

CHAPTER 393

(HB 875)

AN ACT relating to insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 304.9-020 is amended to read as follows:

As used in this subtitle:

- (1) *"Agent" means an individual or business entity required to be licensed and appointed under the laws of this state to sell, solicit, or negotiate insurance or annuity contracts.*
- (2) *"Business entity" means a corporation, association, partnership, limited liability company, limited liability partnership, employer group, professional employer organization, or other legal entity.*
- (3) *"Home state" means the District of Columbia and any state or territory of the United States in which a licensee maintains his or her principal place of residence or principal place of business and is licensed by that state.*
- (4) *A "general lines" agent is an agent who transacts any one (1) or more of the following kinds of insurance:*
 - (a) *Property insurance;*
 - (b) *Casualty insurance;*
 - (c) *Surety insurance;*
 - (d) *Marine and transportation insurance;*
 - (e) *Health insurance, when transacted for an insurer also represented by the same agent as to property or casualty insurance; and (f) Mortgage guaranty insurance.*
- (5) *"Limited line credit insurance" includes credit life, credit disability, credit property, credit unemployment, involuntary unemployment, mortgage life, mortgage guaranty, mortgage disability, automobile dealer gap insurance, and any other form of insurance offered in connection with an extension of credit that is limited to partially or wholly extinguishing that credit obligation that the commissioner determines should be designated a form of limited line credit insurance.*
- (6) *"Limited line credit insurance agent " means an individual or business entity who sells, solicits, or negotiates one (1) or more forms of limited line credit insurance coverage to individuals through a master, corporate, group, or individual policy.*
- (7) *"Negotiate" means the act of conferring directly with, or offering advice directly to, a purchaser or prospective purchaser of a particular contract of insurance concerning any of the substantive benefits, terms, or conditions of the contract.*
- (8) *"Sell" means to exchange a contract of insurance by any means, for money or other valuable consideration, on behalf of an insurer.*
- (9) *"Solicit" means attempting to sell insurance or asking or urging a person to apply for a particular kind of insurance from a particular company.*

- (10) *"Terminate" means the cancellation of the relationship between an agent and the insurer or the termination of an agent's authority to transact insurance.*
- (11) *"Uniform business entity application" means the current version of the National Association of Insurance Commissioners Uniform Business Entity Application for resident and nonresident business entities.*
- (12) *"Uniform application" means the current version of the National Association of Insurance Commissioners Uniform Application for resident and nonresident agent licensing.*

~~[An "agent" is an individual, firm, partnership, limited partnership, corporation, or limited liability company appointed by an insurer to solicit applications for insurance or annuity contracts or to negotiate insurance or annuity contracts on its behalf, and if authorized to do so by the insurer, to effectuate and countersign insurance contracts.]~~

Section 2. KRS 304.9-030 is amended to read as follows:

- (1) *Unless denied a license under this subtitle, applicants who have met the requirements for the license in accordance with this subtitle, shall be issued the applicable license*~~[A "general lines" agent is an agent who transacts any one (1) or more of the following kinds of insurance:~~
 - ~~(a) — Property insurance;~~
 - ~~(b) — Casualty insurance;~~
 - ~~(c) — Surety insurance;~~
 - ~~(d) — Marine and transportation insurance;~~
 - ~~(e) — Health insurance, when transacted for an insurer also represented by the same agent as to property or casualty insurance; and (f) — Mortgage guaranty insurance].~~
- (2) *An insurance agent may receive qualification for a license in one (1) or more of the following lines of authority:*
 - ~~(a)~~ *Life--insurance coverage on human lives including benefits of endowment and annuities, and may include benefits in the event of death or dismemberment by accident and benefits for disability income;*
 - ~~(b)~~ *Health--insurance coverage for sickness, bodily injury, or accidental death and may include benefits for disability income;*
 - ~~(c)~~ *Property--insurance coverage for the direct or consequential loss or damage to property of every kind;*
 - ~~(d)~~ *Casualty--insurance coverage against legal liability, including that for death, injury, or disability, or damage to real or personal property;*
 - ~~(e)~~ *Variable life and variable annuity products--insurance coverage provided under variable life insurance contracts, variable annuities, or any other life insurance or annuity product that reflects the investment experience of a separate account;*
 - ~~(f)~~ *Limited line insurance as identified in KRS 304.9-230;*
 - ~~(g)~~ *Marine and transportation insurance as defined in KRS 304.5-080;*
 - ~~(h)~~ *Mortgage guaranty insurance as defined in KRS 304.5-100; and*

- (†) *Any other line of insurance authorized by Kentucky law and deemed by the commissioner appropriate to be issued as a separate line of authority.*

~~[A "life" agent is an agent who transacts life insurance or annuity business. An agent may be appointed for life insurance only, if the insurer is a life and health insurer.]~~

~~(3) A "health" agent is an agent who transacts health insurance only, whether licensed by a life insurer or other than life insurer.~~

~~(4) A "life and health" agent is an agent who transacts life insurance or annuity business, and includes also the transaction of health insurance on behalf of an insurer for whom the agent is also licensed as to life insurance.]~~

Section 3. KRS 304.9-035 is amended to read as follows:

Any *insurer*~~[insurance company]~~ shall be liable for the acts of its agents when the agents are acting in their capacity as representatives of the *insurer*~~[insurance company]~~ and are acting within the scope of their authority.

Section 4. KRS 304.9-080 is amended to read as follows:

(1) *An individual or business entity shall not sell, solicit, or negotiate insurance in this state unless the individual or business entity is licensed for that line of authority in accordance with this subtitle.*

(2) No *individual or business entity*~~[person]~~ shall in this state be, act as, or hold himself *or herself* out as *a*~~[an agent, solicitor,]~~ consultant~~[,]~~ or adjuster unless then licensed as *a*~~[an agent, solicitor,]~~ consultant~~[,]~~ or adjuster respectively.

~~[(2) No agent, or solicitor shall solicit or take applications for, procure or place for others any kind of insurance as to which he is not then licensed.]~~No consultant shall act as *a consultant*~~[such]~~ with respect to any kind of insurance as to which he *or she* is not then licensed as a consultant.

(3) A consultant license must cover either or both of the following categories, as selected by the licensee:

- (a) General lines;
- (b) Life and health.

A consultant licensed in both categories shall qualify separately for, and be licensed in, each category.

(4) No *individual*~~[person]~~ licensed as a consultant shall act as a consultant until he *or she* has filed with the commissioner a bond or insurance as prescribed in KRS 304.9-330.

(5) Except as provided in KRS 304.9-410 *and subsection (3) of Section 21 of this Act*, no agent shall place, and no insurer shall accept, any insurance with any insurer as to which *the agent*~~[he]~~ does not then hold a license and appointment as agent under this subtitle.

(6) The commissioner shall prescribe and furnish all forms required under this subtitle as to licenses and appointments.

Section 5. KRS 304.9-085 is amended to read as follows:

(1) A "managing general agent" is an individual *or business entity*~~[, firm, or corporation]~~ appointed by an insurer to solicit applications from agents for insurance contracts or to

negotiate insurance contracts on behalf of an insurer, and if authorized to do so by an insurer, to effectuate and countersign insurance contracts.

- (2) No ***individual or business entity***~~[person]~~ shall in this state be, act as, or hold himself ***or herself*** out as a managing general agent unless then licensed as a managing general agent. In order to qualify for a managing general agent license, ***an individual***~~[a person]~~ shall:
 - (a) Hold a general lines~~[insurance]~~ agent license and be appointed by each authorized insurer the ***licensee***~~[person]~~ holds the contract to represent;
 - (b) If a nonresident, hold a nonresident general lines~~[insurance]~~ agent license and be appointed by each authorized insurer the ***licensee***~~[person]~~ represents in Kentucky. Nonresidents are subject to the restrictions of KRS 304.9-140; and
 - (c) Hold a surplus lines broker license if any unauthorized insurers are represented or used.

In order for a ***business entity***~~[corporation or firm]~~ to qualify for a managing general agent license, all ***individuals***~~[persons]~~ acting on behalf of the corporation or firm under its license shall be licensed general lines~~[insurance]~~ agents.

- (3) As used in this chapter, "agent" includes managing general agent unless the context requires otherwise.
- (4) A managing general agent is a representative of the insurers which the managing general agent holds a contract to represent. Such insurers are liable for the acts of the managing general agent in representing the insurers.
- (5) The commissioner shall issue managing general agent licenses to expire on March 31, 1988, and to be renewed biennially thereafter.

Section 6. KRS 304.9-090 is amended to read as follows:

- (1) The definition of ~~[agent, solicitor or]~~ consultant shall not be deemed to include ~~[-~~:
 - ~~(1) Salaried employees in the office of a general lines agent, which employees devote full time to clerical and administrative services, with incidental taking of insurance applications and receiving premiums in the office of the employer agent if the employee does not receive any commissions on such applications and his compensation is not varied by the volume of applications or premiums taken or received by such employee;~~
 - ~~(2)]the supervising managing general agent (except as defined in KRS 304.9-085) or supervising officer or employee of an insurer who solicits only with duly licensed resident agents of the insurer[-~~
 - ~~(3) Newsboys and managers of newspaper distribution offices who incidentally take applications of so-called "newspaper accident insurance" and receive premiums in connection therewith;~~
 - ~~(4) Employees or other representatives of a group policyholder engaged in enrolling certificateholders and performing other activities in the administration of the group policy].~~
- (2) ***Nothing in this subtitle shall be construed to require an insurer to obtain an agent license. As used in this section, the term "insurer" does not include an insurer's officers, directors, employees, subsidiaries, or affiliates.***
- (3) ***A license as an agent or consultant shall not be required of the following:***

- (a) *An officer, director, or employee of an insurer or of an agent, provided that the officer, director or employee does not receive any commission or other valuable consideration on policies written or sold to insurer risks residing, located, or to be performed in this state and whose compensation is not varied by the volume of applications taken or received and:*
1. *The officer, director, or employee's full-time activities are devoted to functions that are executive, administrative, managerial, clerical, or a combination of these, and are only indirectly related to the sale, solicitation, or negotiation of insurance; or*
 2. *The officer, director, or employee's function relates to underwriting, loss control, inspection, or the processing, adjusting, investigating, or settling of a claim on a contract of insurance; or*
 3. *The officer, director, or employee is acting in the capacity of a special agent or agency supervisor assisting agents where the officer's, director's, or employee's activities are limited to providing technical advice and assistance to licensed agents and do not include the sale, solicitation, or negotiation of insurance;*
- (b) *The individual secures and furnishes information for the purpose of group life insurance, group property and casualty insurance, group annuities, group or blanket accident and health insurance, or for the purpose of enrolling individuals under plans, issuing certificates under plans, or otherwise assisting in administering plans; or performs administrative services related to a mass marketed property and casualty insurance, where no commission is paid to the individual for the service;*
- (c) *An employer or association or its officers, directors, employees, or the trustees of an employee trust plan, to the extent that the employers, officers, employees, directors, or trustees are engaged in the administration or operation of a program of employee benefits for the employer's or association's own employees or the employees of its subsidiaries or affiliates, which program involves the use of insurance issued by an insurer, as long as the employers, associations, officers, directors, employees, or trustees are not in any manner compensated, directly or indirectly, by the company issuing the contracts;*
- (d) *Employees of insurers or organizations employed by insurers who are engaging in the inspection, rating, or classification of risks, or in the supervision of the training of agents who are not individually engaged in the sale, solicitation, or negotiation of insurance;*
- (e) *An individual or business entity whose activities in this state are limited to advertising without the intent to solicit insurance in this state through communications in printed publications or other forms of electronic mass media whose distribution is not limited to residents of the state, provided that the individual or business entity does not sell, solicit, or negotiate insurance that would insure risks residing, located, or to be performed in this state;*
- (f) *An individual or business entity who is not a resident of this state who sells, solicits, or negotiates a contract of insurance for commercial property and casualty risks to an insured with risks located in more than one (1) state insured under that contract, provided that the individual or business entity is otherwise licensed as an agent to sell,*

solicit, or negotiate that insurance in the state where the insured maintains its principal place of business and the contract of insurance insures risks located in that state;

- (g) *A salaried full-time employee who counsels or advises his or her employer relative to the insurance interest of the employer or of the subsidiaries or business affiliates of the employer, provided that the employee does not sell, solicit, or negotiate insurance or receive a commission; or*
- (h) *Employees of an insurer or an agent who responds to requests from existing policy holders on existing policies, provided that those employees are not directly compensated based on the volume of premiums that may result from these services, and provided that those employees do not otherwise sell, solicit, or negotiate insurance.*

Section 7. KRS 304.9-105 is amended to read as follows:

An individual applying for an agent license shall make application to the commissioner on the uniform application and declare under penalty of refusal, suspension, or revocation of the license that the statements made in the application are true, correct, and complete to the best of the individual's knowledge and belief. Before approving the application, the commissioner shall find that the applicant~~[For the protection of the people of this state, the commissioner shall not issue, continue, or permit to exist, any permanent agent or solicitor license for or on behalf of any natural person unless the person demonstrates to the satisfaction of the commissioner that he is qualified therefor pursuant to the standards contained in this section and any other applicable section of this subtitle]:~~

- (1) *Is at least*~~[That the person has attained the age of]~~ eighteen (18) years *of age*~~[or more];~~
- (2) ~~[That the person]~~Has fulfilled the residence requirements as set forth in KRS 304.9-120;
- (3) *Has not committed any act that is a ground for denial, suspension, or revocation set forth in Section 34 of this Act;*
- (4) ~~[That the person]~~Is trustworthy, reliable, and of good reputation, evidence of which ~~shall~~*may* be submitted on behalf of the *applicant*~~[person]~~ in the form of:
 - (a) A certificate by the insurer or agent by which or whom the *applicant*~~[person]~~ is to be appointed or employed, subject to the issuance of the license, stating that the insurer~~[or agent]~~ has either made, or caused to be made by responsible investigators, an investigation into the trustworthiness, reliability, and good reputation of the *applicant*~~[person]~~ together with a brief synopsis of the findings resulting therefrom; or
 - (b) Three (3) letters of recommendation attesting to the trustworthiness, reliability, and good reputation of the person written on his *or her* behalf by persons not related to him *or her* by blood or marriage and one (1) of whom shall be a licensed resident insurance agent, which letters shall also state the extent of familiarity, both as to length of time and degree of knowledge, possessed by the writer with regard to both personal and business conduct of the person.
- (5)~~[(4)]~~ ~~[That the person]~~Is competent to exercise the license and has:
 - (a) Successfully attained a general educational level equivalent to that required for graduation from an accredited high school in this state;

- (b) *Except for limited lines licenses, completed a forty (40) hour prelicensing classroom course of study for the lines of authority for which the individual has applied. The commissioner shall promulgate administrative regulations to carry out the purpose of this section*~~[Successfully completed specific courses of instruction in the field of insurance as the commissioner shall by regulation prescribe for a license when initially issued, which courses of instruction shall in the aggregate consist of or equal forty (40) hours of classroom instruction administered by or under the supervision of persons qualifying with and approved by the commissioner for the purpose and the successful completion of which shall be certified to the commissioner, on forms prescribed by him, by the person under whose supervision the instruction was administered. Programs of instruction provided by insurers authorized, or agent associations recognized, by the commissioner may be substituted for the specific courses of instruction prescribed by the commissioner when the programs have been reviewed and approved by the commissioner prior to their use, which approval shall not be unreasonably withheld if the programs of instruction are substantially similar in content and emphasis placed thereon to those prescribed by the commissioner];~~
- (c) *Except for limited line licenses, successfully passed the examinations required by the commissioner for the lines of authority for which the individual has applied*~~[Successfully passed any written examination required by the commissioner for the license pursuant to KRS 304.9-160 unless exempt pursuant to KRS 304.9-170]; and~~
- (d) *Paid the fees set forth in KRS 304.4-010*~~[The requirements contained in this subsection and subsection (3) of this section shall not be applicable to the continuance of any license issued prior to June 17, 1978].~~
- (6)~~[(5)]~~ — ~~[That the person]~~Is financially responsible to exercise the license and has:
- (a) 1. Filed with the commissioner the certificate of an insurer authorized to write legal liability insurance in this state, that the insurer has and will keep in effect on behalf of the person a policy of insurance covering the legal liability of the licensed person as the result of erroneous acts or failure to act in his *or her* capacity as an insurance agent, and enuring to the benefit of any aggrieved party as the result of any single occurrence in the sum of not less than ten thousand dollars (\$10,000) and fifty thousand dollars (\$50,000) in the aggregate for all occurrences within one (1) year, and that the policy shall not be terminated unless at least thirty (30) days' prior written notice will have been given to the commissioner; or
 - 2.~~[(b)]~~ Deposited with the commissioner cash, or a cash surety bond executed by an insurer authorized to write business in this Commonwealth, in the sum of ten thousand dollars (\$10,000), which shall be subject to lawful levy of execution by any party to whom the *licensee*~~[licensed person]~~ has been found to be legally liable as the result of erroneous acts or failure to act in his *or her* capacity as an~~[insurancee]~~ agent; or
 - 3.~~[(c)]~~ Had filed with the commissioner on his *or her* behalf, by an authorized insurer or group of affiliated insurers for which he *or she* is or is to become an exclusive agent, an agreement whereby the insurer or group of affiliated insurers agrees to assume responsibility, to the benefit of any aggrieved party, for legal liability of the licensed person as the result of erroneous acts or failure to act in his *or her* capacity as an insurance agent on behalf of the insurer or group of affiliated

insurers in the sum of ten thousand dollars (\$10,000) for any single occurrence and that the agreement shall not be terminated until the license is surrendered to the commissioner or at least thirty (30) days' prior written notice will have been given to the commissioner, whichever shall first occur; and

~~(b)(d)~~ Agreed with the commissioner that if at any time notice is given to the commissioner that any policy filed *in accordance with* ~~pursuant to~~ paragraph (a) of this subsection, or agreement filed *in accordance with* ~~pursuant to~~ paragraph (c) of this subsection, is to be terminated and has not been replaced by another policy or agreement within the time established by regulations of the commissioner, or if any deposit *in accordance with* ~~pursuant to~~ paragraph (b) of this subsection be reduced through levy of execution and not replaced by any necessary additional deposit within the time established by regulations of the commissioner, any and all licenses held by the *licensee* ~~person~~ are revoked and shall be promptly surrendered to the commissioner without demand.

~~(7)(6)~~ ~~[That the person,]~~ To whom an agent's license has been or is to be issued, is the duly appointed agent of an authorized insurer, subject to issuance of the license.

The commissioner may require additional information or submissions for resident applications and may obtain any documents or information reasonably necessary to verify the information contained in an application.

~~[(7)]~~ That the person, to whom a solicitor's license has been or is to be issued, is regularly employed by a presently licensed resident agent, or is to be so employed subject to issuance of the license.

~~(8)~~ Subsection (4)(b) of this section shall not apply to any person holding a limited license pursuant to KRS 304.9-230.

~~(9)~~ No institution included in the Farm Credit System, as set forth and identified in 12 U.S.C. sec. 2002 (Public Law 92-181, sec. 1.2, Dec. 10, 1971, 85 Stat. 583) or any subsidiary or affiliate thereof doing business in this state, nor any officer or employee of any institution included in the Farm Credit System, or any subsidiary or affiliate thereof, may directly or indirectly be licensed to sell or solicit any type of insurance, except term life, credit life, accident, disability and health, and crop hail insurance in an amount appropriate to insure repayment of the loan.]

Section 8. KRS 304.9-107 is amended to read as follows:

The following persons shall be exempt from the licensing qualifications and requirements of KRS 304.9-105~~(5)(4)~~(b) and, if otherwise properly qualified, shall be issued licenses without satisfying KRS 304.9-105~~(5)(4)~~(c):

- (1) Persons holding a certified life underwriter degree; ~~and~~
- (2) Persons holding a certified property and casualty underwriter degree; *and*
- (3) *Persons holding a certified insurance counselor designation.*

Section 9. KRS 304.9-120 is amended to read as follows:

- (1) Each applicant for license as *a resident licensee shall be qualified to designate and shall designate Kentucky as the applicant's home state at the date of application for the license and shall maintain that eligibility throughout the duration of the license* ~~agent, who is an independent contractor agent compensated on a commission basis, and each applicant for~~

license as a solicitor must be a bona fide resident of this state at the date of application for the license and must continue to be a resident of this state while so licensed}.

- (2) In determining the good faith of an applicant's claim *that Kentucky is the applicant's principal place of*~~[to such]~~ residence, the commissioner may give due consideration to the following:
- (a) The amount of time actually spent by the applicant within this state during the claimed residence period;
 - (b) The circumstances of *the applicant's*~~[such]~~ residence, that is, whether in a single or multiple family-type dwelling, or leased apartment, or permanent residential type; or in hotel, resort, motel, mobile home, or other temporary or transient type of dwelling or accommodation;
 - (c) The circumstances of the applicant, his *or her* past history and activities, and the probability that he *or she* will continue as a resident of this state indefinitely into the future if the license were to be issued; (d) All other pertinent factors.

~~{(3) The requirements of subsection (1) of this section shall not apply as to:~~

- ~~(a) One employed to manage the insurance agency of a deceased licensed resident agent;~~
 - ~~(b) An applicant or agent residing in any part of a city located partly within this state, if the other state in which the city is located in part has established a like exception to any residency requirement;~~
 - ~~(c) Life or health insurance agents;~~
 - ~~(d) Agents who are employees of the insurer or an affiliate of the insurer.~~
- ~~(4) The commissioner shall license as life insurance agent any person, firm, or corporation who is otherwise qualified therefor under this code, but who is not a resident of this state, if by the laws of the state or province of the residence of such person, firm, or corporation, residents of this state may be licensed in such state or province as nonresident life and general lines insurance agents and the commissioner may negotiate and enter into reciprocal arrangements with the insurance supervisory official of any other state or province under which the residence requirements of this subsection will be waived in favor of residents of such other state or province if like privileges in such other state or province are granted to residents of this state.~~
- ~~(5) If, under the laws of any other state or province, greater restrictions regarding residents and personal qualifications are imposed upon the licensing of residents of this state as agents than those imposed upon the licensing of nonresidents of this state under the laws of this state, then the commissioner may, when he considers such action necessary for the protection of domestic insurers or resident agents, impose such greater restrictions upon the licensing of residents of such state or province.~~

Section 10. KRS 304.9-130 is amended to read as follows:

- (1) *A business entity acting as an agent is required to obtain an agent license. Application shall be made using the uniform business entity application or other application prescribed by the commissioner. Before approving the application, the commissioner shall find that:*
- (a) The business entity has paid the fees set forth in KRS 304.4-010;*

- (b) *Each officer, director, and member of the business entity who is acting as an agent has obtained an agent's license;*
 - (c) *The business entity has disclosed to the insurance department the identity of all officers and directors and whether or not they are licensed as agents; and*
 - (d) *The business entity has designated a licensed agent responsible for the business entity's compliance with the insurance laws and regulations of this state*~~[firm or corporation may be licensed as an agent. If a firm, each general partner and each other individual to act for the firm under the license, and if a corporation each individual to act for the corporation under the license, shall be named in or registered with the commissioner as to the license, and shall qualify as though an individual licensee].~~
- (2) *The licensee shall promptly notify the commissioner of all changes among its members, directors, officers, and other individuals designated in or registered as to the license*~~[An individual who does not meet the residence requirements as provided in KRS 304.9-120 shall not be so named in or registered as to such a license and shall not have the right to exercise the license powers].~~
 - (3) *Each agent authorized to act for the business entity shall be named in or registered with the commissioner as to the license, and shall qualify as though an individual licensee*~~[A license shall not be issued to a firm or corporation unless it maintains a place of business in this state, and the transaction of business under the license is within the purposes stated in the firm's partnership agreement or the corporation's articles].~~
 - (4) *The commissioner may obtain any documents or information reasonably necessary to verify the information contained in an application*~~[licensee shall promptly notify the commissioner of all changes among its members, directors, officers and other individuals designated in or registered as to the license].~~

Section 11. KRS 304.9-140 is amended to read as follows:

- (1) *Unless denied a license in accordance with this subtitle, a nonresident individual or business entity shall receive an agent license if:*
 - (a) *The applicant is currently licensed and in good standing in his or her home state;*
 - (b) *The applicant has submitted the proper request for license and has paid the fees required by KRS 304.4-010 and administrative regulations;*
 - (c) *The applicant has submitted or transmitted to the commissioner the application for a license that the applicant submitted to his or her home state or a completed uniform application or uniform business entity application;*
 - (e) *The applicant has complied with his or her home state's continuing education requirements;*
 - (f) *The applicant's home state awards nonresident licenses to residents of this state on the same basis; and*
 - (g) *The applicant has complied with any other applicable legal requirements*~~[Notwithstanding the provisions of KRS 304.9-120, a nonresident of this state may be licensed as a life insurance agent upon compliance with the provisions of KRS 304.9-105, except as to the residence requirement].~~

- (2) *The commissioner may verify the applicant's license status through the database maintained by the National Association of Insurance Commissioners, its affiliates, or subsidiaries*~~[Notwithstanding the provisions of KRS 304.9-120, a nonresident of this state may be licensed as a general lines insurance agent upon compliance with the provisions of KRS 304.9-105 except as to the residence requirement].~~
- (3) *A nonresident licensee who changes his or her home state to a state other than Kentucky shall file a change of address and provide certification from the new home state within thirty (30) days of the change of home state. No fee or license application is required*~~[Nonresidents of this state, other than those referred to in subsection (1) of this section, may be licensed as insurance agents in this state without taking an examination if:~~
- ~~(a) A written examination is required of applicants for an insurance agent's license in such other state.~~
 - ~~(b) The appropriate official of such other state certifies that the applicant holds a currently valid license as an insurance agent in such other state and either passed such written examination or was the holder of an insurance agent's license prior to the time such written examination was required.~~
 - ~~(c) In such other state, a resident of this state is privileged to procure an insurance agent's license upon the foregoing conditions and without discrimination as to fees or otherwise in favor of the residents of such other state].~~
- (4) *Notwithstanding any other provisions of this chapter, on or after July 1, 2002, an individual licensed as a surplus lines broker in his or her home state shall receive a nonresident surplus lines broker license by meeting the requirements of subsection (1) of this section. Except as to subsection (1) of this section, nothing in this section otherwise amends or supersedes any provision of Subtitle 10 of this chapter*~~[the provisions of KRS 304.9-120, a nonresident of this state who is a full-time employee of an insurer or an affiliate of an insurer, and not compensated on a commission basis, may be licensed as a general lines insurance agent upon compliance with the provisions of KRS 304.9-105, except as to the residence requirement, and may act as an agent in Kentucky under said license, provided that such insurer maintains a place of business in this state].~~
- (5) *Notwithstanding any other provision of this subtitle, an individual licensed as a limited lines agent in his or her home state shall receive a nonresident limited lines agent license in accordance with subsection (1) of this section, granting the same scope of authority as granted under the license issued by the agent's home state.*

Section 12. KRS 304.9-150 is amended to read as follows:

- (1) Application for ~~an agent or solicitor license shall be made to the commissioner by an insurer. The application for~~ a consultant license shall be made by the applicant. Applications under this subsection shall be signed and sworn to by the applicant before a notary public or other person authorized by law to take acknowledgments of deeds.
- (2) The form of application shall require full answers to any questions as may be reasonably necessary to determine the applicant's identity, residence, personal history, business record, financial responsibility, experience in insurance, purpose for which the license is to be used, and other facts as required by the commissioner to determine whether the applicant meets the applicable qualifications for the license applied for.

- (3) ~~[If for an agent's or consultant's license,]The application shall state the kinds of insurance proposed to be transacted[, and if an agent's, the application shall be deemed an appointment of the applicant as agent for the kinds of insurance, by an authorized insurer, subject to issuance of the license].~~
- (4) ~~[If for solicitor's license, the application shall be accompanied by written appointment of the applicant as solicitor by a licensed resident general lines agent, subject to issuance of the license.~~
- (5) ~~If the applicant for an agent's license is a firm or corporation, the application shall show in addition, the names of all members, officers, and directors, and shall designate each individual who is to exercise the license powers; and each individual shall furnish information with respect to himself, as part of the application, as though for an individual license.~~
- (6) ~~If for license as agent, or solicitor, or consultant,]The application shall also show whether the applicant was ever previously licensed to transact any kind of insurance in this state or elsewhere; whether any license was ever refused, suspended, revoked, or renewal or continuance denied, whether any insurer, general agent, agent, claims applicant is indebted to it, and if so, the details thereof; whether applicant has ever had an agency contract canceled, and the facts thereof[; and, if applicant is a married person, like information with respect to the spouse.~~
- (7) ~~As part of the application for agent's or solicitor's license, the commissioner shall require the certificate of the insurer or agent, proposed to be represented, relative to applicant's identity, residence, experience, or instruction as to the kinds of insurance to be transacted, trustworthiness, and reputation].~~
- (5)~~(8)~~ ~~All applications shall be accompanied by the applicable license fee[, appointment fee,] and examination fee, in the respective amounts stated in KRS 304.4-010.~~
- (6)~~(9)~~ ~~No applicant for license under this subtitle shall willfully misrepresent or withhold any fact or information called for in the application form or in connection therewith.~~

Section 13. KRS 304.9-160 is amended to read as follows:

- (1) ***An individual applying for any license under this subtitle requiring an examination shall pass a written examination***~~[After completion and filing of application with the commissioner as required by KRS 304.9-150, the commissioner shall subject each applicant for license as agent, or solicitor,] unless *exempt*[exempted therefrom] under KRS 304.9170. ***Examinations required by this section shall be developed and conducted in accordance with administrative regulations promulgated***~~[, to a written examination as to his competence to act as such agent or solicitor, which he must personally take and pass to the satisfaction of the commissioner prior to having his application for a license considered] by the commissioner.~~~~
- (2) ***The commissioner may make arrangements, including contracting with an outside testing service, for administering examinations and collecting the nonrefundable fee set forth in KRS 304.4-010***~~[If the applicant is a firm or corporation the examination shall be so taken by each individual who is to be named in or registered as to the license, as provided in KRS 304.9-130].~~
- (3) ***Each individual applying for an examination shall remit a nonrefundable fee as prescribed by the commissioner as set forth in KRS 304.5-010***~~[examination of an applicant for an agent's license shall cover all the kinds of insurance which the appointing insurer or insurers are~~

~~authorized to transact in this state; except as to a limited license provided for under KRS 304.9-230 and except that an applicant to be licensed as to health insurance only or mortgage guaranty insurance only shall not be examined as to other kinds of insurance. The commissioner shall permit applicants appointed by a life insurer authorized in this state to issue kinds of insurance other than life and health insurance and annuities, as provided in KRS 304.3-110, to take examinations covering either the other kinds of insurances, or covering life and health insurance and annuities only, or both. In the case of life insurers authorized to issue variable annuities in this state, the commissioner may require applicants appointed by such insurers to solicit such contracts in this state, in addition to completing examinations qualifying for a life agent's license, to successfully pass a supplemental examination covering the subject of variable annuities in order to solicit, place or procure variable annuity contracts in this state].~~

- (4) *An individual who fails to appear for the examination as scheduled or fails to pass the examination, shall reapply for an examination and remit all required fees and forms before being rescheduled for another examination*~~[of an applicant for a solicitor's license shall cover all kinds of insurance, other than life or health insurance, as to which the appointing agent is licensed.~~
- (5) ~~Written application for the examination shall be filed with the commissioner by or on behalf of the applicant prior to the date fixed for the examination, as provided in KRS 304.9-190, and shall be accompanied by the fee for such application as specified in KRS 304.4-010].~~

Section 14. KRS 304.9-170 is amended to read as follows:

KRS 304.9-160 shall not apply and no~~[such]~~ examination shall be required of:

- (1) Any applicant for license covering ***any line of authority***~~[the same kind or kinds of insurance as]~~ to which the applicant was licensed under a similar license in ***Kentucky***~~[this state]~~, other than a temporary license, within the twenty-four (24) months next preceding date of application, unless the previous license was revoked~~[,]~~ ***or*** suspended~~[, or continuation thereof refused]~~ by the commissioner for reasons other than failure to maintain financial responsibility ***or meeting continuing education requirements*** as required by KRS 304.9105 ***and Section 24 of this Act.***
- (2) *An individual who applies for an agent license in Kentucky who was previously licensed for the same lines of authority in another state shall not be required to complete any prelicensing education or examination. This exemption is only available if the applicant is currently licensed in the other state or if the application is received within ninety (90) days of the cancellation of the applicant's previous license and if the prior state issues a certification that, at the time of cancellation, the applicant was in good standing in that state or the state's database records, maintained by the National Association of Insurance Commissioners, its affiliates, or subsidiaries, indicate that the agent is or was licensed in good standing for the line of authority requested*~~[In the commissioner's discretion, any applicant who has been licensed under a similar license in another state within twelve (12) months prior to his application for license in this state, and who files with the commissioner the certificate of the public official having supervision of insurance in the other state as to applicant's license and good conduct in the state].~~
- (3) *An individual licensed as an agent in another state within the last twelve (12) months who moves to Kentucky shall make application within ninety (90) days of establishing legal*

residence to become a resident licensee. No preclicensing education or examination shall be required of that applicant to obtain a license for any line of authority previously held in the prior home state except where the commissioner determines otherwise by administrative regulation~~[Persons representing public carriers who, in the course of their representation, solicit or sell insurance incidental to the transportation of persons or to the storage or transportation of property].~~

(4)~~— Persons soliciting or negotiating credit life, credit health and accident, credit personal property, and credit unemployment insurance contracts.~~

(5)~~—~~ An applicant for an agent's license who is currently licensed as a solicitor or as a consultant as to the same *line of authority*~~[kind or kinds of insurance]~~, or has been so licensed within twelve (12) months next preceding the date of application for the license, unless the previous license was revoked or suspended or continuation thereof refused by the commissioner for reasons other than failure to maintain financial responsibility as required by KRS 304.9-330~~[304.9-405]~~.

(5)~~(6)~~— Any applicant for license covering the same *line of authority*~~[kind or kinds of insurance]~~ as to which that applicant shall have held a valid license issued *in accordance with*~~[pursuant to]~~ this subtitle or other applicable Kentucky law which was surrendered, *in accordance with*~~[pursuant to]~~ KRS 304.2-080 or other applicable law, in order to accept employment with the Department of Insurance, provided, however, that the applicant shall apply for relicensing within one (1) year of the date of termination of his *or her* employment with the Department of Insurance.

~~(7) — Persons soliciting or negotiating mechanical breakdown insurance contracts.]~~ Section

15. KRS 304.9-180 is amended to read as follows:

(1) ~~The~~~~[Each]~~ examination *shall test the*~~[for license as agent, consultant, or solicitor shall reasonably test the applicant's competence and his]~~ knowledge *or relevant skills and abilities of the individual concerning the lines of authority for which application is made,*~~[of the kinds of insurance, policies and transactions to be handled under the license applied for, of]~~ the duties and responsibilities of~~[such]~~ a licensee, and~~[of]~~ the pertinent insurance laws *and administrative regulations* of this state.

(2) The commissioner shall make available to applicants for license, printed information as to the general scope of, and principal subjects to be covered by, the examination for a particular license, together with information as to published books and other reference sources which may be studied by the applicant to prepare for the examination; but the commissioner shall not furnish lists of examination questions and examination questions shall not be selected from lists~~[thereof]~~ known to the commissioner to have been furnished applicants.

Section 16. KRS 304.9-190 is amended to read as follows:

(1) The commissioner shall provide a reasonable opportunity to all applicants to take the *examinations*~~[examination]~~ required by *this subtitle*~~[KRS 304.9-160]~~. Examinations shall be held at least monthly at places in this state designated by the commissioner reasonably accessible to applicants, and at least weekly at Frankfort.

(2)~~— All the kinds of insurance which the applicant proposes to transact under the license applied for shall be included in the same examination.~~

- ~~(3)~~ The commissioner shall give, conduct and grade all examinations in a fair and impartial manner and without unfair discrimination as between individuals examined.
- ~~(3)~~~~(4)~~ The commissioner may require a reasonable waiting period before reexamination of an applicant who has failed to pass a previous examination covering the same ~~line~~~~[kind or kinds]~~ of ~~authority~~~~[insurance]~~.

Section 17. KRS 304.9-200 is amended to read as follows:

- (1) *An agent license shall remain in effect unless terminated, canceled, expired, revoked, or suspended as long as the fees set forth in KRS 304.4-010 and all administrative regulations promulgated thereunder are paid and any applicable continuing education requirements for individual agents are met by the due date.*
- (2) *An individual agent who allows his or her license to lapse may, within twelve (12) months from the due date of the renewal fee, reinstate the same license without the necessity of passing a written examination. However, a penalty may be imposed as provided in KRS 304.99-020.*
- (3) *A licensed agent who is unable to comply with license renewal procedures due to military service, a long-term medical disability, or some other extenuating circumstance may request a waiver of those procedures. The agent may also request a waiver of any examination requirement or any other fine or sanction imposed for failure to comply with renewal procedures.*
- (4) *The license shall contain the licensee's name, address, personal identification number, and the date of issuance, the lines of authority, and any other information the commissioner deems necessary.*
- (5) *Licensees shall inform the commissioner in writing in a format acceptable to the commissioner of a change of address or change of name within thirty (30) days of the change.*
- (6) After completion of application for a license, and the taking and passing of any examination required under this subtitle, the commissioner shall promptly consider the same. If the commissioner finds that the applicant has fully met the requirements *for licensure*~~[therefor]~~, the commissioner shall promptly issue the license to the applicant; otherwise, the commissioner shall refuse to issue the license and promptly notify the applicant and the appointing insurer or agent of ~~the~~~~[such]~~ refusal, stating the grounds thereof.
- ~~(7)~~~~(2)~~ If a license is refused, the commissioner shall promptly refund the appointment fee tendered with the license application. All other fees for application for agent, consultant,~~[solicitor]~~ or adjuster licenses shall be deemed earned when paid and shall not be refundable.

Section 18. KRS 304.9-210 is amended to read as follows:

- ~~(1)~~ ~~The license shall state the name and address of the licensee, date of issue, general conditions relative to expiration or termination, the kind or kinds of insurance covered by the license, if applicable, and such other conditions as the commissioner deems proper for inclusion in the license certificate. No license shall be issued in a trade name unless the name has been duly registered or filed as required by law.~~
- ~~(2)~~ The license of an agent shall not specify the name of any particular insurer by which the licensee is appointed as agent~~[, except as provided by subsection (5) of this section, as to limited~~

licenses,] and the licensee may[, subject to KRS 304.9-220 as to life agents,] represent as **an**[such] agent under the one (1) license as many insurers as may appoint **the agent**[him therefor] in accordance with this subtitle.

~~[(3) The license of a solicitor shall show the name and address of the employer agent.]~~

~~(2)[(4)]~~ The license of a consultant shall show whether the license is for a "general lines consultant" or a "life consultant."

~~[(5) Each limited license issued pursuant to KRS 304.9-230 shall show the name of the insurer so represented, and a separate license shall be required as to each such insurer.]~~ Section 19. KRS 304.9-230 is amended to read as follows:

(1) The commissioner may issue ***in accordance with Section 4 of this Act, an agent's license with the line of authority***~~[to an applicant qualified therefor, including, but not] limited~~~~[to, financial responsibility pursuant to KRS 304.9-105(5), under this code limited agent's licenses]~~ as follows:

- (a) ***To***~~[Covering]~~ motor vehicle physical damage insurance only;
- (b) ***To***~~[persons representing]~~ common ***carrier insurance, incidental to the transportation of persons or to the storage or transportation of property only, and solicited or sold by persons representing common carriers in the course of that representation***~~[carriers, as provided in KRS 304.9-170];~~
- (c) ***To limited line credit insurance***~~[Covering]~~ only~~[insurance against loss or damage resulting from failure of debtors to pay their obligations to the insured];~~
- (d)~~[Covering only credit life, credit health, credit personal property, and credit unemployment insurance;~~
- (e) ~~Covering agents writing mortgage guaranty insurance only;~~ (f)
Covering agents:
 - 1. ***Writing industrial life insurance only; or***
 - 2. ***Licensed by an insurer issuing policies having a face amount not in excess of five thousand dollars (\$5,000) on the debit plan, if the agent actually collects and services a debit for the insurer;***
- (g) ~~Covering agents writing only policies commonly referred to as mortgage redemption insurance, which consist of reducing term life insurance and accident and health insurance, if any, contained therein or sold in conjunction therewith;~~
- (h) ~~To~~~~[Covering agents writing]~~ crop-hail insurance only;~~[and]~~
- (e)~~[(i)]~~ ***To***~~[Covering agents writing]~~ mechanical breakdown insurance only; ***and***
- (f) ***To other limited line insurance only, as specified by the commissioner through the promulgation of administrative regulations.***

(2) The ***commissioner shall promulgate administrative regulations to establish the requirements for prelicensing courses of instruction and examination***~~[fee]~~ ***for each limited lines license***~~[licenses is as specified in KRS 304.4-010].~~

Section 20. KRS 304.9-260 is amended to read as follows:

- (1) Each~~[-solicitor,]~~ consultant, adjuster, and surplus lines broker license issued under this code shall continue in force until expired, suspended, revoked, or otherwise terminated, but subject to payment to the commissioner at his *or her* office in Frankfort on or before March 31 of the applicable continuation fee for any appointment, or license in the case of a limited license, not terminated on or prior to December 31 of the preceding calendar year as stated in KRS 304.4-010, accompanied by written request for continuation. Request for continuation shall be made as follows:
 - (a) As to adjuster and surplus lines broker licenses, request made and signed by the licensee.
 - (b)~~[-As to solicitor licenses, request made and signed by the employer as to whom licensed.~~
 - (c)~~[-As to limited licenses issued under KRS 304.9-230, request made and signed by the insurer so represented.~~
- (2) Biennially, before January 31, the department shall distribute to each respective licensee, employer, and insurer a listing of the names and addresses of that person's licensees referred to in subsection (1) whose appointments were in effect during the preceding calendar year and who were not terminated on or prior to December 31 of that calendar year. Any appointment or license not expressly terminated shall continue in effect as to the kinds of insurance or classifications~~[-thereof]~~ for which the respective licensees are currently appointed and subject to payment of the fees specified under KRS 304.4-010. On or before March 31, each licensee, employer, or insurer shall submit the continuation of appointment fee, as specified in KRS 304.4-010, for each appointment or license not terminated on or prior to December 31 of the preceding calendar year. Any license referred to in subsection (1) of this section as to which request for continuation and fee are not so received by the commissioner shall be deemed to have expired at midnight on March 31; except that any request and fees received by the commissioner after March 31 and prior to the next following June 30 may be accepted and effectuated by the commissioner, in his *or her* discretion, if accompanied by a penalty as provided in Subtitle 99 of this chapter.
- (3) The license of an agent shall continue in force as long as there is in effect as to the licensee, as shown by the commissioner's records, an appointment or appointments as agent of authorized insurers covering collectively all of the *lines of authority*~~[-kinds of insurance or classifications thereof]~~ included in the agent's license. Upon termination of all of the licensee's~~[-agency]~~ appointments as to a particular *line of authority*~~[-kind of insurance or classification thereof]~~ and failure to replace an appointment within sixty (60) days thereafter, the license shall~~[-thereupon]~~ expire and terminate as to the *line of authority*~~[-kind of insurance or classification of insurance]~~ and the licensee shall promptly deliver his *or her* license to the commissioner for reissuance, without fee or charge, as to the *line of authority*~~[-kinds of insurance or classifications thereof]~~, if any, covered by the licensee's remaining agency appointments. Upon termination of all of the licensee's~~[-agency]~~ appointments *and failure to obtain a new appointment within sixty (60) days*, the license shall~~[-forthwith]~~ terminate *and be surrendered to the commissioner*.
- (4) As a condition to or in connection with the continuation of any agent *or*~~[-]~~ consultant~~[-or solicitor]~~ license, the commissioner may require the licensee to file with him *or her* information relative to use made of the license during the next preceding calendar year and especially as to whether the license has been used principally for the writing of controlled business, as defined in KRS 304.9-100.

- (5) As a condition to or in connection with the continuation of any agent~~[or solicitor]~~ license, the commissioner shall require continuous demonstration of financial responsibility as required by KRS 304.9-105~~(6)~~~~(5)~~, and any license shall terminate and be surrendered to the commissioner, as provided~~[for]~~ therein, if and when *the*~~[such]~~ demonstration becomes impaired whether or not valid appointments under the license are then existent.
- (6) Except as to the provisions of subsection (5) hereof, this section does not apply to temporary licenses issued under KRS 304.9-300.

Section 21. KRS 304.9-270 is amended to read as follows:

- (1) Each insurer appointing an agent in this state shall ***obtain approval of the appointment from the commissioner by filing***~~[file]~~ with the commissioner the ***notice of appointment*** in writing, specifying the kinds of insurance or classifications thereof to be transacted by the agent for the insurer, and submit the license fee with the license application and the appointment fee with every appointment~~[thereafter]~~, or license fee in the case of limited licenses, as specified in KRS 304.4-010.
- (2) ***No agent shall claim to be an agent or representative of, or in any way imply a contractual relationship with, a particular insurer, or place applications for insurance with an insurer unless the agent becomes an appointed agent of the insurer and the agent's appointment has been approved by the commissioner.***
- (3) ***An agent may act as a representative of and place insurance with an insurer without first obtaining approval of the appointment by the commissioner for a period of thirty (30) days from the date the first insurance application is executed by the agent subject to the following criteria:***
 - (a) ***The agent has filed with the commissioner, and kept in force, evidence of financial responsibility in the sum of not less than one million dollars (\$1,000,000) per occurrence, and the sum of two million dollars (\$2,000,000) in the aggregate, for all occurrences within one (1) year, either in the form of an errors and omissions insurance policy issued by an authorized insurer, a bond issued by an authorized corporate surety, a deposit, or any combination of these evidences of financial responsibility. Such a policy, bond, deposit, or combination shall not be terminated unless at least thirty (30) days prior written notice is given to the licensee and the commissioner.***
 - (b) ***If the agent does not receive from the insurer acknowledgment that the agent's appointment has been approved by the commissioner within thirty (30) days from the date the first insurance application is executed, the agent shall immediately discontinue acting as an agent on behalf of the insurer until acknowledgment is received.***
- (4) ***(a) The insurer shall, no later than forty-five (45) days from the date the agency contract is executed or the first insurance application is submitted by an agent, whichever is earlier, file with the commissioner a written notice of appointment on a form prescribed by the commissioner.***
 - (b) ***If there is no executed agency contract, the insurer shall also mail to the agent, within the same forty-five (45) day period specified in paragraph (a) of this subsection, a copy of the notice of appointment form filed with the commissioner.***

- (5) *Within fifteen (15) days of receipt of the notice of appointment, the commissioner shall determine and notify the insurer whether the agent is eligible for appointment. If the agent's license is in good standing and no other grounds exist to deny the appointment, the commissioner shall approve the appointment.*
- (6) Subject to continuation by the insurer as provided in subsection (4)~~[(3)]~~ of this section, each appointment shall remain in effect until the agent's license is revoked or otherwise terminated, unless the insurer earlier terminates the appointment as provided in KRS 304.9280.
- (7)~~[(3)]~~ Biennially, before January 31, the department shall distribute to each insurer a listing of the names and addresses of that insurer's agents whose appointment, or licenses in the case of limited licenses, were in effect during the preceding calendar year and who were not terminated on or prior to December 31 of that calendar year. Any appointment or license not expressly terminated shall remain in effect as to the kinds of insurance or classifications thereof for which the respective agents are currently appointed, and subject to the fees specified under KRS 304.4-010. On or before March 31, each insurer shall submit the continuation of appointment fee, or license fee in the case of limited licenses, as specified in KRS 304.4-010, for each appointment not terminated on or prior to December 31 of the preceding calendar year. Any appointment or license not expressly terminated shall continue, unless otherwise terminated, canceled, suspended, or revoked by the department of insurance.

Section 22. KRS 304.9-280 is amended to read as follows:

- (1) Subject to the agent's contract rights, if any, an insurer may terminate an ~~agency~~ appointment at any time. However, if any ~~agency~~ appointment is not terminated on or prior to December 31, then on January 1 the fees designated shall be due for submission as provided in KRS 304.9-270. ~~[The insurer shall promptly give written notice of such termination and the effective date thereof to the commissioner and to the agent where reasonably possible. The commissioner may require of the insurer reasonable proof that the insurer has given notice to the agent where reasonably possible.]~~
- (2) *An insurer or authorized representative of the insurer that terminates the appointment, employment, contract, or other insurance business relationship with a licensee shall notify the commissioner within thirty (30) days following the effective date of the termination, using a form prescribed by the commissioner, if the reason for termination is one (1) of the reasons set forth in Section 34 of this Act or if the insurer has knowledge the licensee was found by a court, government body, or self-regulatory organization authorized by law to have engaged in any of the activities in Section 34 of this Act. Upon the written request of the commissioner the insurer shall provide additional information, documents, records, or other data pertaining to the termination or activity of the licensee.*
- (3) *An insurer or authorized representative of the insurer that terminates the appointment of a licensee for any reason not set forth in subsection (2) of this section, shall notify the commissioner within thirty (30) days following the effective date of the termination, using a form prescribed by the commissioner. Upon written request of the commissioner, the insurer shall provide additional information, documents, records, or other data pertaining to the termination.*
- (4) *The insurer or the authorized representative of the insurer shall promptly notify the commissioner in a form acceptable to the commissioner if, upon further review or investigation, the insurer discovers additional information that would have been reportable*

to the commissioner in accordance with subsection (2) of this section had the insurer known of its existence.

- (5) (a) *Within fifteen (15) days after making the notification required by subsection (3) of this section the insurer shall mail a copy of the form to the licensee at his or her last known address by first-class mail. Within fifteen (15) days after making the notification required by subsection (2) of this section, the insurer shall provide a copy of the form to the licensee at his or her last known address by certified mail, return receipt requested, postage prepaid, or by overnight delivery using a nationally recognized carrier.*
- (b) *Within thirty (30) days after the licensee has received a copy of the form, the licensee may file written comments concerning the substance of the notification with the commissioner. The licensee shall, by the same means, simultaneously send a copy of the comments to the reporting insurer, and the comments shall become a part of the commissioner's file and accompany every copy of a report distributed or disclosed for any reason about the licensee as permitted under subsection (7)(c) of this section.*
- (6) (a) *1. In the absence of actual malice, an insurer, the authorized representative of the insurer, a licensee, the commissioner, or their respective representatives, or employees, or an organization of which the commissioner is a member and that compiles the information and makes it available to other insurance commissioners, or regulatory or law enforcement agencies, shall not be subject to civil liability, and a civil cause of action of any nature shall not arise against these entities or their respective representatives or employees, as a result of:*
 - a. *Any statement or information required by or provided in accordance with this section;*
 - b. *Any information relating to any statement that may be requested in writing from an insurer or licensee by the commissioner; or*
 - c. *A statement by a terminating insurer or licensee to an insurer or licensee that is limited solely and exclusively to whether a termination for cause under subsection (2) of this section was reported to the commissioner.*
- 2. The propriety of any termination for cause under subsection (2) of this section shall be certified in writing by an officer or authorized representative of the insurer or licensee terminating the relationship.*
- (b) *In any action brought against an individual, business entity, or organization that may have immunity under subsection (6)(a) of this section for making any statement required by this section or providing any information relating to any statement that may be requested by the commissioner, the party bringing the action shall plead specifically in any allegation that subsection (6)(a) of this section does not apply because the individual, business entity, or organization making the statement, or providing the information did so with actual malice.*
- (c) *Subsection (6)(a) or (6)(b) of this section shall not abrogate or modify any existing statutory or common law privileges or immunities.*
- (7) (a) *1. Any document, material, or other information in the control or possession of the department that is furnished by an insurer, licensee, or an employee, or representative*

acting on behalf of the insurer or licensee, or obtained by the commissioner in an investigation in accordance with this section: a. Shall be confidential by law and privileged;

b. Shall not be subject to subpoena; or

c. Shall not be subject to discovery or admissible in evidence in any private civil action.

Notwithstanding subdivisions a., b., and c. of this subparagraph, any document, material, or other information that is furnished by an insurer, licensee, or an employee, or representative acting on behalf of the insurer or licensee, or obtained by the commissioner in an investigation in accordance with this section, that is used in a formal administrative proceeding or enforcement action in accordance with KRS Chapter 13B shall be subject to the Kentucky Open Records Act.

2. However, the commissioner is authorized to use the documents, materials, or other information referred to in subsection (7)(a)1. of this section in the furtherance of any regulatory or legal action brought to carry out the commissioner's duties.

(b) Neither the commissioner nor any individual who received documents, materials, or other information while acting under the authority of the commissioner, shall be permitted or required to testify in any private civil action concerning any confidential documents, materials, or information subject to paragraph (a) of this subsection.

(c) In order to assist in the performance of the commissioner's duties, the commissioner:

1. May share documents, materials, or other information, including the confidential and privileged documents, materials, or information subject to paragraph (a) of this subsection, with other state, federal, and international regulatory agencies, with the National Association of Insurance Commissioners, its affiliates, or subsidiaries, and with state, federal, and international law enforcement authorities, provided that the recipient agrees to maintain the confidentiality and privileged status of the documents, materials, or other information;

2. May receive documents, materials, or information, including otherwise confidential and privileged documents, materials, or information, from the National Association of Insurance Commissioners, its affiliates or subsidiaries, and from regulatory and law enforcement officials of other foreign or domestic jurisdictions, and shall maintain as confidential or privileged any documents, materials, 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 documents, materials, or information; and

3. May enter into agreements governing sharing and use of information consistent with this subsection.

(d) No waiver of any applicable privilege or claim of confidentiality in the documents, materials, or information shall occur as a result of disclosure to the commissioner or of sharing as authorized in this subsection.

- (e) *The commissioner shall release only final, adjudicated actions including for cause terminations that are open to public inspection in accordance with the Kentucky Open Records Act , KRS 61.870 to 61.884, to a database or other clearinghouse service maintained by the National Association of Insurance Commissioners, its affiliates, or subsidiaries.*
- (f) *As part of the nonresident license certification process, the department shall release only final adjudicated actions on agents licensed according to this subtitle*~~[Accompanying the notice of termination given the commissioner, the insurer shall file with him a statement of all the facts constituting the cause, if any, for termination. Any information, document, record, or statement so disclosed or furnished to the commissioner shall be deemed an absolutely privileged communication and shall not be admissible as evidence in any action or proceeding unless consented to in writing by the insurer.]~~
- ~~(3) An agent terminating the employment as solicitor of a licensed solicitor shall give like notice of the termination to the commissioner, and like information as to the reasons for the termination, with like status as privileged communication unless the privilege is waived in writing by the agent].~~

Section 23. KRS 304.9-290 is amended to read as follows:

Following termination of an~~[agency]~~ appointment~~[of a general lines agent,]~~ and subject to the terms of any agreement between the agent and the insurer, the agent may continue to service, and receive from the insurer commissions or other compensation relative to, business written by him *or her* for the insurer during the existence of the appointment, so long as the agent continues to be licensed as to the kinds of insurance involved.

Section 24. KRS 304.9-295 is amended to read as follows:

- (1) This section shall apply to *individuals*~~[resident persons]~~ licensed as agents~~[or solicitors for the following kinds of insurance: life, health, property, casualty, or surety].~~
- (2) This section shall not apply to:
 - (a)~~[Persons holding licenses for which no examination is required by KRS 304.9-170 except that persons exempted from examination by KRS 304.9-170(1) and (2) shall be subject to this section;~~
 - ~~(b)]~~ *Licensees*~~[Persons]~~ holding limited *lines of authority*~~[or restricted]~~ licenses, as exempted by the commissioner *in accordance with Section 19 of this Act*;
 - ~~(b)]~~~~(c)]~~ *Licensees*~~[Persons]~~ not licensed for one (1) full year prior to the end of a continuing education biennium as described in subsection (3) of this section;
 - ~~(c)]~~~~(d)]~~ *Licensees*~~[Persons]~~ holding nonresident licenses who have met the continuing education requirements of their *home* state~~[of domicile]~~ and whose *home* state *gives credit to Kentucky resident agents on the same basis*~~[of domicile has a current continuing education reciprocal agreement with the commissioner];~~ or
 - ~~(d)]~~~~(e)]~~ *Licensees*~~[Persons]~~ maintaining their licenses for the sole purpose of receiving renewals or deferred commissions and providing the department with a supporting affidavit.

- (3) The licensees specified in subsection (1) of this section and not exempt under subsection (2) of this section who hold a license, shall satisfactorily complete a minimum of twenty-four (24) hours of continuing education courses, of which twelve (12) ~~shall~~~~must~~ be classroom hours, during each continuing education biennium. A continuing education biennium shall begin on July 1 and end on June 30 two (2) years later.
- (4) Only continuing education courses approved by the commissioner ~~shall~~~~may~~ be used to satisfy the continuing education requirement of subsection (3) of this section.
- (a) The continuing education courses which meet the commissioner's standards for continuing education requirements are:
1. Any part of the Life Underwriter Training Council life course curriculum;
 2. Any part of the Life Underwriter Training Council health course curriculum;
 3. Any part of the American College Chartered Life Underwriter diploma curriculum;
 4. Any part of the American Institute for Property and Liability Underwriters' chartered property and casualty underwriter profession designation program;
 5. Any part of the Insurance Institute of America's programs;
 6. Any part of the certified insurance counselor program;
 7. Any insurance related course taught at an accredited college or university, if ~~the~~~~such~~ course is approved by the commissioner;
 8. Any course of instruction or seminar developed or sponsored by any authorized insurer, recognized agent association, recognized insurance trade association, or any independent program of instruction, if approved by the commissioner;
 9. Any correspondence course approved by the commissioner; *and*
 10. *Any course in accordance with provisions of reciprocal agreements the commissioner enters with other states.*
- (b) The commissioner shall prescribe the number of hours of continuing education credit for each continuing education course approved *in accordance with*~~[pursuant to]~~ this subsection. *Continuing education courses submitted in accordance with a reciprocal agreement shall be approved according to the provisions of the reciprocal agreement.*
- (c) If a continuing education course requires successful completion of a written examination, no continuing education credit shall be given to ~~licensees~~~~persons~~ who do not successfully complete ~~the~~~~such~~ written examination.
- (d) The fee for filing continuing education courses for approval by the commissioner shall be as specified in Subtitle 4 of KRS Chapter 304.
- (e) *For continuing education courses of reciprocal states, continuing education providers shall be approved in accordance with the provisions of the reciprocal agreements.*
- (5) *An individual*~~[A person]~~ teaching any approved continuing education course shall qualify for the same number of hours of continuing education credit as would be granted to a ~~licensee~~~~person~~ taking and satisfactorily completing ~~the~~~~such~~ course.

- (6) Excess credit hours accumulated during any continuing education biennium may be carried forward. The commissioner may, by regulation, limit the number of hours carried forward.
- (7) For good cause shown, the commissioner may grant an extension of time during which the continuing education requirement of subsection (3) of this section may be completed, but ~~the[such]~~ extension of time shall not exceed two (2) years. What constitutes good cause for ~~the[such]~~ extension of time rests within the discretion of the commissioner.
- (8) Every ~~licensee[person]~~ subject to this section shall furnish to the commissioner written certification as to the continuing education courses satisfactorily completed by ~~the licensee[such person]~~. ~~The[Such]~~ certification shall be signed by or on behalf of the organization sponsoring the continuing education course. ~~The[Such]~~ certification shall be on a form prescribed by the commissioner.
- (9) The license of any ~~individual[person]~~ failing to comply with the continuing education requirement of subsection (3) of this section and who has not been granted an extension of time to comply ~~in accordance with[pursuant to]~~ subsection (7) of this section shall **terminate and shall be** ~~be[canceled and]~~ promptly surrendered to the commissioner without demand.
- (10) The license of any ~~individual[person]~~ subject to the continuing education requirement shall be suspended or revoked, a civil penalty imposed ~~[in lieu thereof]~~, or both, **in accordance with[pursuant to]** KRS 304.9-440 if ~~the individual[such person]~~ submits to the commissioner a false or fraudulent certificate of compliance with the continuing education requirement.

Section 25. KRS 304.9-300 is amended to read as follows:

- (1) The commissioner may issue a temporary license ***for a period not to exceed one hundred eighty (180) days without requiring an examination or prelicensing course of study if the commissioner deems that a temporary license is necessary for the servicing of an insurance business*** ~~[as agent to or with respect to an individual who demonstrates that he is qualified therefor only as to age, residence, trustworthiness, general education and financial responsibility without requiring such individual to successfully complete specific courses of instruction or take an examination,]~~ in the following cases:
 - (a) To the surviving spouse or ***court-appointed personal representative*** ~~[next of kin or to the administrator or executor, or the employee of such administrator or executor,]~~ of a licensed agent ***who dies or becomes mentally or physically disabled, to allow adequate time for the:***
 - 1. ***Sale of the insurance business owned by the agent;***
 - 2. ***Recovery or return of the agent to the business; or***
 - 3. ***Training and licensing of new personnel to operate the agent's business*** ~~[becoming deceased].~~
 - (b) ~~[To the spouse, next of kin, employee or legal guardian of a licensed agent disabled by sickness, injury, or insanity.]~~
 - (c) ~~[To a member or employee of a~~ ***business entity*** ~~[firm, or officer or employee of a corporation,]~~ licensed as ***an*** agent, upon the death or disability of ~~the sole[an]~~ individual designated in ~~[or registered under]~~ the ***business entity application or the*** license ~~[to exercise the powers thereof].~~

~~(c)(d)~~ To the designee of a licensed agent entering upon active service in the armed forces of the United States.

~~(d)(e)~~ To any agent appointed by an insurer issuing policies on the debit plan, if such agent actually collects and services a debit. The insurer and agent may assume that such license will be issued, effective as of the date of application, and the agent may continue on such debit until notified to the contrary by the commissioner.

~~(f)~~ To a full time ordinary life insurance agent appointed by the insurer under a training program filed with and approved by the commissioner, which program shall not be approved unless it includes the equivalent of forty (40) hours of classroom instruction in specific courses in the field of insurance as prescribed by the commissioner for the issuance of a permanent license. No such training program or temporary licensing privilege shall be granted or continued for such ordinary life agents for any insurer obtaining more than ten (10) such temporary licenses within any calendar year and which fails to qualify at least sixty five percent (65%) of its temporary licensees for a permanent license.

~~(g)~~ In any other circumstance where the commissioner deems that the public interest will best be served by the issuance of *this*~~such~~ license.

(2) *In addition to the restrictions on temporary licenses set forth in Section 26 of this Act, the commissioner may, by order, limit the authority of any temporary licensee in any way deemed necessary to protect insureds and the public. The commissioner may require the temporary licensee to have a suitable sponsor who is a licensed agent or insurer and who assumes responsibility for all acts of the temporary licensee, and may impose other similar requirements designed to protect insureds and the public. The commissioner may, by order, revoke a temporary license if the interests of insureds or the public are endangered. A temporary license shall not continue after the owner or the personal representative disposes of the business.*

(3) Application for a temporary license shall be filed with the commissioner in *the*~~the~~ form and containing *the*~~the~~ information as the commissioner may reasonably require, and be accompanied by the application fee as specified in KRS 304.4-010.

~~(3)~~ The temporary license shall be for a period of not over ninety (90) days, subject to extension by the commissioner in his discretion for one (1) additional period of not over ninety (90) days; except, that license issued as to an executor or administrator under paragraph (a) of subsection (1) of this section may be continued without payment of additional fee until the executor or administrator has disposed of the insurance business, but for not to exceed a period of eighteen (18) months. Temporary license issued to the spouse or next of kin under such paragraph (a) of subsection (1) of this section shall not be extended for an additional term after appointment and qualification of such an administrator or executor.

(4) The fee paid for the temporary license may be applied upon the fee required for any permanent license issued to the licensee upon or prior to expiration of the temporary license and covering the same kinds of insurance.]

Section 26. KRS 304.9-310 is amended to read as follows:

~~(1)~~ The commissioner shall not issue more than one (1) temporary license to or with respect to the same individual to be so licensed, within any twelve month period.

~~(2)~~ The temporary license may cover only the same kinds of insurance for which the agent thereby being replaced was licensed.

~~(2)~~~~(3)~~ The temporary licensee may represent under the license all insurers last represented by the replaced agent, and without the necessity of new appointments of the licensee; but the licensee shall not be appointed as to any additional insurer of additional kind of insurance under ~~such~~ a temporary license. This provision shall not be deemed to prohibit termination of its appointment by any insurer.

~~(3)~~~~(4)~~ A temporary license shall have the same license powers and duties as under a permanent license but shall not be obtained for the sole production of controlled business as defined in KRS 304.9-100, and no sale of insurance of any kind shall be made upon the licensee's own life or the lives of any relative by blood or marriage.

Section 27. KRS 304.9-370 is amended to read as follows:

- (1) Application for and acceptance of a license as a consultant, agent, **or** adjuster ~~or solicitor~~ by a nonresident of Kentucky shall thereby be deemed to constitute irrevocable appointment of the Secretary of State as the attorney of the licensee for the acceptance of service of process issued in this state in any action or proceeding against the licensee arising out of ~~the~~ ~~such~~ licensing or out of transactions under the license.
- (2) Service of process against any nonresident licensee may be made in any action by service upon the Secretary of State as provided in KRS 304.3-230.

Section 28. KRS 304.9-390 is amended to read as follows:

- (1) Every agent referred to in subsection (1) of KRS 304.9-120 shall have and maintain in this state a place of business accessible to the public, and wherein the licensee principally conducts transactions under his **or her** license. The address of ~~the~~ ~~such~~ place shall appear upon the license. Nothing in this section shall prohibit maintenance of such a place in the licensee's residence in this state.
- (2) The licenses of the licensee ~~, and those of solicitors employed by him,~~ shall be conspicuously displayed in ~~the~~ ~~such~~ place of business in a part ~~thereof~~ customarily open to the public.
- (3) The agent shall keep at his place of business complete records of transactions under his license ~~and those of his solicitors~~. ~~The~~ ~~Such~~ record shall show, as to each insurance policy or contract placed ~~or countersigned~~ by or through the licensee, the names of the insurer and insured, the number and expiration date of, and premium payable as to, the policy or contract, and **any** ~~such~~ other information as the commissioner may reasonably require. The record shall be kept available for inspection by the commissioner, for a period of at least five (5) years after completion of the respective transactions.

~~(4) This section shall not apply as to life and health insurance.~~

Section 29. KRS 304.9-400 is amended to read as follows:

That portion of all premiums or moneys which an agent ~~or solicitor~~ collects from an insured and which is to be paid to an insurer, its agents, its managing general agents or his **or her** principal because of the assumption of liability through the issuance of policies or contracts for insurance, shall be held by the agent ~~or solicitor~~ in a fiduciary capacity and shall not be misappropriated or converted to his **or her** own use or illegally withheld by the agent ~~or solicitor~~.

Section 30. KRS 304.9-421 is amended to read as follows:

No agent,~~[-solicitor,]~~ consultant, adjuster, or surplus lines broker shall directly or indirectly share his **or her** commission or other compensation received or to be received on account of a transaction under his **or her** license with any **individual or business entity**~~[-person]~~ not also licensed as agent,~~[-solicitor,]~~ consultant, adjuster, or surplus lines broker under this subtitle as to the kinds of insurance involved in the transaction. This provision shall not affect personal use of **the**~~[-such]~~ commissions or compensation, payment of the regular salaries due employees of the agent, consultant, adjuster, or surplus lines broker, or distribution in the regular course of business of compensation and profits among members or stockholders of licensee **business entities**~~[-firms or corporations]~~.

Section 31. KRS 304.9-425 is amended to read as follows:

No insurer, **financial institution**,~~[-insurer]~~ agent, surplus lines broker,~~[-solicitor,]~~ adjuster, or consultant shall pay directly or indirectly, any commission, brokerage, or other valuable consideration to any **individual or business entity**~~[-person]~~ for services as an~~[-insurer]~~ agent, surplus lines broker,~~[-solicitor,]~~ adjuster, or consultant within this state, unless **the individual or business entity**~~[-such person]~~ held at the time **the**~~[-such]~~ services were performed a valid license for that line of insurance as required by the laws of this state for **the**~~[-such]~~ services; nor shall any **individual or business entity**~~[-person]~~, other than **an individual or business entity**~~[-a person]~~ duly licensed by this state as an~~[-insurer]~~ agent, surplus lines broker,~~[-solicitor,]~~ adjuster, or consultant at the time **the**~~[-such]~~ services were performed, accept any such commission, brokerage, or other valuable consideration. Provided, that this section shall not prevent payment or receipt of renewal or other deferred commissions to or by any **individual or business entity**~~[-person]~~ entitled~~[-thereto]~~ under this section.

Section 32. KRS 304.9-430 is amended to read as follows:

- (1) No **individual or business entity**~~[-person]~~ shall in this state act as or hold himself **or herself** out to be an adjuster unless then licensed by the Kentucky Department of Insurance as an adjuster. Application for license shall be made to the commissioner according to forms as prescribed and furnished by him **or her**. The commissioner shall issue the license as to **applicants**~~[-persons]~~ qualified~~[-therefor]~~ upon payment of the license application fee stated in KRS 304.4-010~~[-except that salaried employees of domestic insurers who are required to be licensed as adjusters shall not be required to pay the license fee]~~.
- (2) To be licensed as an adjuster the applicant **shall**~~[-must be qualified therefor as follows]~~:
 - (a) ~~[-Must,]~~ **Be**~~[-if]~~ an individual~~[-be]~~ twenty-one (21) years or more of age.
 - (b) ~~[-Must]~~ Be a resident of Kentucky, or resident of another state which will permit residents of Kentucky to act as adjusters in **the**~~[-such]~~ other state.
 - (c) ~~[-Must]~~ Be **an**~~[-a full-time salaried]~~ employee of an insurer, a full time salaried employee of a licensed adjuster or a graduate of a recognized law school, or~~[-must]~~ have~~[-had]~~ experience or special education or training as to the handling of loss claims under insurance contracts of sufficient duration and extent to make him **or her** reasonably competent to fulfill the responsibilities of an adjuster.
 - (d) ~~[-Must]~~ Be trustworthy and of good reputation.
 - (e) ~~[-Must]~~ Have and maintain an office accessible to the public, and keep therein the usual and customary records pertaining to transactions under the license. This provision shall not be deemed to prohibit maintenance of **the**~~[-such]~~ office in the office of an insurer, of the employer, or in the home of the licensee.

- (f) ~~[Must]~~ Have successfully passed a written examination prescribed by the commissioner, except if the applicant has successfully passed a written examination in a state which permits residents of Kentucky to act as adjusters in ~~the~~~~[such]~~ other state.
- (3) A **business entity**~~[firm or corporation]~~, whether or not organized under the laws of this state, may be licensed as an adjuster if each individual who is to exercise the license powers is named in the license or registered with the commissioner under the license, and is qualified as for an individual license as adjuster. An additional full license fee shall be paid as to each individual in excess of one (1), so named in the license or so registered to exercise its powers.
- (4) Except, that no~~[such]~~ adjuster's license or qualifications shall be required as to any adjuster who is sent into this state on behalf of an insurer for the purpose of investigating or making adjustment of a particular loss under an insurance policy, or for the adjustment of a series of losses resulting from a catastrophe common to all~~[such]~~ losses.

Section 33. KRS 304.9-432 is amended to read as follows:

- (1) In the event that an applicant for an adjuster's license meets the qualification requirements of KRS 304.9-430 except that he **or she** has not had experience or special education or training as to the handling of loss claims under insurance contracts of sufficient duration and extent to make him **or her** reasonably confident to fulfill the responsibilities as an adjuster, he **or she** shall not be required to take and successfully complete the prescribed written examination and may be issued a temporary license as an apprentice adjuster for a period not to exceed one **hundred eighty (180) days**~~[(1) year]~~.
- (2) ~~[Such]~~ A temporary license as an apprentice adjuster shall be subject to the following terms and conditions:
- An individual**~~[A person]~~ holding a temporary license as apprentice adjuster shall have all of the privileges and obligations of an adjuster licensed under the insurance code;
 - An individual**~~[A person]~~ holding a temporary license as an apprentice adjuster shall at all times be a full-time salaried employee of an insurer or an adjuster and subject to training, direction, and control by a licensed adjuster acting in the same capacity as that **for** which the applicant applied~~[for]~~;
 - A temporary license as apprentice adjuster shall be subject to suspension, revocation, or conditions **in accordance with**~~[pursuant to]~~ KRS 304.9-440; and
 - An individual**~~[A person]~~ may hold only one (1) temporary license as an apprentice adjuster.

Section 34. KRS 304.9-440 is amended to read as follows:

- (1) The commissioner may **place on probation**, suspend, or may impose conditions upon the continuance of a license for not more than twelve (12) months,~~[or may]~~ revoke, or refuse to **issue or renew**~~[continue]~~ any license issued under this subtitle or any surplus lines broker license, **or may levy a civil penalty in accordance with KRS 304.99-020, or any combination of actions for**~~[if, after notice to the licensee and to the insurer represented (as to an agent) or to the employer (as to a solicitor) and a hearing, the commissioner finds that as to the licensee]~~ any one (1) or more of the following causes~~[exist]~~:

- (a) ***Providing incorrect, misleading, incomplete, or materially untrue information in the license application***~~[Any cause for which issuance of the license could have been refused had it then existed and been known to the commissioner].~~
- (b) ***Violating any insurance laws, or violating any administrative regulations, subpoena, or order of the commissioner or of another state's insurance commissioner***~~[Willful violation of or noncompliance with any applicable provision of this code, or willful violation of any lawful rule, regulation, or order of the commissioner].~~
- (c) Obtaining or attempting to obtain ~~a~~~~[any such]~~ license through misrepresentation or fraud.
- (d) ***Improperly***~~[Misappropriation or conversion to his own use, or illegal]~~ withholding, ***misappropriating, or converting any***~~[of]~~ moneys ***or properties received in the course***~~[belonging to policyholders, insurers, beneficiaries, or others and received in the conduct]~~ of ***doing insurance*** business~~[under the license]~~.
- (e) ***Intentionally misrepresenting***~~[Willful material misrepresentation of]~~ the terms of ~~an~~~~[any]~~ actual or proposed insurance contract ***or application for insurance***.
- (f) ***Having been convicted of any***~~[Conviction, by final judgment, of a misdemeanor for which restitution is ordered in excess of three hundred dollars (\$300), or a]~~ felony~~[involving dishonesty, breach of trust, or moral turpitude]~~.
- (g) ***Having admitted or been found to have committed any unfair insurance trade practice or insurance fraud***~~[In the conduct of his affairs under the license the licensee has used fraudulent, coercive, or dishonest practices, or has shown himself to be incompetent, untrustworthy, financially irresponsible, or a source of injury and loss to the public].~~
- (h) ***Using fraudulent, coercive, or dishonest practices; or demonstrating incompetence, untrustworthiness, or financial irresponsibility; or being a source of injury or loss to the public in the conduct of business in this state or elsewhere***~~[Surrendering or otherwise terminating any other license issued by this state or any other jurisdiction under threat of disciplinary action, denial or refusal of the issuance of or renewal of any other license issued by this state or any other jurisdiction, or revocation or suspension of any other license held by the licensee issued by this state or any other jurisdiction].~~
- (i) ***Having any insurance license, or its equivalent, denied, suspended, or revoked in any other state, province, district, or territory;***
- (j) ***Surrendering or otherwise terminating any other license issued by this state or by any other jurisdiction, under threat of disciplinary action, denial, or refusal of the issuance of or renewal of any other license issued by this state or by any other jurisdiction; or revocation or suspension of any other license held by the licensee issued by this state or by any other jurisdiction;***
- (k) ***Forging another's name to an application for insurance or to any document related to an insurance transaction;***
- (l) ***Cheating, including improperly using notes or any other reference material to complete an examination for an insurance license;***
- (m) ***Knowingly accepting insurance business from an individual who is not licensed, but who is required to be licensed under this subtitle;***

- (n) *Failing to comply with an administrative or court order imposing a child support obligation;*
 - (o) *Failing to pay state income tax or to comply with any administrative or court order directing payment of state income tax;*
 - (p) *Having been convicted of a misdemeanor for which restitution is ordered in excess of three hundred dollars (\$300), or of any misdemeanor involving dishonesty, breach of trust, or moral turpitude; or*
 - (q) *Any other cause for which issuance of the license could have been refused, had it then existed and been known to the commissioner.*
- (2) The license of a **business entity**~~[firm or corporation]~~ may be suspended, revoked, or refused ~~to~~:
- (a) ~~for any cause relating to such causes as relate to an individual designated in or registered under as to the license to exercise its powers; or~~
 - (b) ~~if the commissioner finds that an individual licensee's violation was known or should have been known by one (1) or more of the partners, officers, or managers acting on behalf of the partnership firm or corporation and the such violation was not reported to the Department of Insurance nor corrective action taken thereon. The applicant or licensee may make written demand upon the commissioner in accordance with KRS 304.2-310 for a hearing before the commissioner to determine the reasonableness of the commissioner's action.~~
- (3) *The commissioner shall retain the authority to enforce the provisions and penalties of this chapter against any individual or business entity who is under investigation for or charged with a violation of this chapter, even if the individual's or business entity's license has been surrendered or has lapsed by operation of law.*

Section 35. KRS 304.9-450 is amended to read as follows:

- (1) Upon suspension or revocation of any ~~such~~ license the commissioner shall ~~forthwith~~ notify the licensee ~~thereof~~ either in person or by mail addressed to the licensee at his *or her* address last of record with the commissioner. Notice by mail shall be deemed effectuated when so mailed. The commissioner shall give like notice to the insurer represented by the agent, in the case of an agent's license~~, and to the employer in the case of a solicitor's license~~.
- (2)~~— Suspension or revocation of the license of an agent shall automatically suspend the licenses of all solicitors employed by him.~~
- (3)~~—~~ The commissioner shall not again issue a license under this code to or as to any **individual or business entity** ~~person~~ whose license has been revoked, until after expiration of one (1) year and thereafter not until *the individual or business entity* ~~such person~~ again qualifies ~~therefor~~ in accordance with the applicable provisions of this code. *An individual or business entity* ~~A person~~ whose license has been revoked twice shall not again be eligible for any license under this code.
- (3)~~(4)~~ If the license of a **business entity** ~~firm or corporation~~ is ~~so~~ suspended or revoked, no member, ~~of such firm, or~~ officer, or director of *the business entity* ~~such corporation~~, shall be licensed or be designated in or as to any license to exercise the powers thereof during the period of *the* ~~such~~ suspension or revocation, unless the commissioner determines upon

substantial evidence that ~~the[such]~~ member, officer, or director was not personally at fault and did not acquiesce in the matter on account of which the license was suspended or revoked.

- (4) *In the event that the action by the commissioner is to nonrenew or to deny an application for a license, the commissioner shall notify the applicant or licensee and advise, in writing, the applicant or licensee of the reason for the denial or nonrenewal of the applicant's or licensee's license. The applicant or licensee may make written demand upon the commissioner in accordance with KRS 304.2-310.***

Section 36. KRS 304.9-455 is amended to read as follows:

- (1) *Each person licensed under this subtitle shall notify the commissioner in writing immediately if his **or her** license to conduct **insurance** securities, real estate, auctioneer, investment, financial, or financial planning business of any kind in this state or elsewhere is surrendered or terminated under threat of disciplinary action, refused, suspended, revoked, or renewal of continuance denied.***
- (2) *A licensee shall report to the commissioner any administrative action taken against the licensee in another jurisdiction or by another governmental agency in this state within thirty (30) days of the final disposition of the matter. This report shall include a copy of the order, consent to order, or other relevant legal documents.***
- (3) *Within thirty (30) days of service upon the licensee of any criminal complaint, information, or indictment in any jurisdiction, the licensee shall submit to the commissioner a copy of the initial complaint, indictment, or information filed. The licensee shall further submit copies of all relevant legal documents, including the order resulting from the hearing, any plea, agreement, judgment, or other relevant legal documents.***

SECTION 37. A NEW SECTION OF SUBTITLE 9 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

The commissioner shall not assess a greater fee for an insurance license or related service to an individual or business entity not residing in this state, based solely on the fact that the individual or business entity does not reside in this state.

Section 38. KRS 304.10-020 is amended to read as follows:

This Surplus Lines Law shall not apply to reinsurance, or to the following insurances when so placed by~~[licensed]~~ agents or surplus lines brokers **licensed in**~~[of]~~ this state:

- (1) Ocean marine and foreign trade insurances.**
- (2) Insurance on subjects located, resident, or to be performed wholly outside of this state, or on vehicles or aircraft owned and principally garaged outside this state.**
- (3) Insurance on operations of railroads engaged in transportation in interstate commerce and their property used in such operations.**
- (4) Insurance of aircraft owned or operated by manufacturers of aircraft or of aircraft operated in commercial interstate flight or cargo of~~[such]~~ aircraft or against liability other than workers' compensation and employer's liability arising out of the ownership, maintenance or use of~~[such]~~ aircraft.**

Section 39. KRS 304.10-070 is amended to read as follows:

- (1) A broker shall not place surplus lines insurance with an insurer that he *or she* knows, or in the exercise of reasonable diligence could know:
 - (a) Has a surplus in regard to *policyholders*~~[policyholder]~~ of less than *six*~~[three]~~ million dollars (*\$6,000,000*)~~;\$3,000,000~~;
 - (b) *Has not established satisfactory evidence of good repute and financial integrity*;
 - (c) Is unsound financially;~~;~~ or~~[that]~~
 - (d) Is ineligible under the Kentucky insurance code.
- (2) A broker may:
 - (a) Place insurance covering certificates of investment with an insurance company or guarantee fund which is financially sound and has capital funds and reserves in excess of fifteen million dollars (\$15,000,000); and
 - (b) Place insurance with a United States insurance exchange which the commissioner, in his *or her* discretion, may designate for use by surplus lines brokers licensed by the Commonwealth of Kentucky.
- (3) A broker shall not place insurance with an alien insurer that is not recognized by the National Association of Insurance Commissioners and does not maintain in the United States a trust fund for the benefit of United States policyholders of at least *five*~~[one]~~ million *four*~~[five]~~ hundred thousand dollars (*\$5,400,000*)~~(\$1,500,000)~~.
- (4) A broker shall not place insurance with an insurer that has engaged in the insurance business less than three (3) years unless *the*~~[such]~~ insurer has deposited with the *commissioner*~~[custodian of insurance securities]~~ publicly-traded securities with a market value of at least *six*~~[three]~~ hundred thousand dollars (*\$600,000*)~~(\$300,000)~~.
- (5) This section shall not apply to surplus lines insurers eligible to do business in Kentucky as of July 15, 1982, except that the commissioner may revoke~~[such]~~ eligibility, or may order *the*~~[such]~~ insurer to comply with this section or may suspend the operation of the insurer in Kentucky.
- (6) *The commissioner may declare that a surplus lines insurer is ineligible to transact business in Kentucky. The commissioner shall promptly mail notice of all declarations of ineligibility to each surplus lines broker if at any time the commissioner has reason to believe that a surplus lines insurer:*
 - (a) *Is in unsound financial condition*;
 - (b) *Has acted in an untrustworthy manner*;
 - (c) *No longer meets the standards set forth in this subtitle*;
 - (d) *Has willfully violated the laws of Kentucky*; or (e) *Does not conduct a proper claims practice.*

Section 40. KRS 304.10-110 is amended to read as follows:

- (1) As to a surplus lines risk which has been assumed by an unauthorized insurer *under*~~[pursuant to]~~ this subtitle, and if the premium~~[thereon]~~ has been received by the surplus lines broker who placed *the*~~[such]~~ insurance, in all questions~~[thereafter]~~ arising under the coverage as between the insurer and the insured the insurer shall be deemed to have received the premium

due to it for ~~the[such]~~ coverage; and the insurer shall be liable to the insured as to losses covered by ~~the[such]~~ insurance and for unearned premiums which may become payable to the insured upon cancellation of ~~the[such]~~ insurance whether or not in fact the broker is indebted to the insurer with respect to ~~the[such]~~ insurance or for any other cause.

- (2) Each unauthorized insurer assuming a surplus lines risk under this subtitle shall be deemed ~~thereby~~ to have subjected itself to the terms of this section.

Section 41. KRS 304.10-120 is amended to read as follows:

- (1) Any person while licensed in this state as ~~an[a resident general lines]~~ agent who:
- (a) ***Is a resident of Kentucky;***
 - (b) Has been continuously licensed for at least three (3) years;
 - (c) ~~[(b)]~~ Is deemed by the commissioner to be competent and trustworthy with respect to the handling of surplus lines; ***and***
 - (d) ~~[(e)]~~ Represents at least three (3) insurers admitted to transact property or casualty insurance in Kentucky; ~~and~~
 - (d) ~~Maintains an office at a designated location in this state;~~ may be licensed as a surplus lines broker.
- (2) Application for the license shall be made to the commissioner on forms as designated and furnished by the commissioner.
- (3) The license fee shall be as specified in KRS 304.4-010.
- (4) The license and licensee shall be subject to the applicable provisions of Subtitle 9 ***of this chapter.***
- (5) In order for a surplus lines broker's license to be renewed, the licensee ~~shall~~ ***must*** have at least five (5) current appointments with property or casualty insurers admitted to do business in Kentucky.
- (6) ***Notwithstanding subsection (1)(a) of this section, on or after July 1, 2002, an individual licensed as a surplus lines broker in the applicant's home state may be issued a nonresident surplus lines broker's license in Kentucky if the applicant's home state issues surplus lines broker licenses to Kentucky residents on the same basis.***

Section 42. KRS 304.10-130 is amended to read as follows:

- (1) The commissioner may suspend or revoke any surplus lines broker's license:
- (a) If the broker fails to file his ***or her*** annual statement or to remit the tax as required by this subtitle; or
 - (b) If the broker fails ~~to maintain an office in this state, or~~ to keep records, or to allow the commissioner to examine his ***or her*** records as required by this subtitle ~~or if he removes his records from the state~~; or
 - (c) If the broker knowingly or negligently places a surplus lines coverage in an insurer that is in unsound financial condition in violation of KRS 304.10-070; or
 - (d) For any other applicable cause for which ~~an[a general lines]~~ agent's license may be suspended or revoked.

- (2) The procedures provided by Subtitle 9 *of this chapter* for suspension or revocation of licenses shall apply to suspension or revocation of a surplus lines broker's license.
- (3) Upon suspending or revoking the broker's surplus lines license the commissioner shall also suspend or revoke all other licenses of or as to the same *individual*~~person~~ under this code.
- (4) No broker whose license has been suspended or revoked shall again be so licensed until any fines or delinquent taxes *owed*~~owing by him~~ have been paid, or, in case of revocation until after expiration of one (1) year from the date revocation became final.

Section 43. KRS 304.10-140 is amended to read as follows:

Prior to issuance of a license as a surplus lines broker, the applicant shall file with the commissioner, and ~~thereafter~~ for as long as the license remains in effect shall keep in force:

- (1) Evidence of financial responsibility in the sum of not less than *one million*~~five hundred thousand~~ dollars (*\$1,000,000*)~~(\$500,000)~~ per occurrence, and the sum of *two*~~one~~ million~~five hundred thousand~~ dollars (*\$2,000,000*)~~(\$1,500,000)~~ in the aggregate, for all ~~such~~ occurrences within one (1) year, either in the form of an errors and omissions insurance policy issued by an authorized insurer, a bond issued by an authorized corporate surety, a deposit, or ~~a~~~~any~~ combination of *a bond issued by an authorized corporate surety and a deposit*,~~these evidences of financial responsibility~~. ~~The~~~~Such~~ policy, bond, deposit, or combination *of a bond or deposit*~~thereof~~ shall not be terminated unless at least thirty (30) days' prior written notice is given to the licensee and the commissioner; and
- (2) A bond in favor of the State of Kentucky in the penal sum of *fifty*~~twenty~~ thousand dollars (*\$50,000*)~~(\$20,000)~~, with an authorized corporate surety guaranteeing that he *or she* will conduct business under the license in accordance with the provisions of this subtitle and that he *or she* will promptly remit the taxes required by KRS 304.10-180. The aggregate liability of the surety for any and all claims on any ~~such~~ bond shall in no event exceed the penal sum ~~thereof~~. No ~~such~~ bond shall be terminated unless not less than thirty (30) days' prior written notice ~~thereof~~ is given to the licensee and filed with the commissioner.

Section 44. KRS 304.10-160 is amended to read as follows:

- (1) Each broker shall keep in his *or her* office ~~in this state~~ a full and true record of each surplus lines coverage procured by him *or her*, including a copy of each daily report, if any,
 - a copy of each certificate of insurance issued by him *or her*, and ~~such~~ of the following items as may be applicable: (a) Amount of the insurance;
 - b Gross premium charged;
 - c Return premium paid, if any;
 - d Rate of premium charged upon the several items of property;
 - e Effective date of the contract, and the terms thereof;
 - f Name and address of each insurer on the direct risk and the proportion of the entire risk assumed by *the*~~such~~ insurer if less than the entire risk;
 - g Name and address of the insured;
 - h Brief general description of the property or risk insured and where located or to be performed; and

i Other information as may be required by the commissioner.

- (2) The record~~[shall not be removed from this state and]~~ shall be open to examination by the commissioner at all times within five (5) years after issuance of the coverage to which it relates.

Section 45. KRS 304.10-180 is amended to read as follows:

- (1) ~~[On or before the first day of April of each year]~~Each broker shall ***pay the following taxes***~~[remit to the State Treasurer through the commissioner]:~~
- (a) ***On or before the first day of April each year***, a tax at the rate of three percent (3%) on the premiums, ***assessments, fees, charges, or other consideration deemed part of the premium as defined in KRS 304.14-030***~~[exclusive of sums collected to cover federal and state taxes and examination fees]~~, on surplus lines insurance subject to tax transacted by him ***or her*** with unauthorized insurers during the preceding calendar year as shown by his ***or her*** annual statement filed with the commissioner. ***The tax shall not be assessed on the premium surcharge tax, the local government premium tax, or any other state or federal tax. The tax shall be remitted to the commissioner.*** When collected the tax shall be credited to the ***insurance regulatory trust***~~[general]~~ fund, ***as established by KRS 304.2-400;***
 - (b) ***The premium surcharge tax, to be remitted to the Kentucky Revenue Cabinet, in accordance with KRS 136.392; and***
 - (c) ***The local government premium tax, to be remitted to the appropriate city, county, or urban-county government taxing authority, in accordance with KRS 91A.080.***
- (2) If a surplus lines policy covers risks or exposures only partially in this state the tax so payable shall be computed upon the proportion of the premium which is properly allocable to the risks or exposures located in this state.

Section 46. KRS 304.2-120 is amended to read as follows:

- (1) In general, orders and notices of the commissioner shall be issued in accordance with this chapter. Notices, recommended orders, and final orders issued as a result of an administrative hearing shall be issued in accordance with KRS Chapter 13B.
- (2) Orders and notices of the commissioner shall be effective only when in writing signed by ***the commissioner***~~[him]~~ or by ***the commissioner's***~~[his]~~ authority.
- (3) Every order of the commissioner shall state its effective date, and shall concisely state:
 - (a) Its intent or purpose;
 - (b) The grounds on which ***it is*** based;
 - (c) The provisions of this code ***under***~~[pursuant to]~~ which action is~~[so]~~ taken or proposed to be taken; and
 - (d) All other matters required by law.
- (4) All persons holding licenses or certificates of authority from the commissioner shall maintain current residence, business, home office, and administrative addresses, as applicable, on file with the commissioner. ***Licensees***~~[These persons]~~ shall ***inform***~~[notify]~~ the commissioner in writing ***in a format acceptable to the commissioner off***~~[immediately upon]~~ any change in addresses ***or legal name within thirty (30) days of the change.*** As a condition to holding a

license or certificate of authority from the commissioner, persons holding licenses or certificate of authority are deemed to have consented to service of notices and orders of the commissioner at their addresses on file with the commissioner and any notice or order of the commissioner mailed or delivered to the address on file with the commissioner constitutes valid service of notice or order.

Section 47. KRS 189.285 is amended to read as follows:

- (1) A person shall not operate a motorcycle on a highway:
 - (a) Except when that person is in possession of a valid motorcycle operator's license; and
 - (b) Unless that person uses an approved eye-protective device, in the manner prescribed by the secretary of the Transportation Cabinet, at all times such vehicle is in motion; and
 - (c) Unless the motorcycle is equipped with a rear-view mirror.
- (2) A person shall not operate or ride as a passenger on a motorcycle:
 - (a) Except on a seat permanently attached to that vehicle and specifically designed to carry the operator or passenger in a safe manner; and
 - (b) Except when using a footrest permanently attached to that vehicle and specifically designed to carry that person in a safe manner.
- (3) The following persons shall be required to wear protective headgear, in the manner prescribed by the secretary of the Transportation Cabinet, at all times the motorcycles they are riding are in motion on a public highway:
 - (a) A person under the age of twenty-one (21) years who is operating a motorcycle or who is a passenger on a motorcycle or in a sidecar attachment;
 - (b) A person who possesses a motorcycle instruction permit and who is operating a motorcycle; *and*
 - (c) A person who has held a valid motorcycle operator's license, or combination motor vehicle-motorcycle operator's license, for less than one (1) year and who is operating a motorcycle; ~~and~~
 - (d) ~~Any person who does not provide proof of health insurance to the county clerk when registering a motorcycle in accordance with KRS 186.865].~~
- (4) A motorcycle operator authorized to drive a motorcycle on an instruction permit shall not be authorized to carry passengers.
- (5) The secretary of the Transportation Cabinet shall by regulation fix minimum standards for approved protective headgear and for approved eye-protective devices, and prescribe the manner in which they shall be used. The secretary shall maintain and cause to be published a list of approved protective headgear and of approved eye-protective devices. The secretary may prescribe by regulation minimum standards for other protective devices and require the use of those devices.
- (6) As used in this chapter and KRS Chapter 186, "motorcycle" means any motor driven vehicle having a seat or saddle for the use of the operator and designed to travel on not more than three (3) wheels in contact with the ground, but excluding tractors and vehicles on which the operator and passengers ride in an enclosed cab and excluding a moped as defined in this section.

- (7) "Moped" means either a motorized bicycle whose frame design may include one (1) or more horizontal crossbars supporting a fuel tank so long as it also has pedals, or a motorized bicycle with a step-through type frame which may or may not have pedals rated no more than two (2) brake horsepower, a cylinder capacity not exceeding fifty (50) cubic centimeters, an automatic transmission not requiring clutching or shifting by the operator after the drive system is engaged, and capable of a maximum speed of not more than thirty (30) miles per hour.

Section 48. The following KRS sections are repealed:

- 186.865 Motorcycle registration requirements -- Health insurance requirements.
- 304.4-015 Payment schedule for biennial fees.
- 304.9-050 "Solicitor" defined.
- 304.9-060 "Service representative" defined -- General requirements.
- 304.9-220 Multiple licensing, life agents.
- 304.9-380 Solicitors -- Special requirements.
- 304.9-434 Exemption from written examination.
- 304.9-455 Licensed person to notify commissioner of licensure disciplinary action.

Approved April 7, 2000