

CHAPTER 140

(HB 84)

AN ACT relating to life insurance.

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

➔Section 1. KRS 304.16-030 is amended to read as follows:

The lives of a group of individuals may be insured under a policy issued to an employer, or to the trustees of a fund established by an employer, which employer or trustees shall be deemed the policyholder, to insure employees of the employer for the benefit of persons other than the employer, subject to the following requirements:

- (1) The employees eligible for insurance under the policy shall be all of the employees of the employer, or all of any class or classes thereof determined by conditions pertaining to their employment. The policy may provide that the term "employees" shall include the employees of one (1) or more subsidiary corporations, and the employees, individual proprietors, and partners of one (1) or more affiliated corporations, proprietors or partnerships if the business of the employer and of such affiliated corporations, proprietors or partnerships is under common control through stock ownership, contract or otherwise. The policy may provide that the term "employees" shall include the individual proprietor or partners if the employer is an individual proprietor or a partnership. The policy may provide that the term "employees" shall include retired employees. No director of a corporate employer shall be eligible for insurance under the policy unless such person is otherwise eligible as a bona fide employee of the corporation by performing services other than the usual duties of a director. No individual proprietor or partner shall be eligible for insurance under the policy unless he is actively engaged in and devotes a substantial part of his time to the conduct of the business of the proprietor or partnership. A policy issued to insure the employees of a public body may provide that the term "employees" shall include elected or appointed officials.
- (2) The premium for the policy shall be paid by the policyholder, either wholly from the employer's funds or funds contributed by him, or partly from such funds and partly from funds contributed by the insured employees; ~~except that the entire premium may be paid from funds contributed by the insured employees if the amount of insurance does not exceed \$2,000 on the life of any employee. A policy on which part of the premium is to be derived from funds contributed by the insured employees may be placed in force only if at least 75 percent of the then eligible employees, excluding any as to whom evidence of individual insurability is not satisfactory to the insurer, elect to make the required contributions.~~ **Except as provided in subsection (3) of this section,** a policy on which no part of the premium is to be derived from funds contributed by the insured employees ~~shall~~ **must** insure all eligible employees, **except those who reject the coverage in writing** ~~or all except any as to whom evidence of individual insurability is not satisfactory to the insurer.~~
- (3) **An insurer may exclude or limit the coverage on any person for whom evidence of individual insurability is not satisfactory to the insurer** ~~The policy must cover at least two (2) employees at date of issue.~~
- (4) The amounts of insurance under the policy must be based upon some plan precluding individual selection either by the employees or by the employer or trustees.

➔Section 2. KRS 304.16-040 is amended to read as follows:

The lives of a group of individuals may be insured under a policy issued to a creditor, **or its parent holding company**, or to a trustee, **or trustees**, or agent appointed by two (2) or more creditors, which creditors, **holding company, affiliate, trustee, trustees**, or agent shall be deemed the policyholder, to insure debtors of the creditor, subject to the following requirements:

- (1) The debtors eligible for insurance under the policy shall be all of the debtors of the creditor or creditors, **or all of any class or classes thereof** ~~whose indebtedness is repayable either (a) in installments or (b) in one (1) sum at the end of a period not in excess of eighteen (18) months from the initial date of debt, or all of any class or classes thereof determined by conditions pertaining to the indebtedness or to the purchase giving rise to the indebtedness.~~
- (2) The policy may provide that the term "debtors" shall include:
 - a) **Borrowers of money or purchasers or lessees of goods, services, or property for which payment is arranged through a credit transaction;**

- (b) The debtors of one (1) or more subsidiary corporations;~~;~~ and
- (c) The debtors of one (1) or more affiliated corporations, *proprietorships*,~~proprietors~~ or partnerships if the business of the policyholder and of such affiliated corporations, *proprietorships*,~~proprietors~~ or partnerships is under common control ~~through stock ownership, contract or otherwise. No debtor shall be eligible unless the indebtedness constitutes an irrevocable obligation to repay which is binding upon him during his lifetime, at and from the date the insurance becomes effective upon his life.~~
- (3)~~(2)~~ The premium for the policy shall be paid by the policyholder, either from the creditor's or creditors' funds, or from charges collected from the insured debtors, or from both. ~~A policy on which part or all of the premium is to be derived from the collection from the insured debtors of identifiable charges not required of uninsured debtors shall not include, in the class or classes of debtors eligible for insurance, debtors under obligations outstanding at its date of issue without evidence of insurability unless at least seventy five percent (75%) of the then eligible debtors elect to pay the required charges.~~ A policy on which no part of the premium is to be derived from the *funds contributed by insured debtors specifically for their insurance shall*~~collection of such identifiable charges must~~ insure all eligible debtors, or all except any as to whom evidence of individual insurability is not satisfactory to the insurer.
- ~~(3) The policy may be issued only if the group of eligible debtors is then receiving new entrants at the rate of at least one hundred (100) persons yearly, or may reasonably be expected to receive at least one hundred (100) new entrants during the first policy year, and only if the policy reserves to the insurer the right to require evidence of individual insurability if less than seventy five percent (75%) of the new entrants become insured. The policy may exclude from the classes eligible for insurance classes of debtors determined by age.~~
- (4) The amount of the insurance on the life of any debtor shall *at no time*~~not~~ exceed the *greater of the scheduled or actual* amount of the unpaid indebtedness *to the creditor, except that insurance written in connection with open-end credit having a credit limit exceeding ten thousand dollars (\$10,000) shall be in an amount not exceeding the credit limit*~~at the inception of the coverage. Where the indebtedness is repayable in one (1) sum to the creditor or creditors, the insurance on the life of any debtor shall in no instance be in effect for a period in excess of eighteen (18) months except that such insurance may be continued for an additional period not exceeding six (6) months in the case of default, extension or recasting of the loan.~~
- (5) The insurance shall be payable to the *creditor or any successor to the right, title, and interest of the creditor*~~policyholder~~. Such payment shall reduce or extinguish the unpaid indebtedness of the debtor to the extent of such payment *and any excess of the insurance shall be payable to the estate of the insured.*
- (6) Notwithstanding the provisions of this section, insurance on agricultural credit transaction commitments~~not exceeding two (2) years in duration~~ may be written up to the amount of the loan commitment on a nondecreasing or level term plan, and insurance on educational credit transaction commitments may be written up to the amount of the loan commitment less the amount of any repayments made on the loan.

➔ Section 3. KRS 304.16-050 is amended to read as follows:

The lives of a group of individuals may be insured under a policy issued to a labor union, which shall be deemed the policyholder, to insure members of such union for the benefit of persons other than the union or any of its officials, representatives or agents, subject to the following requirements:

- (1) The members eligible for insurance under the policy shall be all of the members of the union, or all of any class or classes thereof determined by conditions pertaining to their employment, or to membership in the union, or both. The policy may provide that the term "member" shall include retired members;
- (2) The premium for the policy shall be paid by the policyholder from the union's funds, from funds contributed by the insured members specifically for their insurance, or from both. A policy may be issued on which the entire premium is to be derived from funds contributed by the insured members specifically for their insurance; ~~A policy on which part or all of the premium is to be derived from funds contributed by the insured members specifically for their insurance may be placed in force only if at least seventy five percent (75%) of the then eligible members, excluding any as to whom evidence of individual insurability is not satisfactory to the insurer, elect to make the required contributions.~~
- (3) A policy on which no part of the premium is to be derived from funds contributed by the insured members specifically for their insurance must insure all eligible members *with the following exceptions:*

(a) *An insurer may exclude or limit the coverage on any person for* ~~or all except any as to~~ whom evidence of individual insurability is not satisfactory to the insurer; *and*

(b) *Those that reject the coverage in writing*

~~{(3) The policy must cover at least twenty five (25) members at date of issue};~~

- (4) The amounts of insurance under the policy *shall* ~~must~~ be based upon some plan precluding individual selection either by the members or by the union;
- (5) Nothing contained in this section shall require the termination of insurance for, or prohibit the contribution of all required premium by, an otherwise insured member who involuntarily becomes temporarily unemployed.

➔Section 4. KRS 304.16-060 is amended to read as follows:

The lives of a group of individuals may be insured under a policy issued to the trustees of a fund established by two (2) or more employers in the same industry or in related industries or by one (1) or more labor unions, or by one (1) or more employers and one (1) or more labor unions, which trustees shall be deemed the policyholder, to insure employees of the employers or members of the unions for the benefit of persons other than the employers or the unions, subject to the following requirements:

- (1) *At no time shall a* ~~No~~ policy ~~may~~ be issued to insure employees of any employer whose eligibility to participate in the fund as an employer arises out of considerations directly related to the employer's being a commercial correspondent or business client or patron of another employer, except where such other employer exercises substantial control over the business operations of the participating employers.
- (2) The persons eligible for insurance shall be all of the employees of the employers or all of the members of the unions, or all of any class or classes thereof determined by conditions pertaining to their employment, or to membership in the unions, or to both. The policy may provide that the term "employees" shall include retired employees or union members, and the individual proprietor or partners if an employer is an individual proprietor or a partnership. No director of a corporate employer shall be eligible for insurance under the policy unless such person is otherwise eligible as a bona fide employee of the corporation by performing services other than the usual duties of a director. No individual proprietor or partner shall be eligible for insurance under the policy unless he is actively engaged in and devotes a substantial part of his time to the conduct of the business of the proprietor or partnership. The policy may provide that the term "employees" shall include trustees or their employees, or both, if their duties are principally connected with such trusteeship.
- (3) The premium for the policy shall be paid by the trustees wholly from funds contributed by the employer or employers of the insured persons, or by the union or unions, or by both or partly from such funds and partly from funds contributed by the insured persons. ~~{A policy on which part of the premium is to be derived from funds contributed by the insured persons specifically for their insurance may be placed in force only if at least seventy five percent (75%) of the then eligible persons, excluding any as to whom evidence of insurability is not satisfactory to the insurer, elect to make the required contributions.}~~ A policy on which no part of the premium is to be derived from funds contributed by the insured persons specifically for their insurance *shall* ~~must~~ insure all eligible persons, ~~or all~~ except *those who reject the coverage in writing* ~~{any as to whom evidence of individual insurability is not satisfactory to the insurer}~~.
- (4) *An insurer may exclude or limit the coverage on any person for whom evidence of individual insurability is not satisfactory to the insurer* ~~{The policy must cover at date of issue at least one hundred (100) persons; and it must cover an average of not less than three (3) persons per employer unit unless the policy is issued to the trustees of a fund established by employers which have assumed obligations through a collective bargaining agreement and are participating in the fund either pursuant to those obligations with regard to one (1) or more classes of their employees which are encompassed in the collective bargaining agreement or as a method of providing insurance benefits for other classes of their employees, or unless the policy is issued to the trustees of a fund established by one (1) or more labor unions. If the fund is established by the members of an association of employers the policy may be issued only if either the participating employers constitute at date of issue at least sixty percent (60%) of those employer members whose employees are not already covered for group life insurance or the total number of persons covered at date of issue exceeds six hundred (600); and the policy shall not require that, if a participating employer discontinues membership in the association, the insurance of his employees shall cease solely by reason of such discontinuance}~~.

- (5) The amounts of insurance under the policy ~~shall~~~~must~~ be based upon some plan precluding individual selection either by the insured persons or by the policyholder, employers or unions.

➔Section 5. KRS 304.16-070 is amended to read as follows:

- (1) As used in this section, "employees" means employees of the United States government, or any state, or of any political subdivision or instrumentality of any of them, together with elective or appointed officers.
- (2) The lives of a group of individuals may be insured under a policy issued to any department or agency of the Commonwealth of Kentucky and its political subdivisions, state college or university, and school districts or to an association of public employees formed for purposes other than obtaining insurance~~[and having, when the policy is placed in force, a membership in the classes eligible for insurance of not less than seventy five percent (75%) of the number of employees eligible for membership in such classes]~~, which association or departmental or agency head shall be deemed the policyholder, to insure members of such association or public employees for the benefit of persons other than the departmental or agency head, the association or any of its officials, subject to the following requirements:
- (a) The persons eligible for insurance under the policy shall be all members of the association or employees of the department or agency, or all of any class or classes thereof determined by conditions pertaining to their employment, or to membership in the association, or both. The policy may provide that "employees" includes retired employees.
- (b) The premium for the policy shall be paid by the policyholder, either from the association's own funds, or from charges collected from the insured members or employees specifically for the insurance, or from both, or as may otherwise be authorized by existing or future legislation. Any charges collected from the insured members or employees specifically for the insurance, and the dues of the association if they include the cost of insurance, may be collected through deductions by the employer from salaries of the members or employees. Such deductions from salary may be paid by the employer to the association or directly to the insurer.~~[No policy may be placed in force unless at least seventy five percent (75%) of the then eligible members of the association or employees of the department or agency, excluding any as to whom evidence of individual insurability is not satisfactory to the insurer, have elected to be covered.]~~
- (c) Charges collected from the insured members or employees specifically for the insurance, and the dues of the association if they include the cost of insurance, shall be determined according to each attained age or in not less than four (4) reasonably spaced attained age groups. In no event shall the rate of such dues or charges be level for all members or employees regardless of attained age.
- (d) The policy must cover at least ten (10) persons at the date of issue.
- (e) The amounts of insurance under the policy must be based upon some plan precluding individual selection either by the members, employees or by the association.

- (3) This section does not preclude the insuring of public employees under any other applicable provision of this subtitle.

➔Section 6. KRS 304.16-080 is amended to read as follows:

- (1) A policy may be issued to an association of employers, ~~to~~~~or~~ an association (other than an association of public employees to whom KRS 304.16-070 is applicable) whose members are in the same industry, occupation or profession, ***or to a trust or to the trustees of a fund established, created, or maintained for the benefit of members of one (1) or more associations. The association or associations shall have:***
- (a) ***At the outset a minimum of one hundred (100) persons;***
- (b) ~~[and which has]~~Legally been in ***active*** existence for ***at least two (2)***~~[one (1) or more]~~ years;
- (c) ~~[and which has]~~A constitution and bylaws ***which provide that:***
- 1. The association or associations hold regular meetings not less than annually to further purposes of the members;***
 - 2. Except for credit unions, the association or associations collect dues or solicit contributions from members;***

3. ***Members have voting privileges and representation on the governing board and committees;***
and

(d) ~~{which has }Been organized and{ is} maintained in good faith for purposes other than that of obtaining insurance{, insuring at least twenty-five (25) members of the association for the benefit of persons other than the association or its officers or trustees as such}.~~

(2) Charges collected from the insured members or employees specifically for the insurance, and the dues of the association if they include the cost of insurance, shall be determined according to each attained age or in not less than four (4) reasonably spaced attained age groups. In no event shall the rate of such dues or charges be level for all members or employees regardless of attained age.

(3) ***The policy shall be subject to the following requirements:***

(a) ***The policy shall insure members of the association or associations, employees thereof or employees of members, or one (1) or more of the preceding, or all of any class or classes thereof for the benefit of persons other than the employee's employer;***

(b) ***The premium for the policy shall be paid from funds contributed by the association or associations, or by employer members, or by both, or from funds contributed by the covered persons, or from both the covered persons and the association, associations, or employer members;***

(c) ***Except as provided in paragraph (d) of this subsection, a policy on which the premium is not to be derived from funds contributed by the covered persons specifically for the insurance shall insure all persons, except those who reject the coverage in writing; and***

(d) ***An insurer may exclude or limit the coverage on any person for whom evidence of individual insurability is not satisfactory to the insurer.***

➔Section 7. KRS 304.16-085 is amended to read as follows:

(1) Insurance under any group life insurance policy issued pursuant to KRS 304.16-030 (employee groups), KRS 304.16-050 (labor union groups), KRS 304.16-060 (trustee groups), KRS 304.16-070 (public employee groups) and KRS 304.16-080 (association groups) of this subtitle may be extended to insure the dependents, or any class or classes thereof, of each insured employee or member who so elects in amounts in accordance with a plan which precludes individual selection~~{ and shall not be in excess of fifty percent (50%) of the insurance on the life of the employee or members}~~. A "dependent" is the husband or wife of the insured employee or member and an insured employee's or member's child under eighteen (18) years of age or his child eighteen (18) years or older who is attending an educational institution and relying upon the insured employee or member for financial support.

(2) Premiums for the insurance on the dependents may be paid by the group policyholder, or by the employee or member or by the group policyholder and the employee or member jointly.

(3) A husband or wife and dependents pursuant to this section shall have the same conversion right as to the insurance on his or her life as is vested in the employee or member.

(4) Notwithstanding the provisions of KRS 304.16-180 (certificate; filing approval) only one (1) certificate need be issued for each family unit if a statement concerning any dependent's coverage is included in the certificate.

➔Section 8. KRS 304.16-090 is amended to read as follows:

The lives of a group of individuals may be insured under a policy issued to a credit union, ***or to a trustee or trustees or agent designated by two (2) or more credit unions***, which shall be deemed the policyholder, to insure eligible members of the credit union ***or credit unions*** for the benefit of persons other than the credit union ***or credit unions, trustee or trustees, or agent***, or its officials, subject to the following requirements:

(1) The members eligible for insurance under the policy shall be all of the members of the credit union, or all except any ~~for{as to}~~ whom evidence of individual insurability is not satisfactory to the insurer, or all of any class or classes thereof~~{ determined by conditions pertaining to their age or membership in the credit union or both}~~.

(2) The premium for the policy shall be paid by the policyholder~~{, either wholly}~~ from the credit union's funds~~{, or partly from such funds and partly from funds contributed by the insured members specifically for their insurance. No policy may be issued for which the entire premium is to be derived from funds contributed by~~

~~the insured members specifically for their insurance. A policy on which part of the premium is to be derived from funds contributed by the insured members specifically for their insurance may be placed in force only if at least seventy five percent (75%) of the then eligible members, excluding any as to whom evidence of individual insurability is not satisfactory to the insurer, elect to make the required contributions}. A policy shall~~ ~~[on which no part of the premium is to be derived from funds contributed by the insured members specifically for their insurance must]~~ insure all eligible members, or all except any *for* ~~[as to]~~ whom evidence of individual insurability is not satisfactory to the insurer.

~~(3) [The policy must cover at least twenty five (25) members at date of issue.~~

~~(4)]~~ The amounts of insurance under the policy must be based upon some plan precluding individual selection either by the insured members or by the policyholder.

~~{(5) The amount of insurance under the policy shall not exceed the amount of the total shares and deposits of the member in or with the credit union.}~~

➔Section 9. KRS 304.16-170 is amended to read as follows:

- (1) There shall be a provision that any sum becoming due by reason of the death of the individual insured shall be payable to the beneficiary designated by such individual, subject to the provisions of the policy in the event there is no designated beneficiary, as to all or any part of such sum, living at the death of the individual insured and subject to any right reserved by the insurer in the policy and set forth in the certificate to pay, at its option a part of such sum not exceeding *two thousand dollars (\$2,000)* ~~[\$500]~~ to any person appearing to the insurer to be equitably entitled thereto by reason of having incurred funeral or other expenses incident to the last illness or death of the individual insured.
- (2) In the case of a group life insurance policy issued to an employer or the employer's trustee of a pension or other benefit plans established by an employer for the benefit of the employer's employees, there may be a provision in the policy that any sum becoming due by reason of the death of any insured shall be payable to the trustees of the pension or other benefit plan or fund.

➔Section 10. KRS 304.16-190 is amended to read as follows:

There shall be a provision that if the insurance, or any portion of it, on an individual covered under the policy, ceases because of termination of employment or of membership in the class or classes eligible for coverage under the policy, such individual shall be entitled to have issued to him by the insurer, without evidence of insurability, an individual policy of life insurance without disability or other supplementary benefits, provided application for the individual policy shall be made, and the first premium paid to the insurer, within thirty-one (31) days after such termination, and provided further that:

- (1) The individual policy shall, at the option of such individual, be on any one (1) of the forms, except term insurance, then customarily issued by the insurer at the age and for the amount applied for;
- (2) The individual policy shall be in an amount not in excess of the amount of life insurance which ceases because of such termination less, in the case of a person whose membership in the class or classes eligible for coverage terminates but who continues in employment in another class, the amount of any life insurance for which such person is or becomes eligible within thirty-one (31) days after such termination under any other group policy; provided that any amount of insurance which has matured on or before the date of such termination as an endowment payable to the individual insured, whether in one (1) sum or in installments or in the form of an annuity, shall not, for the purpose of this section, be included in the amount which is considered to cease because of such termination; and
- (3) The premium on the individual policy shall be at the insurer's then customary rate applicable to the form and amount of the individual policy, to the class of risk to which such individual then belongs, and to his age attained on the effective date of the individual policy.
- (4) *Subject to the same conditions set forth in subsection (3) of this section, the conversion privilege shall be available:*
 - (a) *To a surviving dependent, if any, at the death of the employee or member, with respect to the coverage under the group policy that terminates by reason of the death; and*

- (b) *To the dependent of the employee or member upon termination of coverage of the dependent, while the employee or member remains insured under the group policy, by reason of the dependent ceasing to be a qualified family member under the group policy.*

➔Section 11. KRS 304.16-200 is amended to read as follows:

There shall be a provision that if the group policy terminates or is amended so as to terminate the insurance of any class of insured individuals, every individual insured thereunder at the date of termination, whose insurance terminates, *including the insured dependent of a covered person*, and who has been so insured for at least five (5) years prior to the termination date shall be entitled to have issued to him by the insurer an individual policy of life insurance, subject to the same conditions and limitations as are provided in KRS 304.16-190, except that the group policy may provide that the amount of the individual policy shall not exceed the smaller of:

- (1) The amount of the individual's life insurance protection ceasing because of the termination or amendment of the group policy, less the amount of any life insurance for which he is or becomes eligible under any group policy issued or reinstated by the same or another insurer within thirty-one (31) days of termination; and
- (2) \$10,000.

Signed by Governor April 24, 2008.