

**CHAPTER 143****(HB 275)**

AN ACT relating to insurance licenses of individuals and business entities licensed under Subtitles 9, 10, and 29 of KRS Chapter 304.

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

Section 1. KRS 304.9-010 is amended to read as follows:

~~This subtitle [KRS 304.9-020 to 304.9-460, inclusive,]~~ shall relate to all insurers and kinds of insurance.

Section 2. KRS 304.9-020 is amended to read as follows:

As used in this subtitle:

- (1) "Agent" means an individual or business entity appointed by an insurer to sell or to solicit applications for insurance or annuity contracts or to negotiate insurance or annuity contracts on its behalf;
- (2) "Appointment" means a notification filed with the insurance department that an insurer has established an agency relationship with a producer;
- (3) "Appointment renewal" means continuation of an insurer's existing appointment based on payment of the required fee without submission of an appointment form;
- (4) "Business entity" means a corporation, association, partnership, limited liability company, limited liability partnership, employer group, professional employer organization, or other legal entity;
- (5) "Crop insurance" means insurance providing protection against damage to crops from unfavorable weather conditions, fire or lightning, flood, hail, insect infestation, disease, or other yield-reducing conditions or perils provided by the private insurance market or that is subsidized by the Federal Crop Insurance Corporation, including multi-peril crop insurance;
- ~~(6)(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 ~~[to act as an insurance producer];~~
- ~~(7)(4)~~ "Insurance producer" means an individual or business entity required to be licensed under the laws of Kentucky to sell, solicit, or negotiate insurance or annuity contracts. Insurance producer includes agent, managing general agent, surplus lines broker, reinsurance intermediary broker and manager, rental vehicle agent and managing employee, specialty credit producer and managing employee, and consultant;
- ~~(8)(5)~~ "Limited line credit insurance" includes credit life, credit disability, credit property, credit unemployment, involuntary unemployment, mortgage life, mortgage guaranty, mortgage disability, guaranteed automobile protection 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;
- ~~(9)(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;
- (10) "Limited lines insurance" means the lines of insurance defined in subsections (5), (8), (14), and (16) of this section and any other line of insurance that the commissioner identifies in accordance with paragraph (1)(e) of Section 10 of this Act or recognizes for the purpose of complying with KRS 304.9-140(5);
- ~~(11)(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;
- ~~(12)(8)~~ "Sell" means to exchange a contract of insurance by any means, for money or other valuable consideration, on behalf of an insurer;
- ~~(13)(9)~~ "Solicit" means attempting to sell insurance or asking or urging a person to apply for a particular kind of insurance from a particular ~~insurer [company];~~

- (14) "Surety" means insurance or bond that covers obligation to pay the debts of, or answer for the default of another, including faithlessness in a position of public or private trust. Surety also includes surety insurance as defined in KRS 304.5-060;
- (15)~~(10)~~ "Terminate" means the cancellation of the relationship between an insurance producer and the insurer or the termination of an insurance producer's authority to transact insurance;
- (16) "Travel insurance" means insurance coverage for trip cancellation, trip interruption, baggage, life, sickness and accident, disability, and personal effects if limited to a specific trip and sold in connection with transportation provided by a common carrier;
- (17)~~(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; and
- (18)~~(12)~~ "Uniform individual application" means the current version of the National Association of Insurance Commissioners *uniform individual application*~~[Uniform Application]~~ for resident and nonresident individuals.

Section 3. KRS 304.9-030 is amended to read as follows:

- (1) Unless denied a license according to KRS 304.9-440, applicants who have met the requirements for the license in accordance with this subtitle, shall be issued the applicable license.
- (2) An insurance agent may receive qualification for a license in one (1) or more of the following applicable 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 and variable annuities;
  - (f) Limited line insurance as identified in KRS 304.9-230;
  - (g) Personal lines -- property and casualty insurance coverage sold to individuals and families for primarily noncommercial purposes; and
  - (h) Any other line of insurance authorized by Kentucky law and deemed by the commissioner appropriate to be issued as a separate line of authority.
- (3) *A resident applicant for a variable life and variable annuities line of authority shall hold an active life line of authority.*

Section 4. KRS 304.9-052 is amended to read as follows:

- (1) No individual or business entity shall in this state be, act as, or hold himself out to be an administrator unless then licensed as an administrator by the commissioner.
- (2) For the protection of the people of this state, the commissioner shall not issue, continue, or permit to exist any administrator license for any person unless such person demonstrates to the satisfaction of the commissioner that the following standards are met:
  - (a) If an individual, the applicant has attained the age of twenty-one (21) years;
  - (b) The applicant is competent, trustworthy, reliable, and of good reputation;
  - (c) *If an individual*, the applicant has attained an educational level acceptable to the commissioner;
  - (d) The applicant is financially responsible;
  - (e) The applicant has not had any license issued by the commissioner, or application therefor, terminated for cause;

- (f) *The applicant is a resident of Kentucky or is currently licensed and in good standing in his or her home state;*
- (g) The applicant has paid the fee prescribed in KRS 304.4-010;
- ~~(h)(g)~~ If a business entity, each individual authorized to act for the business entity under its administrator license shall be designated with the commissioner in accordance with KRS 304.9-133; and
- ~~(i)(h)~~ Administrator licenses shall be renewed in accordance with KRS 304.9-260.

Section 5. KRS 304.9-070 is amended to read as follows:

An adjuster is any person, who for fee or compensation as an employee of an insurer or an independent contractor investigates or settles claims arising under insurance contracts, on behalf solely of either the insurer or the insured. The definition of adjuster shall not be deemed to include, and license as an adjuster shall not be required of:

- (1) Attorneys-at-law admitted to practice in this state, when acting in their professional capacity as attorneys;
- (2) A licensed agent of the insurer to whom claim authority has been granted by the insurer if the agent receives no compensation for performing adjusting services;
- (3) Salaried traveling representatives of a mutual or reciprocal insurer;
- (4) Persons employed only for the purpose of obtaining facts surrounding a loss or furnishing technical assistance to a licensed adjuster, including but not limited to photographers, estimators, private investigators, engineers, and handwriting experts; or
- (5) Persons performing adjusting services under their limited insurance agent's licenses for crop~~-hail~~ insurance pursuant to KRS 304.9-230.

Section 6. KRS 304.9-105 is amended to read as follows:

- (1) An individual applying for an agent license shall make application to the commissioner on the uniform individual application or other application prescribed by the commissioner ~~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:

- ~~(a)(1)~~ Is at least eighteen (18) years of age;
- ~~(b)(2)~~ Has fulfilled the residence requirements as set forth in KRS 304.9-120 or is a nonresident who is not eligible to be issued a license in accordance with KRS 304.9-140;
- ~~(c)(3)~~ Has not committed any act that is a ground for denial, suspension, or revocation set forth in KRS 304.9-440;
- ~~(d)(4)~~ Is trustworthy, reliable, and of good reputation, evidence of which shall be determined through an investigation by the commissioner;
- ~~(e)(5)~~ Is competent to exercise the license and has:
- 1.~~(a)~~ ~~Successfully attained a general educational level equivalent to that required for graduation from an accredited high school in this state;~~
  - ~~(b)~~ Except for *variable life and variable annuities line of authority* and limited lines of authority identified in Section 10 of this Act ~~licenses~~, completed a ~~forty (40) hour~~ prelicensing ~~classroom~~ course of study consisting of *forty (40) hours for life and health, forty (40) hours for property and casualty, or twenty (20) hours for each line* ~~for the lines~~ of authority, as applicable, for which the individual has applied. The commissioner shall promulgate administrative regulations to carry out the purpose of this section;
  - 2.~~(c)~~ Except for *variable life and variable annuities line of authority* and limited lines of authority identified in accordance with Section 10 of this Act ~~line licenses~~, successfully passed the examinations required by the commissioner for the lines of authority for which the individual has applied; and
  - 3.~~(d)~~ Paid the fees set forth in KRS 304.4-010; and
- ~~(f)(6)~~ Is financially responsible to exercise the license and has:

1.
  - a.~~(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 twenty thousand dollars (\$20,000) and one hundred thousand dollars (\$100,000) 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
  - b.~~(2)~~ 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 twenty thousand dollars (\$20,000), which shall be subject to lawful levy of execution by any party to whom the licensee has been found to be legally liable as the result of erroneous acts or failure to act in his or her capacity as an agent; or
  - c.~~(3)~~ 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 twenty thousand dollars (\$20,000) 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
- 2.~~(b)~~ Agreed with the commissioner that if at any time notice is given to the commissioner that any policy filed in accordance with *subparagraph 1.a.*~~paragraph (a)1-~~ of this *paragraph*~~subsection~~, or agreement filed in accordance with *subparagraph 1.c.*~~paragraph (a)3-~~ of this *paragraph*~~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 *subparagraph 1.b.*~~paragraph (a)2-~~ of this *paragraph*~~subsection~~ be reduced through levy of execution and not replaced by any necessary additional deposit within the time established by *administrative* regulations of the commissioner, any and all licenses held by the licensee are revoked and shall be promptly surrendered to the commissioner without demand.
- (2) The commissioner may require additional information or submissions from applicants and may obtain any documents or information reasonably necessary to verify the information contained in an application.

Section 7. KRS 304.9-107 is amended to read as follows:

- (1) The following persons shall be exempt from the licensing qualifications and requirements of KRS 304.9-105(1)(e)1.~~(5)(b)~~ and, if otherwise properly qualified, shall be issued licenses without satisfying KRS 304.9-105(1)(e)2.~~(5)(e)~~:
  - (a)~~(1)~~ Persons holding a *Chartered Life Underwriter (CLU) designation for a life line of authority*~~certified life underwriter degree~~;
  - (b)~~(2)~~ Persons holding a *Chartered Property and Casualty Underwriter (CPCU) designation for property, personal lines, and casualty lines of authority*~~certified property and casualty underwriter degree~~; ~~and~~
  - (c)~~(3)~~ Persons holding a *Certified Insurance Counselor (CIC) designation for life, health, property, personal lines, and casualty lines of authority*;
  - (d) *Persons holding a designation as a Certified Employee Benefit Specialist (CEBS), Chartered Financial Consultant (ChFC), Certified Financial Planner (CFP), Fellow of the Life Management Institute (FLMI), or Life Underwriter Training Council Fellow (LUTCF) for a life line of authority*;
  - (e) *Persons holding a designation as a Registered Health Underwriter (RHU), Certified Employee Benefit Specialist (CEBS), Registered Employee Benefit Consultant (REBC), or Health Insurance Advisor (HIA) for a health line of authority*;

- (f) *Persons holding a designation as an Accredited Advisor in Insurance (AAI) or Associate in Risk Management (ARM) for property, personal lines, and casualty lines of authority; and*
  - (g) *Persons holding an insurance degree from an accredited college or university for all lines of authority.*
- (2) *The commissioner may promulgate administrative regulations to specify additional designations and degrees for exemption from a prelicensing course of study for specified lines of authority to comply with NAIC uniformity standards*~~[certified insurance counselor designation].~~

Section 8. KRS 304.9-133 is amended to read as follows:

- (1) A business entity issued a license in accordance with this subtitle, or issued a viatical settlement broker or viatical settlement provider license, shall designate only individuals to act under the business entity license.
- (2) Each designated individual shall:
  - (a) Hold the same kind of license as the business entity;~~[and]~~
  - (b) If the business entity license has lines of authority, have one (1) or more of the same lines of authority; *and*
  - (c) *If the individual is designated under an agent license, have at least one (1) appointment with an insurer.*
- (3) The licensed business entity shall file with the commissioner:
  - (a) Notice of the designation of an individual within thirty (30) days of the designation; and
  - (b) Notice of termination of designation of an individual within thirty (30) days of the termination of designation.
- (4)
  - (a) On or before January 31 of each *odd-numbered* year, each licensed business entity shall file with the commissioner an annual report of all designated individuals whose designations were not terminated on or prior to December 31 of the preceding calendar year.
  - (b) The report shall include each individual licensee's name, identification number, and lines of authority the individual is designated to exercise on behalf of the business entity.
- (5) The notice and report shall be on a form or in a format prescribed by the commissioner.
- (6) A licensed business entity shall exercise the license only through a designated individual licensee.
  - (a) *The business entity shall have for each of its active lines of authority at least one (1) licensed individual with the same line of authority designated with the commissioner. If the business entity fails to have at least one (1) licensed individual designated with the commissioner for a line of authority, that line of authority shall become inactive; and*
  - (b) *The business entity shall have at least one (1) licensed individual designated with the commissioner at all times. If the business entity fails to have at least one (1) individual designated with the commissioner, the business entity license shall terminate and shall be promptly surrendered to the commissioner without demand.*
- (7) An insurer that has appointed the business entity licensee shall be responsible for the acts of each designated individual performed under the business entity's license as if the insurer had appointed the individual licensee.

Section 9. KRS 304.9-150 is amended to read as follows:

- (1) Application for a license issued under this subtitle, surplus lines broker license, viatical settlement broker license, or viatical settlement provider license shall be made by the applicant. Applications under this subsection shall be certified *by the applicant* as true, correct, and complete to the best of the applicant's knowledge and belief under penalty of perjury *and under penalty of refusal, suspension, or revocation of the license*~~[by the applicant].~~
- (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) The application shall state the kinds of insurance and any applicable lines of authority proposed to be transacted.
- (4) *The application of a resident individual shall show whether the applicant is a citizen of the United States. If the applicant is not a citizen of the United States, the applicant shall attach to the application a copy of his or her legal work authorization document.*
- (5) The application shall also show whether the applicant was ever convicted of or is currently charged with committing a crime; whether the applicant was ever involved in an administrative proceeding regarding any professional or occupational license; whether the applicant has a history of not being financially responsible; whether the applicant has any delinquent tax obligation that is not the subject of a repayment agreement; whether the applicant is currently charged with or has ever been found liable of fraud, misappropriation, conversion of funds, misrepresentation, or breach of fiduciary duty; whether the applicant has child support obligations in arrearage or is subject to a child support-related subpoena or warrant; and whether the applicant has ever had a business relationship with an insurer terminated for any alleged misconduct, and the facts thereof.
- ~~(6)(5)~~ The commissioner may require additional information or submissions from applicants and may obtain any documents or information reasonably necessary to verify the information contained in an application.
- ~~(7)(6)~~ All applications shall be accompanied by:
  - (a) The applicable license fee and examination fee, in the respective amounts stated in KRS 304.4-010;
  - (b) *Documentation supporting affirmative answers to the questions posed in the background section;*
  - (c) *If a business entity, certificates issued by the Kentucky Secretary of State demonstrating the business entity is qualified to conduct business in Kentucky; and*
  - (d) *If using an assumed name, copy of any certificate required under KRS 365.015.*
- (8) *An individual designating Kentucky as his or her home state shall submit to the commissioner the applicant's criminal background report from the Kentucky Administrative Office of the Courts.*
- ~~(9)(7)~~ No applicant for any license shall willfully misrepresent or withhold any fact or information called for in the application form or in connection therewith.

Section 10. KRS 304.9-230 is amended to read as follows:

- (1) The commissioner may issue, in accordance with KRS 304.9-080, an agent's license with the *limited* line of authority ~~[limited]~~ as follows:
  - (a) ~~[To] Surety [insurance only];~~
  - (b) ~~[To] Travel [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];~~
  - (c) ~~[To] Limited line credit [insurance only];~~
  - (d) ~~[To] Crop [hail insurance only]; and~~
  - (e) ~~[To] Other limited lines [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, *if any*, for prelicensing courses of instruction and examination for each limited *line of authority* ~~[lines license]~~.
- (3) On and after July 15, 2002, the commissioner shall not issue an agent license with a limited line of authority for motor vehicle physical damage or for mechanical breakdown insurance. However, an agent license with a limited line of authority for motor vehicle physical damage or for mechanical breakdown insurance in effect on July 15, 2002, shall continue in effect until surrendered or otherwise terminated in accordance with this subtitle.

Section 11. KRS 304.9-260 is amended to read as follows:

- (1) Each license issued under this subtitle, surplus lines broker license, viatical settlement broker license, and viatical settlement provider license shall continue in force until expired, suspended, revoked, or otherwise

terminated. *License renewal fees shall be received on or before the applicable due date for the license as stated in KRS 304.4-010*, but subject to payment biennially to the commissioner at his or her office in Frankfort on or before the due date of the applicable renewal fee, if any, for the license as stated in KRS 304.4-010, accompanied by a request for renewal. An individual resident agent shall confirm that the licensee is in compliance with the applicable financial responsibility requirements of KRS 304.9-105]. Beginning January 1, 2003, request for renewal shall be on a form or in a format prescribed by the commissioner and made as follows:

- (a) At least thirty (30) days before the renewal request and fees are due from the licensee, the department shall *make available*~~[distribute]~~ to each respective licensee a list of his or her licenses to be renewed during that calendar year. With the licensee's written consent, an insurer or the licensee's employer may request that the department send the renewal list to the insurer or to the employer. The department may distribute the renewal list to the requesting insurer or employer instead of to the licensee;
  - (b) *Beginning January 31, 2006, in conjunction with license renewal, an individual holding a resident license for agent, rental vehicle managing employee, and viatical settlement broker shall show proof of compliance with continuing education pursuant to KRS 304.9-295.* An individual licensee whose birth date is in an even-numbered year shall submit the renewal request, *continuing education course completion documentation pursuant to KRS 304.9-295*~~[any required confirmation of financial responsibility]~~, and fees to the commissioner by the last day of the licensee's birth month in the next even-numbered year after the date the license is issued, and each subsequent even-numbered year thereafter;
  - (c) *Beginning January 31, 2006, in conjunction with license renewal, an individual holding a resident license for agent, rental vehicle managing employee, and viatical settlement broker shall show proof of compliance with continuing education pursuant to KRS 304.9-295.* An individual licensee whose birth date is in an odd-numbered year shall submit the renewal request, *continuing education course completion documentation pursuant to KRS 304.9-295*~~[any required confirmation of financial responsibility]~~, and fees to the commissioner by the last day of the licensee's birth month in the next odd-numbered year after the date the license is issued, and each subsequent odd-numbered year thereafter;
  - (d) A business entity that is issued a license in an even-numbered year shall submit the renewal request and fees to the commissioner by March 31 of the next even-numbered year, and each subsequent even-numbered year thereafter; and
  - (e) A business entity that is issued a license in an odd-numbered year shall submit the renewal request and fees to the commissioner by March 31 of the next odd-numbered year, and each subsequent odd-numbered year thereafter.
- (2) (a) Any license referred to in subsection (1) of this section for which the request for renewal, any required *continuing education course completion documentation, if applicable*~~[confirmation of financial responsibility]~~, and fee are not received by the commissioner shall be deemed to have expired at midnight on the last day of the birth month for individuals and on March 31 for business entities;
    - (b) ~~[except that]~~ Any renewal request and fees received by the commissioner within *thirty (30)*~~[ninety (90)]~~ days after the expiration date may be accepted *with no penalty or interruption in license*;
    - (c) *Any renewal request and fees received by the commissioner after thirty (30) days from the date of expiration, but within sixty (60) days after the date of expiration, may be accepted with no interruption in license if accompanied by a penalty as provided in Subtitle 99 of this chapter; and*
    - (d) *Completion of the required continuing education course, if applicable, shall be on or before the expiration date, which is deemed as the last day of the birth month of the licensee during the applicable odd or even year on a biennial basis. Proof of compliance shall be received by the commissioner within sixty (60) days after the expiration date*~~[and the license may be reissued effective the date of receipt by the commissioner, in his or her discretion, if accompanied by a penalty as provided in Subtitle 99 of this chapter]~~.
  - (3) A licensee who is unable to comply with license renewal procedures due to military service, long-term medical disability, or some other extenuating circumstance may make a written request for a waiver of those procedures. The licensee may also make a written request for a waiver of any examination requirement, fine, or other sanction imposed for failure to comply with these renewal procedures.

- (4) As a condition to or in connection with the continuation of any insurance producer 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 license, the commissioner shall require continuous demonstration of *continuing education course completion to sustain*~~any financial responsibility required for issuance of~~ the license, and any license shall terminate and be surrendered to the commissioner if and when the demonstration becomes impaired.
- (6) ~~Except as to the provisions of subsection (5) hereof,~~ This section does not apply to temporary licenses issued under KRS 304.9-300, and licensees not licensed for one (1) full year prior to the end of the applicable biennial renewal year.

Section 12. KRS 304.9-270 is amended to read as follows:

- (1) Each insurer appointing an agent, including *managing general agent*, rental vehicle agent, rental vehicle managing employee, specialty credit producer, and specialty credit managing employee, in this state shall obtain approval of the appointment from the commissioner by filing with the commissioner the notice of appointment, specifying the lines of authority~~thereof~~ to be transacted by the agent for the insurer, and submit the appointment fee, as specified in KRS 304.4-010. *Each insurer shall notify the commissioner of additional lines of authority for which a licensee is deemed authorized to transact business, after the initial appointment, in a format prescribed by the commissioner.*
- (2) *Prior to appointment, the insurer shall satisfy itself through investigation that the named applicant has not been convicted of any felony offense involving dishonesty or a breach of trust and has not been convicted of a fraudulent insurance act under Subtitle 47 of this chapter, unless the named applicant has received written consent from the commissioner that specifically refers to KRS 304.47-025(3).*
- (3) 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.
- ~~(4)(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 *fifteen (15)*~~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 thereafter 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; and~~
- ~~(b)~~ If the agent does not *obtain confirmation*~~receive from the insurer acknowledgment~~ that the agent's appointment has been approved by the commissioner within *fifteen (15)*~~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 *confirmation*~~acknowledgment~~ is received.
- ~~(5)(4)~~ (a) The insurer shall, no later than *fifteen (15)*~~forty five (45)~~ days from the date the *agent*~~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 *or in a format* prescribed by the commissioner.
- (b) If there is no executed *agent*~~agency~~ contract, the insurer shall also mail to the agent, within the same *fifteen (15)*~~forty five (45)~~ day period specified in paragraph (a) of this subsection, a copy of the notice of appointment form filed with the commissioner.
- ~~(6)(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.

~~(7)(6)~~ Subject to renewal by the insurer as provided in subsection ~~(8)(7)~~ of this section, each appointment shall remain in effect until the earliest of the following:

- (a) The commissioner revokes or otherwise terminates the insurance producer's license;
- (b) The commissioner suspends, revokes, or otherwise terminates the appointment; or
- (c) The insurer terminates the appointment as provided in KRS 304.9-280.

~~(8)(7)~~ Biennially, before January 31, the department shall distribute to each insurer a listing of the names and individual identification numbers of that insurer's agents 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 not expressly terminated shall remain in effect as to the lines of authority 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 renewal of appointment fee as specified in KRS 304.4-010 for each appointment not terminated on or prior to December 31 of the preceding calendar year.

~~(9)(8)~~ Any appointment as to which the request for renewal and fees are not received by the commissioner by March 31 shall be deemed to have expired at midnight on March 31. Any appointment renewal request and fees received by the commissioner after March 31 and prior to the next following June 30 may be accepted by the commissioner, in his or her discretion, and the expired appointment may be reinstated as of March 31 if the late request and fees are accompanied by a penalty as provided in KRS 304.99-100.

Section 13. KRS 304.9-280 is amended to read as follows:

- (1) Subject to the ~~agent~~~~(agent's)~~ contract rights of a rental vehicle agent, rental vehicle managing employee, specialty credit producer, specialty credit managing employee, managing general agent, or agent, if any, an insurer may terminate an appointment at any time. However, if any 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.
- (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 *or a format* prescribed by the commissioner, if the reason for termination is one (1) of the reasons set forth in KRS 304.9-440 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 KRS 304.9-440. *Termination under this subsection shall be deemed termination for cause.* 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 *or a format* prescribed by the commissioner. *Termination under this subsection shall be deemed termination for cause.* 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 *or a format* 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 *for termination without cause*, ~~by subsection (3) of this section~~ the insurer shall mail a *notice of the termination* ~~copy of the form~~ to the licensee at his or her last known address by first-class mail. *The notice of termination shall include and indicate the reasons for termination provided to the commissioner.*
  - (b) Within fifteen (15) days after making the notification required *for termination for cause* ~~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.
- ~~(c)(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 *individuals*, 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 paragraph (a) of this subsection 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 paragraph (a) of this subsection does not apply because the individual, business entity, or organization making the statement, or providing the information did so with actual malice.
- (c) Paragraph (a) or (b) of this subsection 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 paragraph (a)1. of this subsection 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 *licensees identified in subsection (1) of this section* ~~agents licensed according to this subtitle~~.

Section 14. KRS 304.9-295 is amended to read as follows:

- (1) This section shall apply to individuals who hold licenses or lines of authority requiring continuing education *each biennium*.
- (2) *Beginning January 31, 2006 the continuing education biennial compliance date for an individual resident licensee shall be as follows:*
  - (a) *A licensee whose birth date is in an even-numbered year shall satisfy continuing education requirements on or before the last day of the licensee's birth month in the even-numbered year. A licensee shall show proof of compliance to the commissioner within sixty (60) days after the continuing education biennial compliance date. If the licensee has not held the license for one (1) year, the compliance date is adjusted to the next even-numbered year and each subsequent even-numbered year thereafter. If the license becomes inactive and reissued within a twelve (12) month period, the compliance date shall remain the same;*
  - (b) *A licensee whose birth date is in an odd-numbered year shall satisfy continuing education requirements, and show proof of compliance to the commissioner on or before the last day of the licensee's birth month in the odd-numbered year. A licensee shall show proof of compliance to the commissioner within sixty (60) days after the continuing education biennial compliance date. If the licensee has not held the license for one (1) year, the compliance date is adjusted to the next odd-numbered year and each subsequent odd-numbered year thereafter. If the license becomes inactive and reissued within a twelve (12) month period, the compliance date shall remain the same;*
- (3) This section shall not apply to:
  - (a) Limited lines of authority under agent licenses, as exempted by the commissioner in accordance with KRS 304.9-230;
  - (b) Licensees not licensed for one (1) full year prior to the end of the applicable continuing education biennium;
  - (c) Licensees holding nonresident licenses who have met the continuing education requirements of their home state and whose home state gives credit to Kentucky resident licensees on the same basis; or
  - (d) Licensees maintaining their licenses for the sole purpose of receiving renewals or deferred commissions and providing the department with a supporting affidavit.

- ~~(4)(3)~~ A licensee, who holds an agent license and who is not exempt under subsection ~~(3)(2)~~ of this section, shall satisfactorily complete a minimum of twenty-four (24) hours of continuing education courses, of which twelve (12) shall be classroom hours *and three (3) hours shall have a course concentration in ethics*, during each continuing education biennium. ~~[A continuing education biennium shall begin on July 1 and end on June 30 two (2) years later.]~~
- ~~(5)(4)~~ Only continuing education courses approved by the commissioner shall be used to satisfy the continuing education requirement of subsection ~~(4)(3)~~ of this section and any other continuing education requirement of this chapter.
- (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 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 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 who do not successfully complete the 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.
- ~~(6)(5)~~ An individual 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 taking and satisfactorily completing the course.
- ~~(7)(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.
- ~~(8)(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 extension of time shall not exceed two (2) years. What constitutes good cause for the extension of time rests within the discretion of the commissioner.
- ~~(9)(8)~~ Every licensee subject to this section shall furnish to the commissioner written certification as to the continuing education courses satisfactorily completed by the licensee. The certification shall be signed by or on behalf of the *provider* ~~organization~~ sponsoring the continuing education course. The certification shall be on a form prescribed by the commissioner.

- (10) *The provider shall furnish to the commissioner certification as to the continuing education courses satisfactorily completed by each licensee. The certification shall be signed or authenticated by or on behalf of the provider sponsoring the continuing education course. The certification shall be on a form or in a format prescribed by the commissioner.*
- (11)~~(9)~~ The license or line of authority requiring continuing education shall terminate if the individual holding the license or line of authority fails to comply with the continuing education requirement and has not been granted an extension of time to comply in accordance with subsection (8)~~(7)~~ of this section. If the license has terminated, the license shall be promptly surrendered to the commissioner without demand. If the line of authority has terminated but another line of authority not requiring continuing education is still in effect, the license shall be promptly delivered to the commissioner for reissuance as to the line of authority still in effect.
- (12)~~(10)~~ The license of any individual subject to the continuing education requirement shall be suspended or revoked, a civil penalty imposed, or both, in accordance with KRS 304.9-440, if the individual submits to the commissioner a false or fraudulent certificate of compliance with the continuing education requirement.
- (13) (a) *The commissioner may withdraw approval of continuing education provider, course, or instructor for good and just cause.*
- (b) *In addition to or in lieu of withdrawal of approval, the commissioner may impose a civil penalty of not more than one thousand dollars (\$1,000) per violation of this chapter by a provider or an instructor.*

Section 15. KRS 304.9-320 is amended to read as follows:

For the protection of the people of this Commonwealth the commissioner shall not issue, continue, or permit to exist any license as consultant except in compliance with this subtitle, or as to any person not qualified therefor as follows:

- (1) Must be an individual of *eighteen (18)*~~twenty-five (25)~~ or more years of age;
- (2) Must have had not less than five (5) years of actual experience as a licensed agent with respect to the kinds of insurance and contracts to be covered by the license, or other special experience, education or training, all of sufficient content and duration reasonably necessary for competence in fulfilling the responsibilities of a consultant;
- (3) Must have a thorough knowledge of insurance and annuity contracts of the kinds proposed to be covered under the license;
- (4) Must satisfy the commissioner by written examination~~[- or otherwise of his qualification for the license];~~
- (5) Must be competent, trustworthy under highest fiduciary standards, financially responsible, and of good personal and business reputation; and
- (6) Must have filed the bond required by KRS 304.9-330.

Section 16. KRS 304.9-436 is amended to read as follows:

- (1) An authorized insurer shall not do business in Kentucky with an adjuster who is unlicensed in violation of KRS 304.9-070 and 304.9-080. This section shall not apply to transactions between an authorized insurer and persons providing adjusting services pursuant to KRS 304.9-070(1), (2), (3), (4) or (5) or ~~304.9-430(5)~~~~304.9-430(4)~~.
- (2) *An authorized insurer shall not do business in Kentucky with an administrator who is not licensed in accordance with KRS 304.9-052. This subsection shall not apply to transactions between an authorized insurer and persons providing administrator services pursuant to KRS 304.9-051.*

Section 17. 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 *twenty-four (24)*~~twelve (12)~~ months, revoke, or refuse to issue or renew any license issued under this subtitle or any surplus lines broker, viatical settlement broker, or viatical settlement provider license, or may levy a civil penalty in accordance with KRS 304.99-020, or any combination of actions for any one (1) or more of the following causes:
  - (a) Providing incorrect, misleading, incomplete, or materially untrue information in the license application;
  - (b) Violating any insurance laws, or violating any administrative regulations, subpoena, or order of the commissioner or of another state's insurance commissioner;

- (c) Obtaining or attempting to obtain a license through misrepresentation or fraud;
  - (d) Improperly withholding, misappropriating, or converting any moneys or properties received in the course of doing insurance or viatical settlement business;
  - (e) Intentionally misrepresenting the terms of an actual or proposed insurance contract, viatical settlement contract, or application for insurance;
  - (f) Having been convicted of any felony;
  - (g) Having admitted or been found to have committed any unfair insurance trade practice or insurance fraud;
  - (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;
  - (i) Having an insurance license, viatical settlement license, or its equivalent, denied, suspended, or revoked in any other state, province, district, or territory;
  - (j) Surrendering or otherwise terminating any 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, to any other document related to an insurance transaction, or to any document related to a viatical settlement transaction;
  - (l) Cheating, including improperly using notes or any other reference material to complete an examination for license;
  - (m) Knowingly accepting insurance or viatical settlement business from an individual or business entity 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 may be suspended, revoked, or refused for any cause relating to an individual designated in or registered under the license 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 business entity and the violation was not reported to the Department of Insurance nor corrective action taken.
- (3) The applicant or licensee may make written *request for a hearing* ~~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~~.
- ~~(4)~~~~(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 18. KRS 304.9-465 is amended to read as follows:

- (1) 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.
- (2) 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.

- (3) 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 U.S.C. sec. 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.
- (4) The commissioner may place conditions upon any license for any reason set forth in subsection (3) of this section.
- (5) 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.

Section 19. KRS 304.10-120 is amended to read as follows:

- (1) Any person who:
  - (a) Is a resident of Kentucky or is a nonresident who is not eligible to be issued a license in accordance with KRS 304.9-140;
  - (b) Holds an agent license with lines of authority for property and casualty; and
  - (c) Is deemed by the commissioner to be competent and trustworthy with respect to the handling of surplus lines;
 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) Notwithstanding subsection (1) of this section, on or after July 1, 2002, an applicant 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.
- (6) *If the resident surplus lines broker fails to maintain his or her agent license with lines of authority for property and casualty, the surplus lines broker license shall terminate and shall be promptly surrendered to the commissioner without demand.*

Section 20. KRS 304.29-331 is amended to read as follows:

- (1) *An agent of a fraternal benefit society shall be licensed as an agent in accordance with the provisions of Subtitle 9 of this chapter regulating all aspects of agent licenses.*
- (2) *Subsection (1) of this section includes the requirement that the agent shall satisfactorily complete the continuing education requirements in accordance with KRS 304.9-295.*
- (3) *An agent of a society shall be appointed by the society in accordance with the provisions of Subtitle 9 of this chapter regulating all aspects of agent appointments*~~Agents of societies shall be licensed in accordance with the provisions of Subtitle 9 of this chapter regulating the licensing, revocation, suspension, or termination of license of resident and nonresident agents. No examination shall be required of any person licensed as an agent for a society prior to January 1, 1987. Agents of societies shall satisfactorily complete a minimum of twenty-four (24) hours of continuing education courses, of which twelve (12) must be classroom hours, during each continuing education biennium, as provided in KRS 304.9-295 and any administrative regulations promulgated thereunder.~~

~~(4)(2)~~ No examination or license shall be required of any regular salaried officer, employee, or member of a licensed society who devotes substantially all of his services to activities other than the solicitation of fraternal insurance contracts from the public, and who receives for the solicitation of the contracts no commission or other compensation directly dependent upon the amount of business obtained.

~~(5)(3)~~ Any agent, representative, or member of a society who devotes, or intends to devote, less than fifty percent (50%) of the person's time to the solicitation and procurement of insurance contracts for the society shall be exempt from the requirements of subsection (1) of this section. Any person who in the preceding calendar year has solicited and procured life insurance contracts on behalf of any society in an amount of insurance in excess of fifty thousand dollars (\$50,000), or in the case of any other kind or kinds of insurance which the society might write, on the persons of more than twenty-five (25) individuals and who has received or will receive a commission or other compensation therefor, shall be presumed to be devoting, or intending to devote, fifty percent (50%) of time to the solicitation or procurement of insurance contracts for such society.

Section 21. 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 as the appropriate insurance producer for that line of authority in accordance with this subtitle or Subtitle 10 of this chapter.
- (2) No individual or business entity shall in this state be, act as, or hold himself or herself out as an adjuster unless then licensed as an adjuster. No individual shall in this state be, act as, or hold himself or herself out as a consultant unless then licensed as a consultant. No consultant shall act as a consultant with respect to any kind of insurance as to which he or she is not then licensed as a consultant.
- (3) A consultant license shall cover either or both of the following categories, as selected by the licensee:
  - (a) Property and casualty; and
  - (b) Life and health.

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

- (4) No individual licensed as a consultant shall act as a consultant until he or she has filed with the commissioner a bond or insurance in accordance with KRS 304.9-330.
- (5) Except as provided in KRS 304.9-410 and KRS 304.9-270~~(4)(3)~~, no agent shall place, and no insurer shall accept, any insurance with any insurer as to which the agent does not then hold a license and appointment as agent under this subtitle.
- (6) No rental vehicle agent, rental vehicle managing employee, specialty credit producer, or specialty credit managing employee shall place, and no insurer shall accept, any insurance with any insurer as to which the licensee does not then hold a license and appointment under this subtitle.
- (7) The commissioner shall prescribe and furnish all forms required under this subtitle as to licenses and appointments.

Section 22. KRS 304.12-100 is amended to read as follows:

Nothing in KRS 304.12-080 and 304.12-090 shall be construed as prohibiting:

- (1) Payment of lawfully earned commission or other lawful compensation to duly licensed insurance producers as defined in KRS 304.9-020~~(7)(4)~~;
- (2) Distribution by a participating insurer to its participating policyholders of dividends, savings, or the unused or unabsorbed portion of premiums and premium deposits;
- (3) Furnishing of information, advice, or services for the purpose of reducing the loss or liability to loss under a policy;
- (4) Life insurers from paying bonuses to policyholders or otherwise abating their premiums in whole or in part out of surplus accumulated from nonparticipating insurance, if such bonus or abatement is fair and equitable to all policyholders and for the best interests of the insurer and its policyholders;
- (5) In the case of insurance policies issued on the debit plan, making allowance to policyholders who have continuously for a specified period made premium payments directly to an office of the insurer in an amount

which fairly represents the savings in collection expense or making allowance to policyholders who make premium payments at less frequent intervals than required; or

- (6) Readjustment of the rate of premium for a group insurance policy based on the loss or expense experience thereunder, at the end of any policy year of insurance thereunder, which may be made retroactive only for such policy year.

Section 23. KRS 304.12-110 is amended to read as follows:

No insurer, insurance producer as defined in KRS 304.9-020(7)~~[(4)]~~, or other person shall, as an inducement to insurance, or in connection with any insurance transaction, provide in any policy for, or offer, sell, buy, or offer or promise to buy, sell, give, promise, or allow to the insured or prospective insured or to any other person on his behalf in any manner whatsoever:

- (1) Any employment;
- (2) Any shares of stock or other securities issued or at any time to be issued or any interest therein or rights thereto;
- (3) Any advisory board contract, or any similar contract, agreement or understanding, offering, providing for, or promising any profits or special returns or special dividends; or
- (4) Any prizes, goods, wares, merchandise, or property of an aggregate value in excess of twenty-five dollars (\$25).

Section 24. KRS 304.99-100 is amended to read as follows:

- (1) The appointment of an agent, including rental vehicle agent, rental vehicle managing employee, specialty credit producer, and specialty credit managing employee, may be renewed by an insurer under KRS 304.9-270(9)~~[(8)]~~ if the request and late payment for renewal is accompanied by a penalty equal to the amount of the biennial renewal fee specified in Subtitle 4 of this chapter.
- (2) A license issued under Subtitle 9 of this chapter, surplus lines broker license, viatical settlement broker license, and viatical settlement provider license may be reissued under KRS 304.9-260(2) if the request and late payment for reissue are accompanied by a penalty equal to the amount of the biennial renewal fee specified in Subtitle 4 of this chapter.

Section 25. The following KRS section is repealed:

304.9-480 Definitions for KRS 304.9-480 and 304.9-485.

**Approved March 18, 2005.**