

CHAPTER 92**(HB 392)**

AN ACT relating to limited lines insurance.

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

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

As used in this subtitle:

- (1) "Agent" means a person who sells, solicits, or negotiates insurance or annuity contracts;
- (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) "Apprentice adjuster" means an individual who meets the qualification requirements to hold a license as an independent, staff, or public adjuster, except for the experience, education, and training requirements;
- (5) "Business entity" means a corporation, association, partnership, limited liability company, limited liability partnership, employer group, professional employer organization, or other legal entity;
- (6) "Catastrophe" means an event that results in a declaration of emergency by the Governor pursuant to KRS 39A.100 and:
 - (a) A large number of deaths or injuries;
 - (b) Extensive damage or destruction of facilities that provide and sustain human needs;
 - (c) An overwhelming demand on state and local response resources and mechanisms;
 - (d) A severe long-term effect on general economic activity; or
 - (e) A severe effect on state, local, and private sector capabilities to begin and sustain response activities;
- (7) "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;
- (8) "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;
- (9) "Independent adjuster" means a person who:
 - (a) Is an independent contractor, an employee of an independent contractor, or for tax purposes is treated as an independent contractor under Subtitle C of the Internal Revenue Code, 26 U.S.C. secs. 3101 et seq.;
 - (b) Is compensated by an insurer or self-insurer; and
 - (c) Investigates, negotiates, or settles property, casualty, or workers' compensation claims for insurers or self-insurers;
- (10) "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 rental vehicle agent managing employee, and consultant;
- (11) "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;

- (12) "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;
- (13) "Limited lines insurance" means the lines of insurance defined in subsections (7), (11), **(21), (26), and (28)**~~(17), (22), and (24)~~ of this section and any other line of insurance that the commissioner identifies in accordance with KRS 304.9-230(1)(f) or recognizes for the purpose of complying with KRS 304.9-140(5);
- (14) "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, provided that the person engaged in that act either sells insurance or obtains insurance from insurers for purchasers. "Negotiate" does not include negotiating a claims settlement;
- (15) **"Portable electronics" means electronic devices that are portable and the accessories and services related to the use of the device;**
- (16) (a) **"Portable electronics insurance" means insurance providing coverage for the repair or replacement of portable electronics for any one (1) or more of the following:**
1. **Loss;**
 2. **Theft;**
 3. **Inoperability due to mechanical failure;**
 4. **Malfunction;**
 5. **Damage; or**
 6. **Other similar causes of loss.**
- (b) **"Portable electronics insurance" does not mean:**
1. **A service contract governed by KRS 304.5-070;**
 2. **A policy of insurance covering a seller's or manufacturer's obligations under a warranty; or**
 3. **A homeowner's, renter's, private passenger automobile, commercial multi-peril, or similar policy;**
- (17) **"Portable electronics insurance supervising entity" means a business entity that is a licensed insurer or insurance agent that is appointed by an insurer to supervise the administration of a portable electronics insurance program;**
- (18) **"Portable electronics retailer" means a licensed business entity that offers and sells portable electronic devices and offers and disseminates portable electronics insurance on behalf and under the direction of a portable electronics insurance supervising entity;**
- (19) "Public adjuster" means any person who, for compensation or anything of value:
- (a) Acts on behalf of an insured or aids an insured, solely in relation to first-party claims arising under insurance contracts that insure the real or personal property of the insured, in negotiating for, or effecting the settlement of, a claim for loss or damage covered by an insurance contract;
 - (b) Advertises for employment as a public adjuster of insurance claims, solicits business or represents himself, herself, or itself to the public as a public adjuster of first-party insurance claims for losses or damages arising out of policies of insurance that insure real or personal property; or
 - (c) Directly or indirectly solicits business, investigates or adjusts losses, advises an insured about first-party claims for losses or damages arising out of policies of insurance that insure real or personal property for another person, or engages in the business of adjusting losses or damages covered by an insurance policy for the insured;
- ~~(20)~~~~(16)~~ "Rental vehicle agent" means a business entity with a rental vehicle agent managing employee that is licensed to sell, solicit, or negotiate insurance offered, sold, or solicited in connection with, and incidental to, the rental of rental cars, whether at the rental office or by preselection of coverage in master, corporate, or group agreements that:
- (a) Are nontransferable;

- (b) Apply only to the rental car that is the subject of the rental agreement; and
 - (c) Are limited to the following kinds of insurance:
 1. Personal accident insurance for renters and other rental car occupants for accidental death or dismemberment and for medical expenses resulting from an accident that occurs with the rental car during the rental period;
 2. Liability insurance that provides protection to the renters and other authorized drivers of a rental car for liability arising from the operation or use of the rental car during the rental period;
 3. Personal effects insurance that provides coverage to renters and other vehicle occupants for loss of or damage to personal effects in the rental vehicle during the rental period;
 4. Roadside assistance insurance;
 5. Emergency sickness protection insurance; or
 6. Any other coverage designated by the commissioner;
- (21)~~(17)~~ "Rental vehicle insurance" means insurance underwritten by an insurer authorized to transact business in Kentucky that is sold in connection with, and incidental to, a rental vehicle agreement;
- (22)~~(18)~~ "Rental vehicle agent managing employee" means an individual who:
- (a) Is a salaried full-time employee of a licensed rental vehicle agent business entity that holds a license under KRS 304.9-505; and
 - (b) Is responsible for the supervision of the other employees engaged in the placement of insurance;
- (23)~~(19)~~ "Sell" means to exchange a contract of insurance by any means, for money or other valuable consideration, on behalf of an insurer;
- (24)~~(20)~~ "Solicit" means attempting to sell insurance or asking or urging a person to apply for a particular kind of insurance from a particular insurer;
- (25)~~(21)~~ "Staff adjuster" means an individual who is an employee of an insurer who investigates, negotiates, or settles property, casualty, or workers' compensation claims on behalf of his or her employer;
- (26)~~(22)~~ "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;
- (27)~~(23)~~ "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;
- (28)~~(24)~~ (a) "Travel insurance" means insurance coverage for *personal risks incident to planned travel, including but not limited to:*
1. *Interruption or cancellation of a trip or event;*
 2. *Loss of baggage or personal effects;*
 3. *Damages to accommodations or rental vehicles; and*
 4. *Sickness, accident, disability, or death occurring during travel.*
- (b) *"Travel insurance" does not include insurance coverage that provides comprehensive medical protection for travelers with trips lasting six (6) months or longer, including those working overseas as an ex-patriot or military personnel being deployed*~~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~~;
- (29) ~~(25)~~ "Uniform business entity application" means the current version of the uniform business entity application for resident and nonresident business entities; and
- (30)~~(26)~~ "Uniform individual application" means the current version of the uniform individual application for resident and nonresident individuals.

➔SECTION 2. A NEW SECTION OF SUBTITLE 9 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

- (1) *For the purposes of this section and Section 3 of this Act:*
- (a) *"Limited lines travel insurance producer" means a:*
1. *Licensed managing general agent as defined by KRS 304.9-085(1);*
 2. *Licensed agent as defined by KRS 304.9-020(1); or*
 3. *Limited lines travel insurance agent licensed pursuant to KRS 304.9-230(1), designated by the insurer as the travel insurance supervising entity.*
- (b) *"Offering and disseminating" means providing general information relating to the travel insurance offered, including a description of the coverage and price, receiving applications and premiums, and performing other activities permitted by the department which do not require a license.*
- (c) *"Travel retailer" means an entity that makes, arranges, or offers travel services and may offer and disseminate travel insurance as a service to its customers on behalf of and under the direction of a limited lines travel insurance producer.*
- (2) *A travel retailer may offer and disseminate travel insurance on behalf of and under the control of a limited lines travel insurance producer only if the limited lines travel insurance producer complies with the following:*
- (a) *The limited lines travel insurance producer is clearly identified, including the entity's name and contact information, on marketing materials and fulfillment packages distributed by travel retailers to customers;*
 - (b) *At the time of licensure the limited lines travel insurance producer shall establish and maintain a register on a form prescribed by the commissioner of each travel retailer that offers travel insurance on the limited lines travel insurance producer's behalf. The register shall be maintained and updated annually by the limited lines travel insurance producer and shall include the name, address, contact information and Federal Employment Identification Number of the travel retailer and the name, address, and contact information of any officer or person employed by the travel retailer who directs or controls the travel retailer's operations. The limited lines travel insurance producer shall submit the register upon request from the commissioner. The limited lines travel insurance producer shall also certify that it complies with 18 U.S.C. sec. 1033;*
 - (c) *The limited lines travel insurance producer has designated one (1) of its employees as a licensed individual responsible for the business entity's compliance with the travel insurance laws, rules and regulations of the state;*
 - (d) *The limited lines travel insurance producer requires each employee of the travel retailer whose duties include offering and disseminating travel insurance to receive a program of instruction or training, which may be subject to review by the commissioner. The training material shall, at a minimum, contain instructions on the types of insurance offered, ethical sales practices, and required disclosures to prospective customers.*
- (3) *Notwithstanding KRS 304.9-421 and KRS 304.9-425, a travel retailer, including its employees, whose activities relating to insurance are limited to offering and disseminating travel insurance on behalf of and under the direction of a limited lines travel insurance producer meeting the conditions as set forth in this section may offer and disseminate travel insurance.*
- (4) *As the insurer's designee, the limited lines travel insurance producer is responsible for the acts of the travel retailer.*

➔Section 3. 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 duly 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, herself, or itself out as an adjuster unless then licensed as an adjuster.
- (3) No individual or business entity shall in this state be, act as, or hold himself, herself, or itself out as a consultant unless then licensed as a consultant. No consultant shall act as a consultant with respect to any kind of insurance unless duly licensed as a consultant for that line of authority.

- (4) Except as provided in KRS 304.9-410 and KRS 304.9-270(4), 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.
- (5) A ~~No~~ rental vehicle agent ~~, or rental vehicle managing employee, specialty credit producer, or specialty credit managing employee~~ shall **not** place, and ~~an~~ ~~no~~ insurer shall **not** accept, any insurance with any insurer as to which the licensee does not then hold a license and appointment under this subtitle.
- (6) ***A travel retailer, its employee, or its representative shall not offer and disseminate travel insurance and an insurer shall not accept any travel insurance for which the limited lines travel insurance producer does not then hold a license and appointment pursuant to Section 2 of this Act.***
- (7) The commissioner shall prescribe and furnish all forms required under this subtitle as to licenses and appointments.

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

- (1) ***A portable electronics insurance retailer license issued under this section shall permit portable electronics retailers to offer and disseminate portable electronic insurance by the licensee, its employees and authorized representatives at each location at which the portable electronics retailer does business in the state, provided the dissemination is conducted in accordance with the provisions of this section.***
- (2) ***A portable electronics insurance supervising entity shall maintain a register of each separate business location where a portable electronics retailer and its employees or authorized representatives offer and disseminate portable electronics insurance and shall make the register open to inspection and examination by the commissioner upon request. The register shall include the name of the retailer, the address for each location, and any additional information the commissioner may prescribe by administrative regulation.***
- (3) ***A portable electronics insurance supervising entity shall oversee the administration of a portable electronics retailer's insurance program.***
- (4) ***The commissioner may issue to a business entity qualified under this section a license to act as a portable electronics insurance retailer.***
- (5) ***For a portable electronics insurance retailer license to be issued under this section, the business entity shall submit to the commissioner the following:***
- (a) ***A written application, on a form prescribed by the commissioner, which shall include:***
1. ***Information solely related to an employee or officer of the portable electronics retailer designated by the applicant as a person responsible for the portable electronics retailer's compliance with this chapter; or***
 2. ***If the portable electronics retailer derives more than fifty percent (50%) of its revenue from the sale of portable electronics insurance, information shall be provided for all officers, directors, and shareholders of record that have beneficial ownership of ten percent (10%) or more of any class of securities, who are subject to 15 U.S.C. sec. 78p; and***
- (b) ***The application fee as provided in KRS 304.4-010 and administrative regulations promulgated thereunder.***
- (6) ***The commissioner may require any documents reasonably necessary to verify the information contained in the application submitted in accordance with subsection (5) of this section.***
- (7) ***If a portable electronics retailer violates any provision of Sections 4 to 6 of this Act or any applicable provision of this chapter, the commissioner may impose penalties in accordance with KRS 304.9-440. Any civil penalty imposed by the commissioner, except for civil penalties associated with violations constituting fraud or a material misrepresentation, may not exceed five thousand dollars (\$5,000) in the aggregate for multiple violations arising out of the same or similar conduct.***

➔SECTION 5. A NEW SECTION OF SUBTITLE 9 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

- (1) ***A portable electronics retailer license issued to a business entity under Section 4 of this Act shall authorize an employee or authorized representative of the business entity licensee to offer and disseminate portable***

electronics insurance without being licensed, registered, or otherwise individually identified, if all of the following are true:

- (a) *The employee, representative, or managing employee operates with permission from the business entity licensee;*
 - (b) *The business entity licensee assumes responsibility for the insurance activities of its unlicensed employees, authorized representatives, or managing employees;*
 - (c) *The employee or authorized representative operates under the supervision of a portable electronics insurance supervising entity who shall be available for consultation for and adequate supervision of the sale, solicitation, or negotiation of portable electronics insurance. However, a portable electronics insurance supervising entity need not be present where portable electronics insurance is offered and disseminated; and*
 - (d) *The employee or authorized representative is not primarily compensated based on the amount of insurance sold by the employee or representative. However, an employee or authorized representative may receive compensation for activities under the license which is incidental to the employee or representatives overall compensation.*
- (2) *A licensee shall not advertise, represent, or otherwise hold out the licensee or any employee or authorized representative of the licensee as a licensed insurance agent under another section of this subtitle, unless the entity or individual actually holds the applicable license.*

➔SECTION 6. A NEW SECTION OF SUBTITLE 9 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

- (1) *At every location where portable electronics insurance is offered to customers, brochures or other written materials shall be made available to a prospective customer which:*
- (a) *Disclose that portable electronics insurance may provide a duplication of coverage already provided by a customer's homeowners' insurance policy, renter's insurance policy, or other source of coverage;*
 - (b) *State that the enrollment by the customer in a portable electronics insurance policy is not required in order to purchase or lease portable electronics or services;*
 - (c) *Summarize the material terms of the insurance coverage including:*
 - 1. *The identity of the insurer;*
 - 2. *The identity of the portable electronics insurance supervising entity;*
 - 3. *The amount of any applicable deductible and how it is to be paid;*
 - 4. *Benefits of the coverage; and*
 - 5. *Key terms and conditions of coverage including but not limited to whether portable electronics may be repaired with nonoriginal manufacturer parts or equipment or replaced with a similar make and model that is reconditioned;*
 - (d) *Summarize the process for filing a claim, including a description of how to return portable electronics and the maximum fee applicable if the customer fails to comply with any equipment return requirements; and*
 - (e) *State that an enrolled customer may cancel enrollment for coverage under a portable electronics insurance policy at any time and the person paying the premium shall receive a refund of any applicable unearned premium.*
- (2) *Portable electronics insurance may be offered on a month-to-month basis or other period basis as a group or master commercial inland marine policy issued to a portable electronics retailer for its enrolled customers.*
- (3) *Eligibility and underwriting standards for customers electing to enroll in coverage shall be established for each portable electronics insurance policy.*
- (4) *The charges for portable electronics insurance coverage may be billed and collected by the portable electronics retailer. Any charge to a customer for coverage that is not included in the cost associated with the purchase or lease of portable electronics or related services shall be separately itemized on the*

customer's bill. If the portable electronics insurance coverage is included with the purchase or lease of portable electronics or related services the portable electronics retailer shall clearly and conspicuously disclose to the customer that the portable electronics insurance coverage is included with the portable electronics or related services. Portable electronics retailers' billing and collecting charges shall not be required to maintain the portable electronics insurance funds in a segregated account, provided that the retailer is authorized by the insurer to hold the funds from the sale of portable electronics insurance in an alternative manner and remit such amounts to the portable electronics insurance supervising entity within sixty (60) days of receipt. All funds received by a portable electronics retailer from a customer for the sale of portable electronics insurance shall be held in a fiduciary capacity by the portable electronics retailer for the benefit of the insurer. Portable electronics retailers may receive compensation for billing and collection services.

(5) *The terms for the termination or modification of a policy of portable electronics insurance shall be as set forth in the policy.*

(6) (a) *Whenever notice or correspondence concerning a policy of portable electronics insurance is required pursuant to the policy or is otherwise required by law, it shall be:*

1. *In writing; and*

2. *Sent within the notice period, if any, specified within the policy, statute, or regulation requiring the notice or correspondence.*

(b) *Notwithstanding any other provision of law, notices and correspondence may be sent either by mail or by electronic means as required by this section.*

(c) *If the notice or correspondence is mailed, it shall be sent to:*

1. *The portable electronics retailer at the retailer's mailing address specified for that purpose; and*

2. *Each affected enrolled customer at the last known mailing address of the customer on file with the insurer.*

The insurer or portable electronics retailer shall maintain proof of mailing in a form authorized or accepted by the United States Postal Service or other commercial mail delivery service.

(d) *If the notice or correspondence is sent by electronic means, it shall be sent to:*

1. *The portable electronics retailer at the retailer's electronic mail address specified for that purpose; and*

2. *Each affected enrolled customer at the last known electronic mail address provided by the enrolled customer to the insurer or portable electronic retailer. For purposes of this subparagraph, an enrolled customer who provides an electronic mail address to the insurer or portable electronic retailer shall be deemed to consent to receive notices and correspondence if a disclosure is provided to the customer stating that an enrolled customer's provision of an electronic mail address shall be deemed consent to receive notices and correspondence by electronic means.*

The insurer or portable electronics retailer shall maintain proof that a notice or correspondence was sent by electronic means.

(e) *Notice or correspondence required by this section or otherwise required by law may be sent on behalf of an insurer or portable electronics retailer by the supervising entity appointed by the insurer.*

Signed by Governor April 11, 2012.