

CHAPTER 94

(HB 524)

AN ACT relating to local government taxes and fees.

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

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 91A IS CREATED TO READ AS FOLLOWS:

As used in this chapter:

- (1) *"Local government" means a city, county, charter county, consolidated local government, urban-county government, or unified local government;*
- (2) *"Risk location system or program" means any electronic software, hardware, or other technology verified by the Kentucky Office of Insurance under Section 3 of this Act used for locating risks that are subject to taxes or fees under Section 5 of this Act; and*
- (3) *"Tax period" means a twelve (12) month period ending on December 31 of each year.*

➔SECTION 2. A NEW SECTION OF KRS CHAPTER 91A IS CREATED TO READ AS FOLLOWS:

- (1) *The provisions of this section shall provide the sole and exclusive method for the filing of amended returns and requests or assessments by any insurance company, local government, or policyholder for nonpayment, underpayment, or overpayment of any license fees or taxes imposed pursuant to Section 5 of this Act and the appeals from the denial or refusal thereof. For tax periods beginning after December 31, 2008, all amended returns, requests for refunds or credits, and assessments shall be made within two (2) years of the due date of the annual reconciliation provided for in subsection (8) of Section 5 of this Act for the tax period during which the error was made, except that in the case of fraudulent failure to file a return or the filing of a fraudulent return, the underpayment may be assessed at any time. The provisions of this subsection shall not apply to any refund or credit to an insurance company or policyholder or assessment by a local government that is affected by litigation pending on the effective date of this Act.*
- (2)
 - (a) *Any insurance company that has paid a license fee or tax imposed by a local government pursuant to Section 5 of this Act may request a refund or credit for any overpayment of a license fee or tax or any payment when no tax was due within the time provided in subsection (1) of this section.*
 - (b) *A request for a refund or credit by an insurance company shall be made by mailing an amended return and supporting documentation to the local government to which the fee or tax was paid. A complete refund request shall include the amended return and supporting documentation showing the total amount of overpayment of license fee or tax that the insurance company believes was erroneously paid and a breakdown of information for each policy upon which a refund or credit is requested, including the location of the risk by street address or, if a street address is unavailable, another appropriate identifier of the physical location, the amount of the erroneous payment, the premium charged, the amount of tax or fee actually collected, the type or types of risk insured, and the period the policy was in force during the taxable year or years.*
 - (c) *For refund and credit requests submitted for payments made during tax periods after December 31, 2009, the insurance company shall produce proof that it employed risk location systems or programs meeting the requirements of Section 3 of this Act during the time for which the refund or credit is requested or a copy of an Office of Insurance order issued pursuant to the administrative regulation promulgated under subsection (3) of Section 3 of this Act. If the insurance company fails or is unable to produce such proof or a copy of the Office of Insurance order, the local government shall be entitled to keep a penalty in the amount of ten percent (10%) of the refund or credit that would have otherwise been due the insurance company. Any dispute regarding the imposition of a penalty shall be resolved under paragraph (d) of this subsection.*
 - (d) *If a local government fails to accept the completed amended return or refuses to issue the requested refund or credit within ninety (90) days of its receipt, the insurance company may make application to the Office of Insurance to review the claim. The application shall be filed with the Office of Insurance within thirty (30) days of receipt of the response from the local government or, in the case of a local government's failure to respond, within thirty (30) days of the end of the ninety (90) day period provided in this paragraph. The Office of Insurance shall, within sixty (60) days of the receipt*

of the complete application, issue an order of final agency action that the request for refund or credit is or is not warranted in whole or in part. The executive director of the Office of Insurance may grant one (1) extension of thirty (30) days for the issuance of the order. As provided in KRS 304.2-310, either party may file an administrative appeal from the order of the Office of Insurance within sixty (60) days of the issuance of the order.

- (e) *No insurance company shall apply a credit to taxes or fees imposed by Section 5 of this Act without written agreement from the local government, without an order of final agency action from the Office of Insurance order that the refund is due, or without an administrative ruling from the Office of Insurance order that a refund is due. Each violation of this paragraph shall be punishable as provided in subsection (7)(b) and (c) of Section 5 of this Act.*
- (3)
- (a) *Any policyholder who has paid to an insurance company a license fee or tax imposed by a local government pursuant to Section 5 of this Act may request a refund or credit for an overpayment of a license fee or tax or any payment when no tax was due within the time provided in subsection (1) of this section.*
 - (b) *A request for a refund or credit by a policyholder shall be made by mailing the request to the insurance company to which the fee or tax was paid. The request shall include the name of the policyholder, the address of the location of the risk insured, the amount of overpayment of license fee or tax that was erroneously paid, the dates of coverage, the amount of the fee or tax that was paid, and the type of risk insured.*
 - (c) *If an insurance company fails to make payment or to grant credit to a policyholder as requested within ninety (90) days of its receipt, the policyholder may make application to the Office of Insurance to review the request. The application shall be filed with the Office of Insurance within thirty (30) days of receipt of the response from the insurance company or, in the case of an insurance company's failure to respond, within thirty (30) days of the end of the ninety (90) day period provided in this paragraph. The Office of Insurance shall, within sixty (60) days of the receipt of the complete application, issue an order of final agency action that the request for refund or credit is or is not warranted in whole or in part. The executive director of the Office of Insurance may grant one (1) extension of thirty (30) days for the issuance of the order. As provided in KRS 304.2-310, either party may file an administrative appeal from the order of the Office of Insurance within sixty (60) days of the issuance of the order.*
- (4)
- (a) *If a local government has a reasonable basis to believe that a license fee or tax imposed by it in accordance with Section 5 of this Act has not been paid or has been underpaid, the local government shall request the Office of Insurance to conduct an audit pursuant to the provisions of subsection (7) of Section 5 of this Act within the time provided in subsection (1) of this section.*
 - (b) *If the findings of the audit show that an insurance company did not pay or underpaid the local government, the local government may send an assessment by mail to the insurance company. The notice of assessment shall state the total amount of payment due from the insurance company based upon the findings of the audit conducted pursuant to subsection (7) of Section 5 of this Act, the geographic area affected, and the applicable license fee or tax rate.*
 - (c) *The insurance company may respond to the assessment by either paying the assessment in full within ninety (90) days of its receipt or by filing an appeal of the findings of the audit and the assessment with the Office of Insurance within ninety (90) days of the receipt of the assessment. An insurance company appealing the audit findings and assessment shall make application to the Office of Insurance and provide notice of the challenge to the local government by certified mail. The Office of Insurance shall, within sixty (60) days of the receipt of the completed application, issue an order of final agency action upon the findings of the audit and a determination that the assessment is or is not warranted in whole or in part. The executive director of the Office of Insurance may grant one (1) extension of thirty (30) days for the issuance of the order. As provided in KRS 304.2-310, either party may file an administrative appeal from the order of the Office of Insurance within sixty (60) days of the issuance of the order.*
 - (d) *If the insurance company fails to make the full payment as requested by the local government or fails to file an application of appeal with the Office of Insurance within ninety (90) days of receipt of the assessment, the findings of the audit and the assessment shall be deemed final, and the local*

government may provide notification to the Office of Insurance to impose a penalty in accordance with subsection (7)(c) of Section 5 of this Act. Any penalty imposed because of an insurance company's failure to timely pay the assessment shall be in addition to any penalties imposed as a result of the audit. The notification shall be filed with the Office of Insurance within thirty (30) days of the end of the ninety (90) day period provided in paragraph (c) of this subsection. The Office of Insurance shall issue an order to the insurance company to pay the assessment and any additional penalties imposed within thirty (30) days of the order or the Office of Insurance may revoke the license of the insurance company under the provisions of subsection (7) of Section 5 of this Act and KRS Chapter 304.

- (e) *The Office of Insurance may determine the scope of any audit requested under this subsection and Section 5 of this Act. Nothing in this chapter shall preclude the Office of Insurance from exercising its discretion to conduct an audit or examination of any insurance company under its authority as otherwise provided in KRS Chapter 304.*
- (5) *An administrative hearing held pursuant to this section shall be conducted pursuant to KRS Chapter 13B. The hearing officer may compel any information necessary to make a determination. Information concerning rates, the names and addresses as of policyholders, and the expiration date of policies shall be proprietary and confidential, shall not be divulged to any person or organization not a party to the hearing, shall not be subject to disclosure or to the provisions of KRS 61.870 to 61.884, and the record shall be sealed at the conclusion of the hearing.*
- (6) *If a refund or credit is received by an insurance company that passed the fee or tax on to the policyholder, and the amount refunded or credited is not owed to another local government, the insurance company shall pass the full amount of the refund or credit, including any collection fee that has been retained by the insurance company pursuant to subsection (4) of Section 5 of this Act, on to the policyholder from whom the fee or tax was collected within ninety (90) days of receipt of the refund or credit. For a refund or credit received by an insurance company for tax periods after December 31, 2009, that is not owed to another local government, the insurance company shall pay a penalty fee of ten percent (10%) of the total amount of the refund or credit due to the policyholder if the insurance company is unable to produce proof of the use of a risk location system as required under paragraph (c) of subsection (2) of this section.*
- (7) *No legal action shall be filed by any party prior to the exhaustion of all administrative remedies provided under this section.*
- (8) (a) *Information on specific policies and policyholders provided to local governments pursuant to subsection (2) of this section shall be considered confidential and proprietary information of an insurance company and shall not be disclosed or subject to disclosure under KRS 61.870 to 61.884. No present or former official or employee of a local government or any other person shall, intentionally and without authorization, inspect or divulge any information acquired by him or her of the affairs of any insurance company, or information regarding specific policies, policyholders, tax schedules, returns, or reports required to be filed with a local government, or any information produced by a hearing or investigation, insofar as the information may have to do with the proprietary information of the insurance company. All county judge/executives, mayors, local government legislative body members, and local government employees whose duties include the fiscal affairs of their local government, shall be deemed to have the necessary authorization to inspect such information. Any person who violates the provisions of this paragraph shall be guilty of a Class A misdemeanor for each offense and the disclosure of information on each policyholder shall constitute a separate offense.*
- (b) *Except for local governments that have been certified by the Internal revenue Service or its agent as being in compliance with IRS safeguard requirements and authorized to receive federal tax information, any proprietary information provided to a local government for the purposes of compliance with subsection (2) of this section and all copies or other records related to such information shall be destroyed in an irreversible, secure, and confidential manner in accordance with KRS 171.410 to 171.740 and the administrative regulations promulgated or approved thereunder. A local government failing to destroy proprietary information in accordance with this paragraph shall be subject to a civil penalty payable to the insurance company of five hundred dollars (\$500) for each offense, and the disclosure of information on each policyholder shall constitute a separate offense. An insurance company may commence a civil action in a court of*

competent jurisdiction for payment of the civil penalty. The total civil penalty shall not exceed ten thousand dollars (\$10,000) per incident.

(c) *This subsection shall not preclude the disclosure of information to the Office of Insurance or to the legal representative of the local government for purposes of administrative hearings or legal appeals therefrom, nor shall it prohibit the local government from verifying the accuracy of the information with an individual policyholder to whom the information pertains.*

(9) *The filing of amended returns, requests for refunds or credits, assessments, and all applications and notification by any party to the Office of Insurance for review under this section, shall be sent to the designated party or parties by certified mail, return receipt requested.*

➔SECTION 3. A NEW SECTION OF KRS CHAPTER 91A IS CREATED TO READ AS FOLLOWS:

(1) *Before January 1, 2009, the Office of Insurance shall by administrative regulation establish criteria for the verification of risk location systems and programs. The criteria for verification shall include but not be limited to a requirement that the municipal and county boundary information of a risk location system or program uses the municipal and county boundary data available from the Commonwealth Office of Technology that is based upon municipal and other filings with the Secretary of State.*

(2) *Upon application of a vendor or insurance company for verification and payment of a two thousand five hundred dollar (\$2,500) application fee to the Office of Insurance, the office shall test the risk location system or program to determine whether the program shall be verified as meeting the criteria promulgated in the administrative regulation required by subsection (1) of this section. The Office of Insurance shall maintain a list of verified risk location systems or programs and shall make the list available to insurance companies and the public. The verification of a risk location system or program shall remain valid for a period of three (3) years unless revoked by the Office of Insurance.*

(3) *The Office of Insurance shall, by administrative regulation, provide an option for an insurance company to apply for a written order by the executive director of the Office of Insurance that the insurance company has a limited number of risk locations, not exceeding two hundred (200), in the Commonwealth that may be located by other means with an equivalent level of accuracy. Such an order shall remain valid for a period of three (3) years and as long as the insured risk of the insurance company does not exceed two hundred (200) in any calendar year.*

(4) *An insurance company shall be deemed to perform due diligence in the location of risks if the insurance company employs a verified risk location system or program in its collection of a tax or fee imposed pursuant to Section 5 of this Act and:*

(a) *Expend reasonable resources to accurately and reliably implement such method to collect and to remit the proper tax or fee due to the local government that has imposed a tax or fee pursuant to Section 5 of this Act;*

(b) *Maintains adequate internal controls to correctly include in its database of policyholders the location of the risk insured, in the proper address format, so that matching with the database is accurate;*

(c) *Corrects errors in the assignment of addresses to local taxing jurisdictions within the next renewal period after the insurance company discovers the errors, and, if applicable, reports such errors to the provider of the risk location system or program; and*

(d) *In the case of insurance companies that issue policies covering multiple locations, maintains adequate internal controls and employs an accurate and consistent methodology to correctly prorate multilocation policies to assign risks to appropriate addresses or, if a street address is unavailable, through another appropriate identifier of physical location, and tax jurisdictions.*

(5) *Upon the presentation of proof that an insurance company has complied with the provisions of subsection (4) of this section or has received an order of the Office of Insurance under the administrative regulation promulgated pursuant to subsection (3) of this section, the insurance company:*

(a) *Shall not be subject to penalties for failure to comply with Section 5 of this Act that may otherwise be imposed pursuant to KRS Chapter 304 or subsection (7) of Section 5 of this Act for failure of a risk location system to properly locate risks;*

- (b) *Shall be held harmless from any liability including but not limited to liability for penalties, except for the tax that is due and interest on the tax that an insurance company has failed to timely remit, that would otherwise be due solely as a result of a failure to properly collect and remit the tax or fee levied pursuant to Section 5 of this Act because of the failure of a risk location system to properly locate risks; and*
- (c) *Shall not be subject to penalties under subsection (2)(b) of Section 2 of this Act.*
- (6) *On and after January 1, 2010, an insurance company shall use a verified risk location system or program during the calendar year if the total policies issued and renewed by the insurance company in Kentucky in the preceding calendar year is more than two thousand (2,000).*

➔SECTION 4. A NEW SECTION OF KRS CHAPTER 91A IS CREATED TO READ AS FOLLOWS:

- (1) (a) *The executive director of the Office of Insurance shall appoint a local premium tax advisory council to provide advice and expertise on the imposition, administration, and collection of taxes and fees imposed pursuant to Section 5 of this Act. The council shall be chaired by the executive director of the Office of Insurance and shall be composed of eight (8) members which shall include two (2) city government representatives nominated by the Kentucky League of Cities, two (2) county government representatives nominated by the Kentucky Association of Counties, one (1) independent insurance agent, one (1) representative of a domestic insurance company, one (1) representative of a foreign insurance company, and one (1) representative of an insurance trade association. Members shall serve four (4) year terms, except for the initial members whose appointments shall be staggered.*
- (b) *The chair shall preside over meetings of the advisory council but shall have no vote except that he or she may cast a vote in order to break a tie.*
- (c) *The Office of Insurance shall staff and assist the council which shall meet at least two (2) times per year at meetings called by the chair or a majority of the members.*
- (2) *The council may identify ways to make the system more effective and efficient for all parties by making recommendations on needed legislative changes and providing comments on needed regulatory reforms. In addition, the council may provide information and assistance to insurance companies and local governments regarding procedures and practices related to compliance with provisions of this chapter related to the imposition, administration, and collection of taxes and fees imposed pursuant to Section 5 of this Act. At least once each year, the council shall review the criteria for verification of risk location systems or programs established by the Office of Insurance under Section 3 of this Act and make recommendations for updating and improving the verification criteria.*

➔Section 5. KRS 91A.080 is amended to read as follows:

- (1) The legislative body of each ~~city, county, charter county, consolidated~~ local government ~~, or urban county government~~ which elects to impose and collect license fees or taxes upon insurance companies for the privilege of engaging in the business of insurance may enact or change its license fee or rate of tax to be effective July 1 of each year on a prospective basis only and shall file with the executive director of insurance at least one hundred (100) days prior to the effective date, a copy of all ordinances and amendments which impose ~~a~~ ~~any such~~ license fee or tax. No less than eighty-five (85) days prior to the effective date, the executive director of insurance shall promptly notify each insurance company engaged in the business of insurance in the Commonwealth of those *local* ~~city, county, charter county, consolidated local government, or urban county~~ governments which have elected to impose the license fees or taxes and the current amount of the license fee or rate of tax.
- (2) Any license fee or tax imposed by a ~~city, county, charter county, consolidated~~ local government ~~, or urban county government~~ upon an insurance company with respect to life insurance policies, may be based upon the first year's premiums, and, if so based, shall be applied to the amount of the premiums actually collected within each calendar quarter upon the lives of persons residing within the corporate limits of the ~~city, county, charter county, consolidated~~ local government ~~, or urban county government~~.
- (3) Any license fee or tax imposed by a ~~city, county, charter county, consolidated~~ local government ~~, or urban county government~~ upon any insurance company with respect to any policy which is not a life insurance policy shall be based upon the premiums actually collected by the *insurance* company within each calendar quarter on risks located within the corporate limits of the ~~city, county, charter county, consolidated~~ local

government~~[- or urban county government]~~ on those classes of business which the *insurance* company is authorized to transact, less all premiums returned to policyholders. In determining the amount of license fee or tax to be collected and to be paid to the~~[- city, county, charter county, consolidated]~~ local government~~[- or urban county government]~~, the insurance company shall use the tax rate effective on the first day of the policy term. When an insurance company collects a premium as a result of a change in the policy during the policy term, the tax rate used shall be the rate in effect on the effective date of the policy change. With respect to premiums returned to policyholders, the license fee or tax shall be returned by the insurance company to the policyholder pro rata on the unexpired amount of the premium at the same rate at which it was collected and shall be taken as a credit by the insurance company on its next quarterly report to the~~[- city, county, charter county, consolidated]~~ local government~~[- or urban county government]~~. ~~Any license fee or tax imposed upon premium receipts shall not include premiums received for insuring employers against liability for personal injuries to their employees, or the death of their employees, caused thereby, under the provisions of the Workers' Compensation Act.~~

- (4) The Office of Insurance shall, by administrative regulation, provide for a reasonable collection fee to be retained by the insurance company or its agent as compensation for collecting the tax, except that the collection fee shall not be more than fifteen percent (15%) of the fee or tax collected and remitted to the~~[- city, county, charter county, consolidated]~~ local government~~[- or urban county government]~~ or two percent (2%) of the premiums subject to the tax, whichever is less. To facilitate computation, collection, and remittance of the fee or tax and collection fee provided in this section, the fees or taxes set out in subsection (1), (2), or (3) of this section, together with the collection fee in this section, may be rounded off to the nearest dollar amount.
- (5) Pursuant to KRS 304.3-270, if any other state retaliates against any Kentucky domiciliary insurer because of the requirements of this section, the executive director of insurance shall impose an equal tax upon the premiums written in this state by insurers domiciled in the other state.
- (6) Accounting and reporting procedures for collection and reporting of the fees or taxes and the collection fee herein provided shall be determined by administrative regulations promulgated by the Office of Insurance.
- (7)
 - (a) Upon written request of the legislative body of any ~~[- city, county, charter county, consolidated]~~ local government~~[- or urban county government]~~, at the expense of the requesting~~[- city, county, charter county, consolidated]~~ local government~~[- or urban county government]~~, which shall be paid in advance by the~~[- city, county, charter county, consolidated]~~ local government~~[- or urban county government]~~ to the Office of Insurance, the Office of Insurance shall *audit*~~[- examine]~~, or cause to be *audited*~~[- examined]~~ by contract with qualified auditors, the books or records of the insurance companies or agents subject to the fee or tax to determine whether the fee or tax is being properly collected and remitted, and the findings of the *audit*~~[- examination]~~ shall be reported to the~~[- city, county, charter county, consolidated]~~ local government *and the insurance company subject to the audit. An insurance company may appeal the findings of the audit conducted under this subsection and any assessment issued pursuant to the audit findings in accordance with the provisions of subsection (4) of Section 2 of this Act*~~[- or urban county government]~~.
 - (b) Willful failure to properly collect and remit the fee or tax imposed by a~~[- city, county, charter county, consolidated]~~ local government~~[- or urban county government]~~ pursuant to the authority granted by this section shall constitute grounds for the revocation of the license issued to an insurance company or agent under the provisions of KRS Chapter 304.
 - (c) If the Office of Insurance finds that an insurance company has willfully engaged in a pattern of business conduct that fails to properly collect and remit the fee or tax imposed by a~~[- city, county, charter county, consolidated]~~ local government~~[- or urban county government]~~ pursuant to the authority granted by this section, the Office of Insurance may assess the responsible insurance company an appropriate penalty fee no greater than ten percent (10%) of the additional license fees or taxes determined to be owed to the~~[- city, county, charter county, consolidated]~~ local government~~[- or urban county government]~~. The penalty fee shall be *paid*~~[- collected by the Office of Insurance and payable]~~ to the~~[- city, county, charter county, consolidated]~~ local government~~[- or urban county government]~~ owed the license fee or tax less any administrative costs of the Office of Insurance in enforcing this section. Any insurance company or agent held responsible for a penalty fee may request a hearing with the Office of Insurance to be conducted pursuant to KRS 304.2-310 to 304.2-370 regarding the finding of a willful violation and the subsequent penalty fee.

- (8) The license fees or taxes provided for by subsections (2) and (3) of this section shall be due thirty (30) days after the end of each calendar quarter. Annually, by March 31, each **insurance company**~~insurer~~ shall furnish each ~~city, county, charter county, consolidated~~ local government~~, or urban county government~~ to which the tax or fee is remitted with a breakdown of all collections in the preceding calendar year for the following categories of insurance:
- (a) Casualty;
 - (b) Automobile;
 - (c) Inland marine;
 - (d) Fire and allied perils;
 - (e) Health; and
 - (f) Life.
- (9) ~~Any insurance company or agent that overpays any license fee or tax to a city, county, charter county, consolidated local government, or urban county government shall be refunded the amount overpaid. If it is determined that an insurance company or agent paid a license fee or tax to a city, county, charter county, consolidated local government, or urban county government based upon premiums collected upon lives or risks which are discovered to be located outside the legal corporate limits of the city, county, charter county, consolidated local government, or urban county government which was paid the license fee or tax, the insurance company or agent shall be refunded those license fees and taxes within ninety (90) days of notice to the governmental entity paid. Any license fee or tax not paid on or before the due date shall bear interest at the tax interest rate as defined in KRS 131.010(6) from the date due until paid. Such interest payable to the~~ city, county, charter county, consolidated ~~local government, or urban county government~~ is separate of penalties provided for in subsection (7) of this section. ***In addition, the local government may assess a ten percent (10%) penalty for a tax or fee not paid within thirty (30) days after the due date.***
- (10) No license fee or tax imposed under this section shall apply to premiums received on:
- (a) Policies of group health insurance provided for state employees under KRS 18A.225;
 - (b) ***Policies insuring employers against liability for personal injuries to their employees or the death of their employees caused thereby, under the provisions of KRS Chapter 342;***
 - (c) ***Health insurance policies issued to individuals;***
 - (d) ***Policies issued through Kentucky Access created in Subtitle 17B of KRS Chapter 304; or***
 - (e) ***Policies for high deductible health plans as defined in 26 U.S.C. sec. 223(c)(2).***
- (11) No county may impose the tax authorized by this section upon the premiums received on policies issued to public service companies which pay ad valorem taxes.
- (12)~~(a)~~ Insurance companies which pay license fees or taxes pursuant to this section shall credit city license fees or taxes against the same license fees or taxes levied by the county, when the license fees or taxes are levied by the county on or after July 13, 1990. ***For purposes of this subsection, a consolidated local government, urban-county government, charter county government, or unified local government shall be considered a county.***
- ~~(b) If a county imposed and collected the license fee or tax authorized by this section before July 1, 2000, then insurance companies that pay license fees or taxes under this section shall not credit against the county license fee or tax that portion of a city license fee or tax that becomes effective for the first time on or after July 1, 2000, or is increased effective on or after July 1, 2000. The provisions of this paragraph shall expire on June 30, 2002, unless extended by the General Assembly.~~
- (13)~~No license fee or tax imposed under this section shall apply to premiums received on health insurance policies issued to individuals nor to policies issued through Kentucky Access created in KRS 304.17B-005.~~
- (14)~~No license fee or tax imposed under this section shall apply to premiums paid to insurers of municipal bonds, leases, or other debt instruments issued by or on behalf of a city, county, charter county government, urban-county government, consolidated local government, special district, nonprofit corporation, or other political~~

subdivision of the Commonwealth. However, this exemption shall not apply if the bonds, leases, or other debt instruments are issued for profit or on behalf of for-profit or private organizations.

(14) A county may impose a license fee or tax covering the entire county or may limit the application of the fee or tax to the unincorporated portions of the county

~~[(15) No license fee or tax imposed under this section shall apply to premiums received on high deductible health plans as defined in 26 U.S.C. sec. 223(c)(2)].~~

➔Section 6. KRS 304.10-180 is amended to read as follows:

(1) Each broker shall pay the following taxes:

(a) 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, on surplus lines insurance subject to tax transacted by him or her with unauthorized insurers during the preceding calendar quarter as shown by his or her quarterly statement filed with the executive director in accordance with KRS 304.10-170. 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 executive director within thirty (30) days of the end of each calendar quarter. When collected the tax shall be credited to the insurance regulatory trust fund, as established by KRS 304.2-400;

(b) The premium surcharge tax, to be remitted to the Kentucky Department of Revenue, 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. ***Each broker shall be subject to the provisions of this section and Sections 1 to 4 and 5 of this Act as an insurance company.***

(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 7. A NEW SECTION OF KRS CHAPTER 91A IS CREATED TO READ AS FOLLOWS:

(1) *Effective December 31, 2008, if the local government premium tax is included in the premium charge to the policyholder, the insurance company shall include on either the renewal certificates or billings the amount of the local government tax charged for the period and the name of the taxing jurisdiction to which the local premium tax is due.*

(2) *Before December 31, 2008, each insurance company shall cause each current policy holder to be notified of the policyholder's rights under this chapter. The one (1) time notice may be sent to the policyholder under any mode of communication normally used between the insurance company and the policyholder and may be sent as a separate notice or included as an additional item within routine statements, billings, or other notices. The Kentucky Office of Insurance shall promulgate by administrative regulation the text of such notice, which shall include:*

(a) *A statement that past and future premium charges may include a local insurance premium tax; and*

(b) *A statement that a policyholder who has been erroneously charged or overcharged the local insurance premium tax may obtain information for requesting a refund or credit by contacting the insurance company to which the local insurance premium tax was erroneously paid.*

(3) *Any insurance company contacted by a policyholder under subsection (2) of this section shall, within thirty (30) days of the contact, provide the policyholder the full text of subsection (3) of Section 2 of this Act to inform the policyholder of the procedural requirements for requesting a refund or a credit. The insurance company may, at its option, include a summary or explanation of the procedural requirements in addition to providing the text.*

➔SECTION 8. A NEW SECTION OF KRS CHAPTER 91A IS CREATED TO READ AS FOLLOWS:

On a biennial basis beginning on the effective date of this Act, the executive director of the Office of Insurance may impose an assessment for the cost of administering the provisions of this chapter. The assessment shall be made on an equitable basis against all insurance companies and surplus lines brokers subject to Section 5 of this

Act, provided that the amount of the assessment shall not exceed two hundred dollars (\$200) per insurance company or surplus lines broker.

➔ Section 9. Effective July 1, 2010, Section 8 of this Act is repealed.

Signed by Governor April 14, 2008.