valid for a period of three (3) years from the date of issuance, after which the certificate shall expire **unless renewed prior to expiration as established in paragraph (c) of this subsection**. A master plumber whose certificate of completion has expired shall not be eligible to request or receive remote inspections.

(c) A certificate holder may renew **his or her**~~[their]~~ certificate of completion by completing **the**~~[a]~~ training course **established in paragraph (a) of this subsection**~~[described in section 3(2)(a) of this administrative regulation]~~.

(3) The department **shall**~~[may]~~ deny a request for remote inspection if:

- (a) The scope of the work is too complex for remote inspection;
- (b) Remote inspection is not feasible or practical; or

(c) **The situation would not provide an adequate inspection if done remotely**~~[Any other reason is articulated in writing to the certificate holder by the department]~~.

(4) Remote inspection seals. (a) A certificate holder may request numbered remote inspection seals from the department to place on completed plumbing installations that are approved for remote inspection. **The request shall be made by** by submitting a completed form PLB-4, Application for Plumbing Remote Inspection Seals, to the department.

(b) Except for the initial request for remote inspection seals, a certificate holder requesting seals shall submit a completed form PLB-5, Plumbing Remote Inspection Seal Verification, to the department prior to receiving remote inspection seals.

(c) A certificate holder shall:

1. Affix a seal to a completed plumbing installation for which he or she has been approved for remote inspection;

2. Not affix a seal to a plumbing installation *if[when]* he or she has not submitted videos or photographs of the installation to the department or participated in a live video inspection with the department; and

3. Not allow seals he or she received from the department to be used by another.

(d) The department shall:

1. Assign an inspection number to the permit and seal for a plumbing installation that has successfully passed all required remote inspections and tests; and

2. Complete remote inspections that are not live video within three (3) business days of receipt of videos or photographs of the completed plumbing installation eligible for remote inspection.

(e) A property owner, property owner's designee, or certificate holder shall write the inspection number assigned by the department on the seal the inspection number is assigned to upon successful passage of all required inspections and tests.

(5) Notification of noncompliance. The department shall immediately issue a notification of noncompliance in writing to the certificate holder upon finding deficiencies in the documentation submitted for remote inspection.

(6) Corrections to noncompliant installations. A plumbing installation found to be noncompliant through remote inspection shall be corrected within ten (10) business days upon receiving notice of noncompliance from the department. Failure to make the required corrections may result in the termination of the certificate holder's certificate of completion.

(7) Penalties. A certificate holder who knowingly engages in activity intended to defraud or deceive a plumbing inspector or any other agent of the department shall be subject to certificate and license revocation or suspension.

(8) Department determinations established in subsections (6) and (7) of this section may be appealed to the department. An appeal shall be conducted pursuant to KRS Chapter 13B.

Section 4[3]. Testing of Systems. (1) The water distribution system, as well as the water service, shall be:

(a) Tested with air or water under a pressure of not less than the maximum working pressure under which it is to be used; and

(b) Free from leaks.

(2)(a) Except as provided in subsection (3) of this section, a water test shall be performed:

1. On the entire soil, waste, and vent system; or

2. In sections.

(b) If it is applied to the entire system, all openings shall be closed, except the highest opening and the system shall be filled with water to the point of overflow.

(c) If the system is tested in sections, each opening shall be tightly plugged, except the highest opening and it shall be tested with not less than a ten (10) foot head of water. In testing successive sections, at least the upper ten (10) feet of the preceding section shall be retested.

(3) In lieu of a water test, an air pressure test may be used by attaching an air compressor or test apparatus to any suitable opening. All other inlets and outlets to the system shall be closed, forcing air into the system until there is a uniform pressure of five (5) pounds per square inch (PSI). The pressure shall be maintained for fifteen (15) minutes.

(4) After the plumbing fixtures have been set and their traps filled with water and before the building is occupied, the final air test shall test the entire soil, waste, and vent system including the fixtures and appurtenances, other than a house sewer, by connecting an air machine to any suitable opening or outlet and applying air pressure equivalent to a one (1) inch water column. It shall be maintained for at least a fifteen (15) minute period. If there are no leaks or forcing of trap seals as may be indicated by the functioning of a drum, float, or water column, the system shall be determined as airtight.

(5) A garage drainage system shall be tested in the same manner as the soil, waste, and vent system.

(6) A house sewer shall be tested by a water, air, or smoke test. A four (4) inch test tee or Y connection shall be provided at the property line for testing.

(7) The department may require the removal of any clean-outs to ascertain if the pressure has reached all parts of the system

(8) A building sewer not drained by gravity shall have a minimum of twenty-four (24) inches of cover and shall be tested with five (5) pounds per square inch for a period of fifteen (15) minutes.

(9) Inside rain water conductors shall be tested with water, air, or smoke test.

Section 5[4]. Defective Work. If an inspection or a test indicates defective work or material, it shall be replaced and the inspection and the test repeated.

Section 6[5]. Testing Defective Plumbing. An air test shall be used in testing the condition of a plumbing system if there is reason to believe it has become defective.

Section 7[6]. Certificate of Approval. The department shall issue a certificate of approval upon the satisfactory completion and final test of the plumbing system.

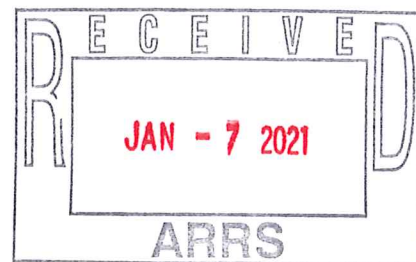
Section 8. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) "Application for Plumbing Remote Inspection Seals", Form PLB-4, June 2020; and

(b) "Plumbing Remote Inspection Seal Verification", Form PLB-5, June 2020.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Department of Housing, Buildings and Construction, 500 Mero Street, Frankfort, Kentucky 40601-5412, Monday through Friday, 8 a.m. to 4:30 p.m. and is available online at dhbc.ky.gov.

CONTACT PERSON: Benjamin Siegel, General Counsel, Department of Housing, Buildings and Construction, 500 Mero Street, 1st Floor, Frankfort, Kentucky 40601, phone (502) 782-0604, fax (502) 573-1057, email benjamin.siegel@ky.gov.



Andy Beshear
Governor

Kerry B. Harvey
Secretary

Ray Perry
Deputy Secretary

PUBLIC PROTECTION CABINET
Department of Housing, Buildings and Construction

500 Mero Street, Floor 1
Frankfort, Kentucky 40601
Phone: 502-573-0365
Fax: 502-573-1057
www.dhbc.ky.gov

Rick Rand
Commissioner

Max Fuller
Deputy Commissioner

January 7, 2021

Senator Stephen West, Co-Chair
Representative David Hale, Co-Chair
c/o Emily Caudill, Regulation Compiler
Administrative Regulation Review Subcommittee
Legislative Research Commission
029, Capitol Annex
Frankfort KY 40601

Re: 815 KAR 20:150 Inspections and tests
815 KAR 35:015 Certification of electrical inspectors

Dear Co-Chairs West and Hale:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 815 KAR 20:150 and 815 KAR 35:015, the Department of Housing, Buildings & Construction proposes the attached amendments to 815 KAR 20:150 and 815 KAR 35:015.

Sincerely,

/s/ Benjamin Siegel

Benjamin Siegel
General Counsel
Department of Housing,
Buildings & Construction
500 Mero Street
Frankfort, Kentucky 40601

SUGGESTED SUBSTITUTE

Final 1/6/2021 12:19 PM

**PUBLIC PROTECTION CABINET
Department of Housing, Buildings and Construction
Electrical Division**

815 KAR 35:015. Certification of electrical inspectors.

RELATES TO: KRS 198B.060, 198B.090, 211.350, 227.450, 227.480, 227.489, 227.491, 227.492, 227.495

STATUTORY AUTHORITY: KRS 227.489

NECESSITY, FUNCTION, AND CONFORMITY: KRS 227.489 requires the commissioner of the Department of Housing, Buildings and Construction to require electrical inspectors to be certified based on standards of the National Electrical Code. This administrative regulation establishes the procedures for achieving and maintaining [a]certification as an electrical inspector.

Section 1. Applicability. This administrative regulation shall apply to electrical inspectors in Kentucky and applicants for certification as an electrical inspector in Kentucky.

Section 2. Classifications of Electrical Inspectors. (1) An electrical inspector shall be classified as either:

(a) An electrical inspector one (1) and two (2) family shall be a person who has:

1. Passed an examination focused on electrical installations in one (1) or two (2) family dwellings with a score of seventy (70) percent or greater by a test provider approved by the department; and

2. At least four (4) years experience immediately preceding the application in the installation and design of residential wiring systems installed in accordance with the National Electrical Code, NFPA 70 incorporated by reference in 815 KAR 7:120 and 815 KAR 7:125; or

(b) An electrical inspector general shall be a person who has:

1. Passed an examination focused on electrical installations in residential, commercial, and industrial buildings with a score of seventy (70) percent or greater by a test provider approved by the department; and

2. At least eight (8) years of experience immediately preceding the application in the installation and design of residential, commercial, and industrial wiring systems installed in accordance with the National Electrical Code, NFPA 70, incorporated by reference in 815 KAR 7:120 and 815 KAR 7:125.

(2) The requirements in subsections **(1)(a) and (b) of this section**~~[1(a) and 1(b)]~~ shall be satisfied if the person is:

(a) A registered professional electrical engineer engaged in that profession for at least three (3) years immediately preceding the application; or

(b) Currently licensed as a master electrician, having obtained **his or her**[their] license after successful passage of an exam in accord with 815 KAR 35:060, Section 4, and actively engaged in the electrical trade in that capacity immediately preceding the application.

(3)(a) An electrical inspector one (1) and two (2) family shall be certified to inspect and approve an electrical installation related to a:

1. One (1) or two (2) family dwelling; or
2. Manufactured home or mobile home.

(b) An electrical inspector general shall be certified to inspect and approve an electrical installation related to any type of residential, commercial, industrial, or any other property that requires electrical inspection.

(4) A passing score as **established in subsection (1)(a)1. and (1)(b)1. of this section**~~[described in subsection (1)(a)1. and 1(b)1.]~~ shall be valid for a period of three (3) years.

Section **3.[4.]** Application Requirements for Certification. (1) An applicant for certification as an electrical inspector shall submit to the department:

(a) A completed Application for Electrical Inspector Certification on Form EL-11;

(b) Proof of successful completion of the examination applicable to the certification sought pursuant to Section 2(1)(a) and (b) of this administrative regulation;

(c) Except for electrical inspectors employed by the department, a fee of \$100 dollars payable to the Kentucky State Treasurer.

(d) Proof of the applicant's experience as required by Section **2(1)(a)2. and 2(1)(b)2.[3(1)(a)2. and (b)2.]** of this administrative regulation.

(e) A passport-sized, color photograph of the applicant taken within the past six (6) months; and

(f) Proof of a bond in the amount of \$5,000 in compliance with KRS 227.487(4), unless employed by the department or a local government rules otherwise.

(2) An applicant shall possess:

(a) The ability to read and write the English language; and

(b) A general educational level at least adequate to perform his or her duties.

(3) Proof of listed experience shall be provided by:

1. A federal or state tax form; or

2. An affidavit by another license holder who worked with the applicant.

(4) An applicant shall receive credit for an electrical course satisfactorily completed from an accredited vocational school or college on a year-for-year basis. Credit for education to replace an applicant's experience requirements shall be limited to a total of two (2) years.

(5) The department shall issue a certification for an electrical inspector only to an individual. A corporation, partnership, company, or other entity shall not be issued a certification.

Section **4.[5.]** Certificate Renewal. (1) Certification period.

(a) Each electrical inspector's certification shall expire on the last day of the electrical inspector's birth month each year.

(b) The department shall send each electrical inspector a renewal application form prior to the date of expiration.

(2) Filing for renewal. Each electrical inspector seeking certification renewal shall submit to the department:

(a) A completed Application for Electrical Inspector Certification on Form EL-11;

(b) A renewal fee off fifty (50) dollars;

(c) Proof of compliance with the continuing education requirements established in 815 KAR 2:010;

(d) If the electrical inspector is employed by a local government, documented proof of continued employment signed by the hiring authority responsible for administering the local jurisdiction's inspection and code enforcement program;

(e) For each local jurisdiction with which the applicant is contracted to act as an electrical inspector, a copy of the current contract naming the applicant and establishing the terms and conditions of his or her authority; and

(f) For each local jurisdiction with which the applicant is contracted to act as an electrical inspector, a copy of the ordinance fixing the schedule of fees authorized to be charged for electrical inspections within that jurisdiction.

(3) Current information. An applicant who has previously submitted a document required by subsection (2)(e) and (f) of this section for a prior renewal shall not be required to resubmit that document if it remains current and effective at the time of the current renewal.

(4) Change of information. Within ten (10) days of the occurrence, an[a] electrical inspector shall provide the department:

(a) Notice of any establishment, change, or termination of the electrical inspector's contract or employment with a local jurisdiction;

(b) A copy of any new or revised contract entered into with a local jurisdiction; and

(c) For any local jurisdiction with which the electrical inspector is employed or contracted, a copy of any ordinance amending the schedule of fees authorized to be charged for electrical inspections within that jurisdiction.

(5) Late renewal.

(a) An electrical inspector who fails to submit the renewal application and renewal fee on or before the last day of his or her birth month shall be a late renewal fee of fifty (50) dollars in addition to the renewal fee.

(b) If both fees are not paid or all required continuing education is not completed within sixty (60) days after the last day of the electrical inspector's birth month, the certification shall be terminated.

(6) Reinstatement.

(a) A certificate that has been terminated may be reinstated at the discretion of the commissioner upon a petition in writing, demonstrating just cause why the petitioner failed to comply with the renewal requirements established by this section.

(b) An application for reinstatement shall:

1. Pay a reinstatement fee of \$100 in addition to the late renewal fee required by subsection (5) of this section;

2. Comply with the requirements established by subsection (2) of this section;

3.a. Submit proof of required continuing education pursuant to 815 KAR 2:010 for the number of hours required in one (1) year; or

b. Submit proof of having passed the examination applicable to the certification to be reinstated, as established by Section 2(1)(a) and (b) of this administrative regulation, within the current year.

(7) The requirements of this section shall not apply to a state-employed electrical inspector.

Section ~~5.6.~~ Duties and Responsibilities. (1) In addition to the National Electrical Code, the electrical inspector shall be familiar with all applicable building codes and fire safety codes governing buildings in the area in which the electrical inspector performs an inspection.

(2) Record retention.

(a) Each electrical inspector shall make a complete record of each inspection. The record shall contain, as a minimum:

1. Sufficient information to identify the location of the structure inspected;
2. The date of the inspection;
3. The type of structure, whether residential, commercial, industrial, or other;
4. The designation of a required permit and the agency granting the permit;
5. The size and complexity of the structure; and
6. Any deficiencies in meeting code requirements and the actions required to comply.

(b) If the electrical inspector is employed by a local government, the electrical inspector or the local government shall maintain the records in compliance with 725 KAR 1:061.

(c) If the electrical inspector contracts with a local government, the local government shall maintain the records in compliance with 725 KAR 1:061.

(d) If the electrical inspector is an employee of the department, the electrical inspector shall submit the reports to the department in compliance with KRS 227.487(1).

Section ~~6.7.~~ Complaints and Grievance Procedures. (1) A person may file a complaint against an electrical inspector if the person believes that an act or omission of the electrical inspector in the performance of his or her duties is in violation of the administrative regulation or other law or has caused an undue hardship to the person.

(2) A complaint or allegation of misconduct shall be submitted in writing to the department and shall:

(a) Include the nature of the alleged misconduct, with specific details as to acts, names, dates, and witnesses; and

(b) Specify the action requested of the department.

(3) Following an investigation, the department shall:

(a) Set the matter for public hearing; or

(b) Take other appropriate action in accordance with KRS 227.495 to resolve or correct the matter.

Section ~~7.8.~~ Suspension and Revocation of Certification. The commissioner shall revoke, suspend, or refuse to renew the certificate of an electrical inspector who is determined, by the commissioner after having afforded the opportunity for a KRS Chapter 13B administrative hearing, to have:

(1) Engaged in an activity that constitutes a conflict of interest, including:

(a) Work as an electrical contractor, master electrician, or electrician;

(b) Involvement in an activity in the electrical industry; or

(c) Having a pecuniary or associational interest in a business or other venture involved in an activity in the electrical industry.

(2) Engaged in fraud, deceit, or misrepresentation in obtaining certification;

(3) Demonstrated negligence, incompetence, or misconduct in the field of electrical inspection;

(4) Affixed or caused to be affixed a seal of approval or issued a certificate of approval for an electrical installation subject to inspection if he or she has not personally inspected the installation and found it to be satisfactory in accordance with the National Electrical Code, NFPA 70 incorporated by reference in 815 KAR 7:120 and 815 KAR 7:125~~[code]~~;

(5) Operated as an electrical inspector in a locality in conflict with state or local laws, ordinances, or regulations;

(6) Knowingly overruled the proper findings of another electrical inspector or attempted to supplant, overrule, or otherwise invalidate the judgment of another electrical inspector without first obtaining express written consent from the designated electrical inspector's office supervising the original electrical inspector;

(7) Failed to maintain accurate and adequate recordkeeping as required by Section 6 of this administrative regulation;

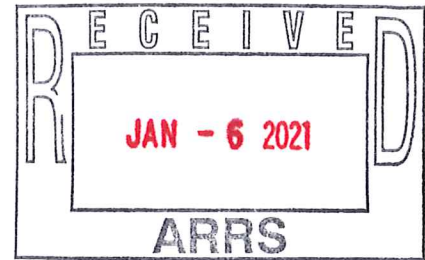
(8) Violated KRS 211.350(8); or

(9) Violated any provision of KRS 227.491 or this administrative regulation.

Section ~~8.19.1~~ Incorporation by Reference. (1) Form EL-11, "Application for Electrical Inspector Certification", ~~May 2020~~**August 2018** is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Department of Housing, Buildings and Construction, 500 Mero Street, Frankfort, Kentucky 40601~~[Electrical Section, 101 Sea Hero Road, Suite 100, Frankfort, Kentucky 40601-5412]~~, Monday through Friday, 8 a.m. to 4:30 p.m. and is available online at dhbc.ky.gov~~[http://dhbc.ky.gov/pages/default.aspx]~~.

CONTACT PERSON: Benjamin Siegel, General Counsel, Department of Housing, Buildings and Construction, 500 Mero Street, 1st Floor, Frankfort, Kentucky 40601, phone (502) 782-0604, fax (502) 573-1057, email benjamin.siegel@ky.gov.



CABINET FOR HEALTH AND FAMILY SERVICES
Office of the Secretary

Andy Beshear
Governor

275 East Main Street, 5W-A
Frankfort, KY 40621
502-564-7042
502-564-7091
www.chfs.ky.gov

Eric C. Friedlander
Secretary

January 6, 2021

Senator Stephen West, Co-Chair
Representative David Hale, Co-Chair
c/o Emily Caudill
Administrative Regulation Review Subcommittee
Legislative Research Commission
029, Capitol Annex
Frankfort KY 40601

Re: 902 KAR 45:180. Permits and fees for food processing plants, food storage warehouses, salvage processors and distributors, cosmetic manufacturers, and certificate of free sale.

Dear Co-Chairs West and Hale:

After further consideration of the economic impact COVID-19 has had on the small, Kentucky food processors and the concerns raised by members of the Administrative Regulation Review Subcommittee and the General Assembly of the issues raised by 902 KAR 45:180, the Department for Public Health proposes the enclosed agency amendment to 902 KAR 45:180. The proposed revision to the fee structure establishes the fee based on the square footage and the risk level of the food processed or stored by the facility.

If you have any questions regarding this matter, please contact Julie Brooks, Department for Public Health, at (502) 564-3970, extension 4069.

Sincerely,

Donna Little
Deputy Executive Director
Office of Legislative and Regulatory Affairs

1/4/2021

AGENCY AMENDMENT

CABINET FOR HEALTH AND FAMILY SERVICES
Department for Public Health

902 KAR 45:180. Permits and fees for food processing plants, food storage warehouses, salvage processors and distributors, cosmetic manufacturers, and certificate of free sale.

Page 3

Section 3(2)

Line 1

After "plant", insert a comma.

Delete "or food".

Line 2

After "storage warehouse", insert ", or salvage processing facility".

Page 3

Section 3(2)(a)1.

Line 4

After "Total", insert "square footage".

Delete the following:

yearly gross income from product sales

Pages 3 and 4

Section 3(2)(b)1., 2., 3., and 4.

Lines 7 to 23 and 1

After "1.", insert the following:

If the facility is between zero to 1,000 square feet, the fee:

a. For risk level 1 shall be \$135;

b. For risk level 2 shall be \$130; or

c. For risk level 3 shall be \$125.

2. If the facility is between 1,001 to 5,000 square feet, the fee:

a. For risk level 1 shall be \$190;

b. For risk level 2 shall be \$180; or

c. For risk level 3 shall be \$170.

3. If the facility is between 5,001 to 20,000 square feet, the fee:

a. For risk level 1 shall be \$350;

b. For risk level 2 shall be \$300; or

c. For risk level 3 shall be \$250.

4. If the facility is between 20,001 to 40,000 square feet, the fee:

a. For risk level 1 shall be \$500;

b. For risk level 2 shall be \$450; or

c. For risk level 3 shall be \$400.

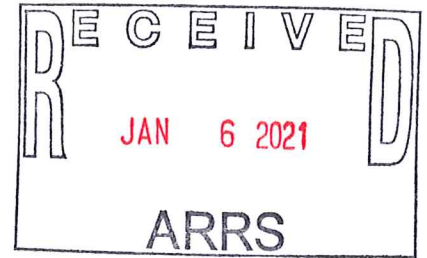
5. If the facility is between 40,001 to 80,000 square feet, the fee:
 - a. For risk level 1 shall be \$600;
 - b. For risk level 2 shall be \$550; or
 - c. For risk level 3 shall be \$500.
6. If the facility is between 80,001 to 150,000 square feet, the fee:
 - a. For risk level 1 shall be \$750;
 - b. For risk level 2 shall be \$700; or
 - c. For risk level 3 shall be \$650.
7. If the facility's square footage is greater than 150,000 square feet, the fee:
 - a. For risk level 1 shall be \$1,000;
 - b. For risk level 2 shall be \$900; or
 - c. For risk level 3 shall be \$800

Delete the following:

- If the income is less than \$100,000 per year, the fee:
 - a. For risk level 1 shall be \$250;
 - b. For risk level 2 shall be \$200; or
 - c. For risk level 3 shall be \$150.
2. If the income is equal to or greater than \$100,000 but less than \$500,000 per year, the fee:
 - a. For risk level 1 shall be \$400;
 - b. For risk level 2 shall be \$350; or
 - c. For risk level 3 shall be \$300.
3. If the income is equal to or greater than \$500,000 but less than \$1,000,000 per year, the fee:
 - a. For risk level 1 shall be \$1,200;
 - b. For risk level 2 shall be \$750; or
 - c. For risk level 3 shall be \$450.
4. If the income is equal to or greater than \$1,000,000 per year, the fee:
 - a. For risk level 1 shall be \$2,800;
 - b. For risk level 2 shall be \$1,500; or
 - c. For risk level 3 shall be \$1,000

Page 4
Section 3(3)
Line 5

After "manufacturer shall be \$", insert "125".
Delete "150".



CABINET FOR HEALTH AND FAMILY SERVICES
Office of the Secretary

Andy Beshear
Governor

275 East Main Street, 5W-A
Frankfort, KY 40621
502-564-7042
502-564-7091
www.chfs.ky.gov

Eric C. Friedlander
Secretary

January 6, 2021

Senator Stephen West, Co-Chair
Representative David Hale, Co-Chair
c/o Emily Caudill
Administrative Regulation Review Subcommittee
Legislative Research Commission
029, Capitol Annex
Frankfort KY 40601

Re: 910 KAR 2:060. Guardianship trust fund.

Dear Co-Chairs West and Hale:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 910 KAR 2:060, the Department for Aging and Independent Living requests that the attached Suggested Substitute be made.

If you have any questions regarding this matter, please contact Phyllis Sosa, Department for Aging and Independent Living, at Phyllis.Sosa@ky.gov.

Sincerely,

Donna Little
Deputy Executive Director
Office of Legislative and Regulatory Affairs

SUGGESTED SUBSTITUTE

CABINET FOR HEALTH AND FAMILY SERVICES Department for Aging and Independent Living Division of Operations and Support

910 KAR 2:060. Guardianship Trust Fund.

RELATES TO: KRS Chapter 13B, 210.290, 387.010(6), 387.510(15), 387.760

STATUTORY AUTHORITY: 194A.050(1), 387.760(2)

NECESSITY, FUNCTION, AND CONFORMITY: Pursuant to KRS 210.290(4)-(6), the Cabinet for Health and Family Services is authorized to establish a guardianship trust fund that may be used for the benefit of individuals under state guardianship who are indigent. This administrative regulation establishes procedures used by the cabinet to provide public notice of any funds remaining after expenses are paid following the death of an individual under state guardianship who has an estate of less than ten thousand dollars (\$10,000) of personal property or money and the process for claiming that property. This administrative regulation establishes the procedures used for any funds that remain unclaimed after the expiration of one (1) year to escheat to the guardianship trust fund and how the guardianship trust fund may be utilized.

Section 1. Definitions. (1) "Applicant" or "Claimant" means the person who has applied to receive unclaimed personal property or funds of a deceased ward listed on the registry.

(2) "Beneficiary" means an individual or entity that has been identified as a recipient of the estate pursuant to the order of a probate court in this or any other state.

(3) "Cabinet" means the Cabinet for Health and Family Services.

(4) "Department" means the Department for Aging and Independent Living.

(5) "Guardianship trust fund" or "trust" means the guardianship trust fund established by KRS 210.290(4)-(6).

(6) "Guardianship unclaimed funds registry" or "registry" means the registry maintained by the department to post unclaimed funds of a deceased ward.

(7) "Heir" means a legal relative, limited to a spouse, parent, child, or sibling of the deceased appointee.

(8) "Individual under guardianship" means a ward of the state as defined by KRS 387.010(6).

Section 2. Public Notice of Remaining Funds. (1) Upon the death of an individual under guardianship who has less than \$10,000 in personal property or funds, the department shall pay, in priority order, the following:

(a) Funeral expenses:

1. ~~If~~**[When]** not prepaid; and
2. ~~If~~**[When]** not covered by life insurance;~~;~~
- (b) Outstanding bills related to living expenses including:
 1. Rent to a landlord; and
 2. Utility companies; and
- (c) Medicaid estate recovery owed.

(2) Funds remaining after expenses listed in Subsection 1(a) – (c) of this section shall be listed on the registry for a period of one (1) year from the date posted.

(3) The registry shall be maintained on the department's website and shall include:

- (a) Name of deceased individual under guardianship;
- (b) Year of birth;
- (c) Date of death;
- (d) Last known city of residence;
- (e) Date notice is posted on the registry;
- (f) The date the notice expires;
- (g) If the amount or value remaining in the estate is more or less than \$100; and
- (h) The account number.

Section 3. Notice of Registry for Claiming Funds. The cabinet may utilize public announcements, interagency agreements, and announcements to creditors associations, including funeral homes and nursing home associations, in order to provide notice to the public of the registry.

Section 4. Filing a Claim for Funds as a Creditor, Heir, or Beneficiary.

(1) The cabinet shall make available on its website the:

- (a) "GUF-1 Guardianship Unclaimed Funds Registry Claim Form - Creditor" for any creditor; and
- (b) "GUF-2 Guardianship Unclaimed Funds Registry Claim Form - Individual" for any heir or beneficiary of the deceased ward.

(2) All claims shall be submitted by mail. No claim shall be accepted in person, by fax, or by email.

(3) The cabinet shall review all claims received no later than thirty (30) days of the expiration of one (1) year after the public notice of estate funds is listed. ~~[No]~~Funds shall **not** be released prior to the expiration of the one (1) year period for filing claims.

(4) Creditors shall have first preference to receive payment from the estate in order as set forth in KRS 210.290(4)(b).

(5) A beneficiary of the estate shall submit a "GUF-2 Guardianship Unclaimed Funds Registry Claim Form - Individual", and the following documentation:

- (a) A copy of the will of the deceased individual under guardianship;

(b) A verified copy of an order of a probate court that the beneficiary is entitled to the funds or personal property, or is the administrator or executor of the deceased's estate; and

(c) A copy of the applicant's driver's license or identification card as proof of identity.

(6) An heir of the estate shall submit a "GUF-2 Guardianship Unclaimed Funds Registry Claim Form - Individual", and the following documentation:

(a) A copy of the applicant's driver's license or identification card as proof of identity; and

(b) **1.** If a spouse, a copy of the marriage certificate;

2.[(c)] If a sibling or child of the deceased individual under guardianship, a copy of the applicant's birth certificate; or

3.[(d)] If a parent of the deceased individual under guardianship, a copy of the deceased's birth certificate.

(7) A creditor, other than Medicaid Estate Recovery Program, of the deceased individual under guardianship shall submit a "GUF-1 Guardianship Unclaimed Funds Registry Claim Form - Creditor", and the following documentation:

(a) An affidavit setting out the relationship to the deceased, the services provided, and the amount owed; and

(b) An itemized copy of the statement of charges owed, a description of the service provided, and dates of service. ~~or~~

(8) [(c)] Medicaid Estate Recovery Program may file a claim by providing the notice required by 907 KAR 1:585.

(9) [(8)] All claims submitted within one (1) year of the public notice of a deceased individual under guardianship's funds shall be:

(a) Processed; and

(b) Paid, if valid. ~~or~~

(10) [(9)] Any remaining funds of the ward shall escheat to the guardianship trust fund.

Section 5. Informal Dispute Resolution and Appeal of Determination Regarding Claim.

(1) Any person or entity aggrieved over a determination by the department regarding a claim may file an informal dispute resolution, which shall be received by the department within fifteen (15) calendar days of the date on the written decision letter.

(2) The request for informal dispute resolution shall be in writing and mailed to the commissioner of the department.

(3) The informal dispute resolution shall include the following information:

(a) Name, address, and telephone number of the claimant;

(b) Justification for the dispute;

(c) Documentation supporting the dispute; and

(d) Signature of person requesting the informal dispute resolution.

(4) The commissioner, or his or her designee, may:

(a) Hold an informal dispute resolution meeting to consider the sufficiency of the claim;
and

(b) Provide an opportunity for the claimant to appear to present facts or concerns about the claim.

(5) A complete record of the informal dispute resolution meeting shall be kept for three (3) years. The claimant shall be notified of the determination, including the reason, and the right to appeal, in writing within ten (10) business days.

(6) A claimant dissatisfied with the determination of the informal dispute resolution may request an administrative hearing be conducted in accordance with KRS Chapter 13B.

(7) The request for administrative hearing shall be received:

(a) Within thirty (30) calendar days from the date on the letter providing the decision of the informal dispute resolution;

(b) In writing; and

(c) To the Office of the Ombudsman and Administrative Review, Quality Advancement Branch, 275 E. Main Street, 2 E-O, Frankfort, Kentucky 40621.

Section 6. Matters not Appealable: **An[No]** administrative hearing shall **not** be conducted if:

(1) The applicant has submitted a claim for funds within one (1) year of the date public notice is posted on the registry.

(2) The applicant has failed to submit a request for administrative hearing within the thirty (30) day time period.

(3) The applicant has failed to produce the documentation required by this administrative regulation when submitting a claim for funds.

(4) The applicant is not an heir as defined by Section 1(7) of this administrative regulation.

Section 7. Guardianship Trust Fund: Investments and Disbursements.

(1) The cabinet may establish the trust with a bank, taking into consideration the location of the bank and if the bank has an established trust division.

(2) The cabinet shall be trustee and shall invest in **the[such]** funds as authorized by KRS 210.290(5).

(3) Funds may be utilized from the trust for banking fees and charges and for the cost of personnel needed within the department to maintain the registry and process disbursements. All other funds of the trust shall be utilized for the needs of indigent individuals under guardianship of the cabinet.

(4) The trust may accept donations and conduct fundraising functions.

(5) Disbursements from the trust may be authorized **[in a uniform manner]** by the commissioner of the department or by his or her designee **in accordance with subsection (7) of this section.**

(6) Requests for disbursements from the trust for an individual under guardianship may be made by any employee of the department or by an individual under guardianship.

(7) The following disbursements may be authorized to the extent funds are available in the trust:

(a) Temporary housing costs not to exceed the cost of housing for two **(2)** months for an individual under guardianship:

1. With no housing;

2. Who has received an eviction notice; or

3. Who is the victim of abuse, neglect, or exploitation and due to the circumstance is no longer able to safely remain in their current living environment and has no access to alternative living arrangements;

(b) Medical supplies, medication, or medical transportation that are not covered by Medicaid or another insurance plan;

(c) Emergency personal needs including clothing or food;

(d) The reasonable cost of burial or cremation:

1. For an individual under guardianship at least six (6) months prior to death; **[.]** and

2. Not to exceed \$5,000, for an individual under guardianship who has no:

a. Burial plan or life insurance;

b. Family able to cover the cost in full; or

c. The county of death has no fund for indigent burials; or

(e) Expenses necessary to ensure the health, safety, and well-being **if[when]** no other funds are available or accessible in a timely manner.

Section 8. Right of Reimbursement of the Trust. (1) The trust shall have the right of reimbursement from an individual under guardianship.

(2) The trust shall be reimbursed as follows by the individual under guardianship:

(a) **1.** Funds received are in excess of the individual under guardianship's cost of living expenses; or

2.[(b)] Other funding sources are obtained to cover the individual's cost of living expenses and allow for repayment to the trust; and

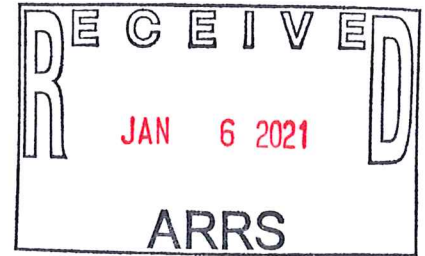
(b)[(c)] No other debts are owed by the individual under guardianship for living expenses.

Section 9. Incorporated by Reference. (1) The following material is incorporated by reference:

(a) "GUF-1 Guardianship Unclaimed Funds Registry Claim Form - Creditor" edition 7/2020; **and[.]**

(b) "GUF-2 Guardianship Unclaimed Funds Registry Claim Form - Individual" edition 7/2020.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Department for Aging and Independent Living, 275 East Main Street, Frankfort, Kentucky 40621, Monday through Friday, 8 a.m. to 4:30 p.m.



CABINET FOR HEALTH AND FAMILY SERVICES
Office of the Secretary

Andy Beshear
Governor

275 East Main Street, 5W-A
Frankfort, KY 40621
502-564-7042
502-564-7091
www.chfs.ky.gov

Eric C. Friedlander
Secretary

January 6, 2021

Senator Stephen West, Co-Chair
Representative David Hale, Co-Chair
c/o Emily Caudill
Administrative Regulation Review Subcommittee
Legislative Research Commission
029, Capitol Annex
Frankfort KY 40601

Re: 921 KAR 3:030 – Agency Amendment

Dear Co-Chairs West and Hale:

After discussions with Administrative Regulation Review Subcommittee staff of issues raised by 921 KAR 3:030, the Department for Community Based Services proposes the attached amendment to 921 KAR 3:030 and the material incorporated by reference in that administrative regulation. If you have any questions, please feel free to contact Laura Begin at Laura.Begin@ky.gov.

Sincerely,

Donna Little
Deputy Executive Director
Office of Legislative and Regulatory Affairs

Agency Amendment

Cabinet for Health and Family Services Department for Community Based Services Division of Family Support

921 KAR 3:030. Application process.

Page 7

Section 9(1)(a)

Line 5

After "SNAP", insert "1/21".

Delete "10/18".

Page 7

Section 9(1)(b)

Line 6

After "Declination", insert "1/21".

Delete "8/10".

Incorporated material

FS-1

Page 1

After "social security card* or", insert "immigration".

Delete "alien".

Page 2

After "social security card, or", insert "immigration".

Delete "alien".

Page 7

After "unemployment, and", insert "immigration".

Delete "alien".

After "for Civil Rights", insert "Stop 9430".

After "Avenue, SW", insert "Room 212-A Whitten Building".

Page 8

After "concerning citizenship and", insert "immigration".

Delete "alien".

After "citizenship or", insert "immigration".

Delete "alien".

PAFS-706

After "Division of Family Support", insert "Fax: (502) 573-2007".

Please update the revision date of these forms to "1/21".

Application for SNAP

The Supplemental Nutrition Assistance Program (SNAP) is a program to help you buy food for good health.

If you have difficulty communicating with us because you do not speak English or have a disability, please let us know. Free language assistance or other aids and services are available upon request.

How Do I Get SNAP Benefits?

Step 1. Fill out an application.

Anyone may fill out an application. Answer as many questions as you can. **If you are applying for SNAP and can't fill out all 9 pages of the application today, be sure to fill out this page, sign it, and turn it in. Fill out and turn in the rest of the application (pages 2-9) as soon as you can.**

Step 2. Return the application to us.

You can fax your application to the Department for Community Based Services (DCBS) at (502) 573-2007 or mail it to DCBS, P.O. Box 2104, Frankfort, KY 40602. You can also bring your application to a DCBS office when it is open. When we get your application, you will receive instructions to complete an interview. You have the right to know soon whether you will get benefits. **The date we get this page with your name, address and signature starts the time that we have to determine if you are eligible for SNAP benefits. It is also the start date of SNAP benefits for you if you are eligible for benefits.**

Step 3. Talk with us.

At your interview, you will need to have:

- Proof of who you are, such as your driver's license, social security card* or immigration documentation;
- Proof of who lives in your home, such as a lease or written statement;
- Proof that you live in Kentucky;
- Proof of child care costs or child support paid;
- Proof of your living expenses; and
- Proof of money you have gotten in the past 60 days, including any check stubs.

If you do not have everything listed above, complete the interview anyway. We will help you.

*Information About Social Security Numbers

You can choose to give us the Social Security Number of each person in your household. We can give SNAP benefits only to the people who give us their Social Security Number or proof that they have applied for a Social Security Number. You do not have to give us the Social Security Number for the people you do not want SNAP benefits for.

Tell Us About Yourself

Legal Name:

_____ (Last) _____ (First) _____ (Middle Initial) _____ (Social Security Number)

_____/_____/_____
(Date of Birth) (Mailing Address) (City) (State) (Zip code)

County of Residence _____ Telephone Number (_____) _____ Yours Nearby

If your street address is different from your mailing address, write it below:

(Street Address) (City) (State) (Zip code)

Signature/Mark (X)

Witness (If signed by X)

Today's Date

/ /

Name: _____ Social Security Number: _____
(See notice on page one (1) about social security numbers.)

Tell Us About Your Communication or Other Accommodation Needs

Spoken Language: _____ Written Language: _____

Do you have limited English proficiency? Yes No Do you need a spoken language interpreter during your interview? Yes No *If yes, what language?* _____

Do you have a disability that limits you in any way and need an accommodation? Yes No If yes, Please tell us so we can assist you. *Select all that apply:*

- American Sign Language interpreter Cued Speech Interpreter Oral Interpreter
- Tactile Interpreter Video Relay Interpreter Telecommunications Relay Service
- Braille Large Print Electronic communication (email) Wheelchair access
- Other: _____

Information about Immigration Status

You can apply for SNAP benefits for your household even if some members may not be eligible because of their immigration status. For example, parents who do not have legal immigrant status may apply for SNAP benefits for their children who are U.S. citizens or qualified legal immigrants. People who do not have legal immigrant status may not be eligible for SNAP. You do not have to provide any information about the citizenship or immigration status of anyone who is not applying for SNAP. We will not contact the U.S. Citizenship and Immigration Services (USCIS) about immigrants in your household who choose not to disclose their immigration status or who tell us they do not have legal immigration status. We must use their income and assets to see if the rest of the household can get SNAP benefits. You do not have to give us the immigrant documents for the people you do not want SNAP benefits for. We check the immigration status of immigrants you apply for through the Systematic Alien Verification System operated by the USCIS. The information we receive may affect your SNAP benefits.

When Will I Get SNAP Benefits?

You may be able to get SNAP benefits by the 5th day after you apply. This is called Expedited Benefits. If you qualify for this, we need more than this page. See below about Expedited Benefits or ask us about this.

To get SNAP benefits, you will need to fill out all of this application. We need the **whole** application to decide if you are eligible, even if you are eligible for Expedited Benefits. The more information you give us the better job we can do. Give us all the information you can. If you need help, ask us and we will help you. You also need to turn in a copy of your ID, such as your driver's license, social security card, or immigration documentation.

Expedited Benefits – SNAP Benefits in 5 days

This is who can get SNAP benefits within 5 days:

- Households with less than \$150 in gross monthly income and \$100 or less in assets; or
- Households with rent, mortgage and utilities that are more than the household's gross monthly income and assets; or
- Households with a migrant or seasonal farm worker and with assets of \$100 or less whose income is stopping or starting.

SNAP Benefits in 30 days:

If you do not get Expedited Benefits, you will get a letter telling either:

- You are eligible for SNAP benefits and how much, or
- You are not eligible and why you are not eligible for SNAP benefits

You can apply for SNAP and other benefits at the same time. But, your SNAP application will be processed separately. We have to process your SNAP application based on SNAP rules and let you know about our decision as quickly as possible, but no later than 30 days from the date we receive your signed application. You will not have your SNAP application denied just because your application for other benefits was denied or because you lost other benefits you were receiving.

Name: _____ Social Security Number: _____
 (See notice on page one (1) about social security numbers.)

Can I Choose to Have Someone Help Me?

You can choose to have someone help you. You do not have to do this. But, if you do, this person can fill out your application, answer questions for you, give information at your interview, and buy your food with an EBT card. We will be able to share information with this person. **Note:** In-patient Drug and Alcohol Rehabilitation Centers **must** designate an employee to apply for any residents.

Representative :				
(Last Name)	(First Name)	(M.I.)		
(Mailing Address)	(City)	(State)	(Zip Code)	
Date of Birth	/ /	()		
MM DD	YYYY	Phone Number		

Tell Us About the People in Your Home

A SNAP household is a person or a group of people who live together and buy food and fix meals together. The group does not need to be related. **The following people must be one SNAP household if they live together, even if they do not buy and fix meals together:**

- You and your husband or wife,
- Your children who are under 22 (even if they have children of their own),
- Any parent of children under age 22,
- Other children under 18 who you take care of, and
- All other people who buy food and fix meals with you.

Instructions:

On the chart below, fill in the boxes for each of the people who live in your home. If you do not want to get benefits for someone, answer "no" to the first question below and fill in only their name, their relationship to you, their date of birth, and social security number if you know it.

We have to ask for ethnicity and race to assure that program benefits are distributed without regard to race, color, or national origin, but you don't have to answer. Your answer won't affect how many benefits you get or how soon you get them. **If you choose to answer, use the following coding:**

* Ethnicity	**Race (Choose all that apply)	
H = Hispanic or Latino	B = Black or African American	N=Native Hawaiian/other Pacific Islander
N = Not Hispanic or Latino	W = White	A=Asian
		I =American Indian or Alaskan Native

***Some people have to agree to register for work and may have to follow other work/training rules to get SNAP benefits. Please indicate if each person agrees to register. We will let you know if the other work/training rules apply to anyone in your home.

Apply for? Yes/No	Buy and Fix Meals Together?	First Name, M. I., Last Name	Social Security Number (#)	Relationship to you	Birth Date MM/DD/YY	Sex M or F	*Ethnicity	**Race	Citizen Yes/No	***Agree to Work Register? Yes/No
1.				SELF	/ /					
2.					/ /					
3.					/ /					
4.					/ /					
5.					/ /					
6.					/ /					
7.					/ /					

Name: _____ Social Security Number: _____
(See notice on page one (1) about social security numbers.)

8.					/	/				
----	--	--	--	--	---	---	--	--	--	--

Does anyone have a Kentucky EBT card? Yes No Who? _____

List anyone age 18 or over who is in college or trade school: _____

Is anyone getting SNAP benefits from another state? Yes No What state? _____

Has anyone in your home been convicted of giving wrong information about who you are or where you live to get or try to get SNAP benefits in more than one household at a time since 8/22/96? Yes No Who? _____

Is anyone a fleeing felon or probation/parole violator? Yes No Who? _____

Has anyone been convicted of a drug felony since 8/22/96? Yes No Who? _____

Has anyone in your home been convicted of buying, selling or trading more than \$500 in SNAP benefits since 8/22/96? Yes No Who? _____

Has anyone in your home been convicted of trading SNAP benefits for firearms, ammunition, or explosives since 8/22/96? Yes No Who? _____

Have you or anyone in your home been convicted of trading SNAP benefits for drugs after 8/22/96? Yes No Who? _____

What Expenses Does Your Household Have?

To get the most SNAP benefits you can, tell us about your bills. Failure to report or give proof of any expenses will be seen as a statement by your household that you do not want to receive a deduction for the unreported expenses. Below, tell us about the bills your household pays.

Shelter and Utilities

How much is **your household's share** of the following expenses:

Rent: \$ _____ per month

Lot Rent: \$ _____ per month

Mortgage: \$ _____ per month

If you pay taxes or insurance **separate** from your mortgage, list amounts below:

Property Taxes: \$ _____ per _____

Homeowner's Insurance: \$ _____ per _____

Check the boxes next to the utility bills you have to pay:

- Lights/Electricity
- Gas
- Telephone
- Other, explain _____
- Water
- Garbage/Trash
- Extra charges from your landlord
- Sewage

Are any of the utility bills you pay for heating or air conditioning? Yes No

Did you get energy assistance (LIHEAP) in the past year at your current address? Yes No

Medical Expenses

If you have medical costs, not paid by insurance, for anyone who is **disabled or over age 59**, tell us. These could be doctor or hospital bills, medicine, transportation, health insurance premiums, or other medical expenses.

Name: _____ Social Security Number: _____
 (See notice on page one (1) about social security numbers.)

Who pays: _____ Amount: \$ _____ per month

Day Care

If you have day care expenses for a child or an adult who lives with you, tell us.

Who gets care: _____ Who pays for the care: _____

Amount: \$ _____ per month

Child Support

If anyone is paying **court-ordered** child support, tell us.

Who pays: _____ Amount: \$ _____ per month

Help Paying Expenses

If you get help with any of your expenses, tell us:

Which Expense Was Paid?	Who Paid?	Amount Paid?

What Assets Do People in Your Household Have?

List the total money everyone has in:

Cash \$ _____ Bank/Credit Union Accounts \$ _____

Stocks, bonds, savings certificates, or other assets \$ _____

What Money Do People in Your Household Get?

List the person's name and the monthly amount. If you leave a space blank, we will take that to mean there is no money of this kind. Attach another sheet if needed.

Where the Money Comes From	Who Gets The Money	Amount per Month	Employer (if applicable)
Money From Work Before Taxes (Gross)			
Money From Work Before Taxes (Gross) 2nd Job			
Self-Employment or Odd Jobs			
Tips			
Social Security or SSI			
Veterans Benefits, Pensions or Retirement			
Unemployment or Worker's Compensation			
Child Support or Alimony			
Money from Friends or Relatives			
Other			

Name: _____ Social Security Number: _____
 (See notice on page one (1) about social security numbers.)

--	--	--

- Has anyone been hired for a job but not paid yet? Yes No Who? _____
 Has anyone quit a job in the last 30 days? Yes No Who? _____
 Is anyone a migrant or seasonal farm worker? Yes No Who? _____
 Is anyone on strike? Yes No Who? _____

Please read this information and sign and date page 8.

SNAP Rules

Follow these rules:

- Do not hide or give wrong information on purpose to get SNAP benefits.
- Do not use SNAP benefits to buy non-food items like alcohol or tobacco.
- Do not trade, sell or give away SNAP benefits.
- Do not use someone else's SNAP benefits for yourself.
- Do not use your SNAP benefits for someone outside of your household.
- Do not use your SNAP benefits to pay on any kind of credit account even if it is for SNAP eligible food.
- Do not sell food purchased with SNAP benefits.
- DO cooperate with state and federal personnel in a Quality Control review.

SNAP Penalties

Anyone who breaks SNAP rules:

- May not get SNAP benefits for 1 year for the first time, 2 years for the second time, and forever for the third time;
- May be fined up to \$250,000 or jailed up to 20 years, or both; and
- If a court finds you guilty of buying, selling or trading more than \$500 in SNAP benefits, you may not get SNAP benefits forever.
- If a court finds you guilty of trading SNAP benefits for firearms, ammunition, or explosives, you will lose benefits forever.
- If a court finds you guilty of trading SNAP benefits for controlled substances, you will lose benefits for two years the first time and forever the second time.
- You will not get SNAP benefits for 10 years if you are found guilty of getting or trying to get SNAP benefits in more than one household at a time. This penalty happens if you give wrong information about who you are or where you live.
- In addition to these penalties, a court can also stop you from getting SNAP benefits for another eighteen months if you are convicted of a felony or misdemeanor violation of the rules listed above.
- You will not get SNAP benefits if you are hiding or running from the law to avoid prosecution, being taken into custody, going to jail or violating a condition of parole or probation.

*****Giving wrong information on purpose may result in us taking legal action against you, either criminal or civil. It might also mean we reduce your benefits or take money back from you.***

What We Do With Your Information

If any information you give us is not correct, we may deny SNAP benefits. We will give your answers to law enforcement officials to catch persons fleeing to avoid the law. If you have a SNAP benefits overpayment, we will give your answers to federal and state agencies to collect the overpayment. We will deny assistance to people, if you do not give us their Social Security Number. We will use any Social Security Number given to us the same way we use the Social Security Number of persons getting assistance. We will not give your Social Security Number to the U.S. Citizenship and Immigration Services (USCIS).

Privacy Act

The collection of this information, including the social security number (SSN) of each household member, is authorized under the Food and Nutrition Act of 2008, as amended, 7 U.S.C. 2011-2036. The information will be used to determine whether your household is eligible or continues to be eligible to participate in the Supplemental Nutrition Assistance Program. We will verify this information through computer matching programs. This information will also be used to monitor compliance with program regulations and for program management.

Name: _____ Social Security Number: _____
(See notice on page one (1) about social security numbers.)

This information may be disclosed to other federal and state agencies for official examination, and to law enforcement officials for the purpose of apprehending persons fleeing to avoid the law.

If a SNAP claim arises against your household, the information on this application, including all SSNs, may be referred to Federal and State agencies, as well as private claims collection agencies, for claims collection action.

Providing the requested information, including the SSN of each household member, is voluntary. However, failure to provide an SSN will result in the denial of SNAP benefits to each individual failing to provide an SSN. Any SSNs provided will be used and disclosed in the same manner as SSNs of eligible household members.

We Check What You Tell Us

We use computer systems to verify your family's income and to do computer matches with the Office of Employment and Training, the Internal Revenue Service and other matching sources. If something you told us is different from what the computer system tells us, we will check to find out what is correct. We might check your information by contacting your employer, your bank or other people. If any part of the information on this application is incorrect, SNAP benefits may be denied and you may be subject to criminal prosecution for knowingly providing incorrect information. The information you give us may be checked by federal, state, and local officials to make sure it is true. Things we might check are any listed person's: Social Security Number, job and pay, bank account amount, amounts received from other sources like Social Security or unemployment, and immigration status.

You Will Not Be Discriminated Against

In accordance with Federal civil rights law and U.S. Department of Agriculture (USDA) civil rights regulations and policies, the USDA, its Agencies, offices, and employees, and institutions participating in or administering USDA programs are prohibited from discriminating based on race, color, national origin, sex, religious creed, disability, age, political beliefs, or reprisal or retaliation for prior civil rights activity in any program or activity conducted or funded by USDA.

Persons with disabilities who require alternative means of communication for program information (e.g. Braille, large print, audiotape, American Sign Language, etc.), should contact the Agency (State or local) where they applied for benefits. Individuals who are deaf, hard of hearing or have speech disabilities may contact USDA through the Federal Relay Service at (800) 877-8339. Additionally, program information may be made available in languages other than English.

To file a program complaint of discrimination, complete the USDA Program Discrimination Complaint Form, (AD-3027) found online at: http://www.ascr.usda.gov/complaint_filing_cust.html, and at any USDA office, or write a letter addressed to USDA and provide in the letter all of the information requested in the form. To request a copy of the complaint form, call (866) 632-9992. Submit your completed form or letter to USDA by:

- (1) mail: U.S. Department of Agriculture
Office of the Assistant Secretary for Civil Rights
Stop 9430
1400 Independence Avenue, SW
Room 212-A Whitten Building
Washington, D.C. 20250-9410;
- (2) fax: (202) 690-7442; or
- (3) email: program.intake@usda.gov

This institution is an equal opportunity provider.

Your Signature and Understanding

I understand:

- The questions on this application and what can happen if I hide information or give wrong information.
- I must give proof of information about my household.
- The DCBS office and the Quality Control unit may contact other people or organizations to get proof of my information.

Name: _____ Social Security Number: _____
(See notice on page one (1) about social security numbers.)

- That the information I have provided on the application including the information concerning citizenship and immigration status is subject to verification by Federal, State and local officials to determine if the information is true.
- That as an applicant for SNAP benefits, I am required to provide a social security number for everyone who lives in my home for whom I am applying for benefits. (Social Security numbers and immigration status does not have to be provided for members that are not applying for benefits.)
- That social security numbers shall be used for various state and federal matches through the Income and Eligibility Verification System (IEVS). These matches include, but are not limited to, Social Security, IRS, SSI, Wage Records, Unemployment Insurance, Child Support Enforcement records and other matches as provided for under the authority of IEVS. This information may be verified through collateral contacts when discrepancies are found. Information provided under IEVS, after verification, may affect eligibility for and amount of benefits.

I agree:

- That all required members of my household will follow the work and training rules.

I certify, under penalty of perjury, that:

- My answers are correct and complete to the best of my knowledge.
- My answer about citizenship or immigration status of each person applying for assistance is correct.

Signature/Mark (X)	Witness (If signed by X)	Today's Date / /
--------------------	--------------------------	---------------------

What Do Our Terms Mean?

We use these terms in the application. This is what they mean:

- Household** A person or a group of people who live together and buy food and fix meals together.
- Quality Control** A DCBS unit that reviews SNAP benefits cases to see if they are correct. If your case is chosen, the Quality Control unit will contact you.
- Work and Training Rules** Some people have to work or attend training to get SNAP benefits. If this is true for you or for other people in your household, we will tell you. You will have to follow the rules about work and training to get SNAP benefits.

How To Get A Hearing

You may ask for a hearing **within 90 days** from the date you receive a notice from us about your SNAP application if you disagree with something **we have done** to your application or benefits. You may tell your side of the story or bring a friend, relative, or lawyer to speak for you at the hearing.

How do I ask for a hearing?

Call 1-855-306-8959; **OR**

Attach a separate sheet of paper to explain your reason for requesting a hearing, sign and date then:
Return to any DCBS office;

OR

Return to: **Cabinet for Health and Family Services, Division of Administrative Hearings, Families and Children Administrative Hearings Branch, 105 Sea Hero Road, Suite 2, Frankfort, KY 40601**

Optional Release of Information

Help Us Help You!

You do not have to sign this, but it will help us get information we need to help you, without having to get your signature on specific requests.

Name: _____ Social Security Number: _____
(See notice on page one (1) about social security numbers.)

You should know:

- We may need more information to decide if you can get assistance.
- If more information is needed from you, you will get a letter telling you what we need and the date you must get it to us.
- You are responsible to get the information or to ask us for help to get it.
- If you do not give us the information or ask for help by the due date, your application may be denied or your assistance may end.
- We may be able to use the release below to get the information we need, **but you still have to provide the information we request or ask for help.**
- We may attach a copy of this release to a form that asks other people or organizations (like your employer) for specific information needed about you or others in your household.

Print and sign your name below to give us permission to get needed information.

RELEASE OF INFORMATION

I hereby authorize any person or organization to give the Kentucky Department of Community Based Services requested information about me or other members of my household. A copy of this release is as valid as the original. This release does not apply to protected health information. This release is good for 12 months from the date signed.

Your Name (please print clearly)

Signature or Mark (X)

Witness (if signed by X)

Date

VOTER REGISTRATION RIGHTS AND DECLINATION

(Applicant's Name)

(Applicant's Social Security Number)

REGISTERING TO VOTE:

If you are not registered to vote where you live now, would you like to apply to register to vote here today? (please check appropriate box)

YES	NO	ALREADY REGISTERED

IF YOU DO NOT CHECK ONE OF THE BOXES ABOVE, IT WILL BE CONSIDERED THAT YOU HAVE DECIDED NOT TO REGISTER TO VOTE AT THIS TIME.

(Applicant's Signature)

(Date)

VOTER REGISTRATION RIGHTS

If you register to vote or decline to register to vote, this decision and any information regarding the office to which the application was submitted remains confidential and is used only for voter registration purposes.

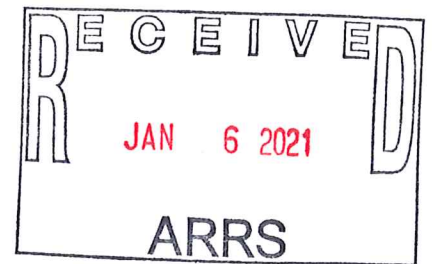
Applying to register or declining to register to vote will not affect the amount of assistance that you will be provided by this agency.

If you would like help filling out the voter registration application form, we will help you. The decision whether to seek or accept help is yours. You may complete the application form in private, if you desire.

If you complete a voter registration application form, it will be forwarded to your local county clerk who will assign you a voting precinct. A confirmation notice with your precinct and voting location will be mailed to you by the county clerk. IF YOU DO NOT RECEIVE SUCH NOTICE WITHIN THREE (3) WEEKS, PLEASE CALL YOUR COUNTY CLERK.

If you believe that someone has interfered with your right to register or to decline to register to vote, your right to privacy in deciding whether to register, or in applying to register to vote, or your right to choose your own political party or other preference, you may file a complaint by writing or calling the State Board of Elections, 140 Walnut Street, Frankfort KY 40601, phone 1-800-246-1399.

Please note that KRS 116.045(2) requires the clerk to close all registration 28 days prior to any election. If your application is received during this period, you will not be eligible to vote until the next election.



**CABINET FOR HEALTH AND FAMILY SERVICES
Office of the Secretary**

Andy Beshear
Governor

275 East Main Street, 5W-A
Frankfort, KY 40621
502-564-7042
502-564-7091
www.chfs.ky.gov

Eric C. Friedlander
Secretary

January 6, 2021

Senator Stephen West, Co-Chair
Representative David Hale, Co-Chair
c/o Emily Caudill
Administrative Regulation Review Subcommittee
Legislative Research Commission
029, Capitol Annex
Frankfort KY 40601

Re: 921 KAR 3:035 – Agency Amendment

Dear Co-Chairs West and Hale:

After discussions with Administrative Regulation Review Subcommittee staff of issues raised by 921 KAR 3:035, the Department for Community Based Services proposes the attached amendment to 921 KAR 3:035 and the material incorporated by reference in that administrative regulation. If you have any questions, please feel free to contact Laura Begin at Laura.Begin@ky.gov.

Sincerely,

Donna Little
Deputy Executive Director
Office of Legislative and Regulatory Affairs

Agency Amendment

Cabinet for Health and Family Services Department for Community Based Services Division of Family Support

921 KAR 3:035. Certification process.

Page 11

Section 8(1)

Line 11

After "NOTICE", insert "1/21".

Delete "12/20".

Incorporated material

FS-2

Page 4

After "RETURN THIS FORM.", insert the following:

IF YOU DO NOT HAVE ANY CHANGES, YOU CAN COMPLETE THIS FORM
BY CALLING 855-306-8959 ON OR BEFORE THE DUE DATE. REMEMBER,
IF YOU DO NOT COMPLETE THIS FORM, YOUR BENEFITS WILL STOP.

Page 5

After "for Civil Rights", insert "Stop 9430".

After "Avenue, SW", insert "Room 212-A Whitten Building".

Please update the revision date of this form to "1/21".

Si usted necesita ayuda en español para entender esta información, llame a la Sección de Acceso a Idiomas al 1-877-891-9557.

RETURN TO: DIVISION OF FAMILY SUPPORT

Phone: 855-306-8959

Fax: 502-573-2007

MID REVIEW NOTICE

In order to determine your household's continuing eligibility for the Supplemental Nutrition Assistance Program (SNAP), we need you to answer all of the questions on this form. To avoid delays in processing, return this form along with proof of information entered to the DCBS office by _____. If you need help to complete this form call 1-855-306-8959. **Your SNAP Benefits will end if you do not return this form and all proof we ask for by**

_____.

Address:

Our current records show that you live at:

_____, KY _____

1. Have you moved?

Yes No

If yes, complete items A-E below.

If no, skip to Question #2.

- A. New address: _____
- B. Mailing address: _____
- C. New rent or mortgage amount (list only the portion you pay each month): _____
If not included in your mortgage, list your annual:
Property tax \$ _____ Home insurance \$ _____
- D. Do you pay any utility bills? Yes No
If yes, which one(s)? _____
 Check here if any of the utility bills you pay are for heating or air conditioning.
 Check here if you got energy assistance (LIHEAP) at your new address.

E. Tell us about any other assistance you get with your shelter expenses:

2. What is your phone number? _____

Income:

The following income is being considered in your case:

Unearned:

\$ _____ for
\$ _____ for

Earned:

\$ _____ for
\$ _____ for

- 3. Has a source of income changed for any household member? Yes No
- 4. Has an unearned income amount changed by more than \$50? Yes No
- 5. Has an employer changed for any household member? Yes No
- 6. Has the salary or wage rate changed for any household member? Yes No
- 7. Has full or part-time employment status changed for anyone? Yes No

If you answered 'Yes' to any of the questions above, attach proof of each changed income type, such as an award letter, written statement, tip log or check stubs to verify the new income and when the income changed. If a source of income has stopped, attach proof, such as a written statement or termination notice.

Resources:

Our current records show you have the following in liquid resources:

Cash-On-Hand _____ Checking _____ Savings _____

- 8. Has the total amount of your liquid resources changed? Yes No

If yes, what is the new amount of your resources?

Cash-On-Hand _____ Checking _____ Savings _____

Deductions:

Our current records show \$ _____ is being paid in court-ordered child support per month.

- 9. Has this changed? Yes No

If yes, attach proof of the last 3 months payments. If there is a new or changed court order, also provide a copy of the order.

Household Composition:

The following individuals are currently listed as members of your household:

10. Has anyone moved into or out of your household?

Yes No

If yes, fill in the information on the chart below for anyone that has moved into or out of your household. If a new member has income, please attach proof of the income, such as an award letter, written statement, tip log or check stubs to verify the income.

You can choose to give us the Social Security Number (SSN) of each person in your household. We can give SNAP benefits only to the people who give us their SSN or proof that they have applied for a SSN. You don't have to give us the SSN or citizenship status for the people you do not want SNAP benefits for.

(We have to ask for ethnicity and race, but you don't have to answer. Your answer won't affect how many benefits you get or how soon you get them.) If you choose to answer, use the following coding:

* Ethnicity

H = Hispanic or Latino

N = Not Hispanic or Latino

**Race (Choose all that apply)

B = Black or African American

W = White

A = Asian

N = Native Hawaiian/other Pacific Islander

I = American Indian or Alaskan Native

Moved In/Out	Want SNAP? Y/N	First Name ,M.I., Last Name	SSN	DOB	Relationship to you	Sex M/F	Ethnicity	Race	Citizen Yes/No	Income Yes/No

The collection of this information, including the social security number (SSN) of each household member, is authorized under the Food and Nutrition Act of 2008, as amended, 7 U.S.C. 2011-2036. The information will be used to determine whether your household is eligible or continues to be eligible to participate in the Supplemental Nutrition Assistance Program. We will verify this information through computer matching programs. This information will also be used to monitor compliance with program regulations and for program management.

This information may be disclosed to other federal and state agencies for official examination, and to law enforcement officials for the purpose of apprehending persons fleeing to avoid the law.

If a SNAP claim arises against your household, the information on this application, including all SSNs, may be referred to Federal and State agencies, as well as private claims collection agencies, for claims collection action.

Providing the requested information, including the SSN of each household member, is voluntary. However, failure to provide an SSN will result in the denial of SNAP benefits to each individual failing to provide an SSN. Any SSNs provided will be used and disclosed in the same manner as SSNs of eligible household members.

I understand:

- The questions on this report and what can happen if I hide information or give wrong information.
- That these responses may result in my SNAP benefits being reduced or terminated.
- I must give proof of any changes listed about my household.
- Our Social Security Numbers will be used in computer matches to check income or other information and will be shared with federal and state agencies to collect overpayments.
- The DCBS office and the Quality Control unit may contact other people or organizations to get proof of my information.

I certify, under penalty of perjury, that:

- My answers are correct and complete to the best of my knowledge.
- My answer about citizenship or immigrant status of each person applying for assistance is correct.

Signature	Witness <small>(If signed by X)</small>	Date
------------------	---	-------------

PLEASE BE SURE YOU HAVE COMPLETED ALL PAGES, FRONT AND BACK, BEFORE YOU RETURN THIS FORM. IF YOU DO NOT HAVE ANY CHANGES, YOU CAN COMPLETE THIS FORM BY CALLING 855-306-8959 ON OR BEFORE THE DUE DATE. REMEMBER, IF YOU DO NOT COMPLETE THIS FORM, YOUR BENEFITS WILL STOP.

Household Size	1	2	3	4	5	6	7	8	Each Additional Member
Income Limit	\$9999	\$9999	\$9999	\$9999	\$9999	\$9999	\$9999	\$9999	\$999

REPORT CHANGES:

The following changes must be reported no later than 10 days after the end of the month the change occurs:

- When the income for your household exceeds the gross income limit for your appropriate household size (refer to chart on prior page); or
- When a member of your household age 18-49 years old, and subject to ABAWD requirements, begins to work less than 20 hours per week.

Call 1-855-306-8959 to report changes.

FOLLOW THESE RULES:

- Do NOT give false information or hide information to get SNAP benefits.
- Do NOT trade or sell SNAP benefits.
- Do NOT use SNAP benefits to buy ineligible items, like alcoholic drinks, soap, tobacco products, firearms, ammunition, explosives, or a controlled substance as defined by 21 U.S.C. 802.
- Do NOT use someone else's SNAP benefits for your household.
- Do NOT use your SNAP benefits for someone outside of your household.
- Do NOT use your SNAP benefits to pay on a credit account, even if it is for SNAP eligible food.
- Do NOT sell food purchased with SNAP benefits.

PENALTIES:

If you break these rules you may be stopped from getting benefits and you can be prosecuted. You could be:

- Stopped from getting SNAP benefits for 1 year, 2 years, or permanently;
- Fined up to \$250,000 or jailed up to 20 years, or both; and
- Stopped from getting SNAP benefits for 10 years if you are found guilty of giving wrong information about who you are or where you live.

Giving wrong information on purpose may result in us taking legal action against you, either criminal or civil. It might also mean we reduce your benefits or take money back from you.

YOU HAVE THE RIGHT:

- To quick action whenever you report a change.
- To get notice of any action.
- To give us information to show the proposed action should not be taken.
- To discuss your benefits with a worker.
- To receive fair treatment.

Complaints about your case? Call the Ombudsman at 1-800-372-2973 or (TTY) 1-800-627-4702.

You may have rights under Section 504 of the Rehabilitation Act and the Americans with Disabilities Act. If you have a physical or mental problem that limits you, such as mental illness, trouble learning, drug or alcohol addiction, depression, moving around, hearing or seeing, call 1-855-306-8959.

Call 1-855-306-8959 for other kinds of help. Here are some of the ways we can help:

- We can call or visit you if you are not able to come to our office.
- We can tell you what this letter means.
- If you cannot do something we ask, we can help you or change what you have to do.
- We can help you resolve problems without a hearing.
- We can help you request a hearing.

In accordance with Federal civil rights law and U.S. Department of Agriculture (USDA) civil rights regulations and policies, the USDA, its Agencies, offices, and employees, and institutions participating in or administering USDA programs are prohibited from discriminating based on race, color, national origin, sex, religious creed, disability, age, political beliefs, or reprisal or retaliation for prior civil rights activity in any program or activity conducted or funded by USDA.

Persons with disabilities who require alternative means of communication for program information (e.g. Braille, large print, audiotape, American Sign Language, etc.), should contact the Agency (State or local) where they applied for benefits. Individuals who are deaf, hard of hearing or have speech disabilities may contact USDA through the Federal Relay Service at (800) 877-8339. Additionally, program information may be made available in languages other than English.

To file a program complaint of discrimination, complete the USDA Program Discrimination Complaint Form, (AD-3027) found online at: http://www.ascr.usda.gov/complaint_filing_cust.html, and at any USDA office, or write a letter addressed to USDA and provide in the letter all of the information requested in the form. To request a copy of the complaint form, call (866) 632-9992. Submit your completed form or letter to USDA by:

- (1) mail: U.S. Department of Agriculture
Office of the Assistant Secretary for Civil Rights
Stop 9430
1400 Independence Avenue, SW
Room 212-A Whitten Building
Washington, D.C. 20250-9410;
- (2) fax: (202) 690-7442; or
- (3) email: program.intake@usda.gov.

This institution is an equal opportunity provider. You may also file your complaint with the Cabinet for Health and Family Services by writing or calling:

Office of Human Resource Management
EEO Compliance Branch
275 East Main Street, 5C-D
Frankfort, Kentucky 40621
(502) 564-7770 ext. 4107

HOW TO GET A HEARING:

Do you disagree with something we have done to your benefits? If so, you may ask for a hearing **within 90 days** from the date of this notice.

Want to continue your benefits?

Ask for a hearing **within 10 days** from the date of this notice. This may allow you to get the same benefits until the hearing officer makes a decision or your certification period ends, whichever comes first. You may have to pay back these benefits if the decision is not in your favor.

I want my same benefits continued until the hearing officer makes a decision.

Check: YES ___ NO ___

How do I ask for a hearing?

Call 1-855-306-8959; **OR**

Attach a separate sheet of paper to explain your reason for requesting a hearing, sign and date then:

Return to any DCBS office; **OR**

Return to:

Cabinet for Health and Family Services
Division of Administrative Hearings
Families and Children Administrative Hearings Branch
105 Sea Hero Road, Suite 2
Frankfort, KY 40601

What will happen at the hearing?

- You may tell your side of the story or bring a friend, relative, or lawyer to speak for you.
- You can bring witnesses and papers to help tell your story.
- The hearing officer will decide what the State will do after hearing both sides of the story.
- You will be told what to do if you disagree with the hearing officer's decision.
- You can bring witnesses and papers to help tell your story.
- The hearing officer will decide what the State will do after hearing both sides of the story.
- You will be told what to do if you disagree with the hearing officer's decision.