

CHAPTER 492**(HB 709)**

AN ACT relating to consumer protection.

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

Section 1. KRS 304.2-430 is amended to read as follows:

Nothing in KRS 304.2-400 to 304.2-420 shall prevent continuing the practice of paying any of the direct or indirect expenses incurred by the department, including, but not limited to, those involving salaries, retirement, and Social Security of officers, employees, or representatives of the department, or any other expenses by appropriations from the general fund. However, the general fund shall be reimbursed for any such payments made on or after July 15, 1986, as well as any money transferred to the insurance regulatory trust fund in connection with the initial funding of the insurance regulatory trust fund, and shall be repaid by transfer from the insurance regulatory trust fund to the general fund no later than the end of the next biennium.

Section 2. KRS 304.2-165 is amended to read as follows:

- (1) The commissioner shall review, ***and investigate where applicable***, all written complaints ***involving entities or individuals engaged in the business of insurance in Kentucky***~~[that a health insurer doing business in Kentucky has denied a claim of an insured].~~
- (2) The commissioner shall send a copy of the complaint to the ***entity or individual***~~[insurer]~~ and ***the entity or individual shall send***~~[request]~~ a written ***or electronic message response***~~[reply be sent]~~ to the commissioner within ***fifteen (15) calendar***~~[ten (10)]~~ days ***from the date of the commissioner's letter***.
- (3) Upon review of a complaint, the commissioner shall make a ***finding***~~[recommendation]~~ to the ***entity or individual and the complainant***~~[insurer and the insured].~~
- (4) This section shall not limit the power of the commissioner to exercise any other authority under this code ***as to an***~~[or to a health]~~ insurance~~[claim]~~ dispute.

SECTION 3. A NEW SECTION OF SUBTITLE 14 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

An action or request for reimbursement for any overpayment of a health insurance claim pursuant to any health insurance contract shall be brought not more than two (2) years from the date the claim was filed. No insurer, assignee of the insurer, or other person, whether acting for himself or another in connection with a health insurance transaction shall make any claim or seek recovery for reimbursement for any overpayment pursuant to any health insurance contract from any person more than two (2) years after the claim was filed, unless the claim was false or fraudulent.

SECTION 4. A NEW SECTION OF SUBTITLE 9 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

For the protection of the people of Kentucky, the commissioner may by order deny, suspend, or place conditions upon any license subject to the provisions of this subtitle.

- (1) ***An order denying a license or appointment shall be based upon the application and any other information pertaining to the applicant available to the department.***

- (2) *One (1) or more of the following circumstances shall be considered for an order suspending a license:*
- (a) *The licensee's indictment for crime involving dishonesty, breach of trust, a violation of Subtitle 47 of this chapter, or a violation of 18 USC 1033;*
 - (b) *Sworn consumer complaints to the department against the licensee showing clear and convincing evidence of a violation of KRS 304.9-400 totaling in the aggregate three hundred dollars (\$300) or more;*
 - (c) *The suspension or revocation of any other professional license held by the licensee in Kentucky or any other jurisdiction.*
- (3) *The commissioner may place conditions upon any license for any reason set forth in subsection (2) of this section.*
- (4) *Any person aggrieved by an order of the commissioner under this section may file an application for an emergency hearing pursuant to KRS 13B.125 within sixty (60) days of the date of the order. The department shall conduct the hearing within ten (10) working days of the request for a hearing, and within five (5) working days of the completion of the hearing the agency or hearing officer shall render a written decision affirming, modifying, or revoking the emergency order. The emergency order shall be affirmed if there is substantial evidence of a violation of law that constitutes an immediate danger to the public health, safety, or welfare. The commissioner shall participate in an expedited hearing at the applicant's written request.*

Approved April 21, 2000

