

**CHAPTER 166****( HB 275 )**

AN ACT relating to insurance.

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

➔Section 1. KRS 304.9-105 is amended to read as follows:

(1) An individual applying for an agent license shall make application to the commissioner on the uniform individual application or other application prescribed by the commissioner. Before approving the application, the commissioner shall find that the applicant:

- (a) Is at least eighteen (18) years of age;
- (b) Has fulfilled the residence requirements as set forth in KRS 304.9-120 or is a nonresident who is not eligible to be issued a license in accordance with KRS 304.9-140;
- (c) Has not committed any act that is a ground for denial, suspension, or revocation set forth in KRS 304.9-440;
- (d) Is trustworthy, reliable, and of good reputation, evidence of which shall be determined through an investigation by the commissioner;
- (e) Is competent to exercise the license and has:
  - 1. Except for variable life and variable annuities line of authority and limited lines of authority identified in KRS 304.9-230, completed a prelicensing course of study consisting of forty (40) hours for life and health, forty (40) hours for property and casualty, or twenty (20) hours for each line of authority, as applicable, for which the individual has applied. The commissioner shall promulgate administrative regulations to carry out the purpose of this section;
  - 2. Except for variable life and variable annuities line of authority and limited lines of authority identified in accordance with KRS 304.9-230, successfully passed the examinations required by the commissioner for the lines of authority for which the individual has applied; and
  - 3. Paid the fees set forth in KRS 304.4-010; and
- (f) Is financially responsible to exercise the license and has maintained in effect while so licensed:
  - 1. The certificate of an insurer~~[authorized to write legal liability insurance in this state]~~, that the insurer has and will keep in effect on behalf of the person a policy of insurance covering the legal liability of the licensed person as the result of erroneous acts or failure to act in his or her capacity as an insurance agent, and enuring to the benefit of any aggrieved party as the result of any single occurrence in the sum of not less than twenty thousand dollars (\$20,000) and one hundred thousand dollars (\$100,000) in the aggregate for all occurrences within one (1) year;
  - 2. A cash surety bond executed by an insurer~~[authorized to write business in this Commonwealth]~~, in the sum of twenty thousand dollars (\$20,000), which shall be subject to lawful levy of execution by any party to whom the licensee has been found to be legally liable as the result of erroneous acts or failure to act in his or her capacity as an agent; or
  - 3. An agreement by an~~[authorized]~~ insurer or group of affiliated insurers for which he or she is or is to become an exclusive agent whereby the insurer or group of affiliated insurers agrees to assume responsibility, to the benefit of any aggrieved party, for legal liability of the licensed person as the result of erroneous acts or failure to act in his or her capacity as an insurance agent on behalf of the insurer or group of affiliated insurers in the sum of twenty thousand dollars (\$20,000) for any single occurrence and that the agreement shall not be terminated until the license is surrendered to the commissioner.

(2) The commissioner may require additional information or submissions from applicants and may obtain any documents or information reasonably necessary to verify the information contained in an application.

➔Section 2. KRS 304.9-120 is amended to read as follows:

- (1) Each applicant for license as a resident licensee shall be qualified to designate and shall designate Kentucky as the applicant's home state at the date of application for the license and shall maintain that eligibility throughout the duration of the license.
- (2) ***Except as provided in subsection (3) of this section***, in determining the good faith of an applicant's claim that Kentucky is the applicant's principal place of residence, the commissioner may give due consideration to the following:
  - (a) The amount of time actually spent by the applicant within this state during the claimed residence period;
  - (b) The circumstances of the applicant's residence, that is, whether in a single or multiple family-type dwelling, or leased apartment, or permanent residential type; or in hotel, resort, motel, mobile home, or other temporary or transient type of dwelling or accommodation;
  - (c) The circumstances of the applicant, his or her past history and activities, and the probability that he or she will continue as a resident of this state indefinitely into the future if the license were to be issued; and
  - (d) All other pertinent factors.
- (3) (a) ***An applicant for a license under KRS 304.9-230(1)(b) shall be qualified to designate Kentucky as the applicant's home state for the purpose of obtaining that license if:***
  1. ***The applicant has a home state that does not issue a license to sell, solicit, and negotiate travel insurance; and***
  2. ***The applicant has otherwise met the requirements for the license in accordance with this subtitle.***
- (b) ***For purposes of this subsection:***
  1. ***The commissioner shall offer the applicant an opportunity to complete any prelicensing courses of instruction and examination required under KRS 304.9-230(2) online; and***
  2. ***The applicant shall not hold resident licenses for two (2) or more states.***

➔Section 3. KRS 304.35-040 is amended to read as follows:

- (1) The Reinsurance Association shall be governed by a committee~~[consisting]~~ of seven (7) persons to be appointed by the commissioner of insurance, ***which shall consist of the following:***~~[The commissioner shall appoint]~~
  - (a) ***One (1) person***~~[two (2) persons]~~ representing ***an insurer***~~[insurers]~~ chartered under the laws of the Commonwealth of Kentucky;~~;~~
  - (b) One (1) person representing an insurer that is neither chartered under the laws of the Commonwealth of Kentucky nor affiliated with one (1) of the national insurance trade associations;~~;~~
  - (c) ***Three (3) persons from insurance trade organizations***~~[One (1) person]~~ representing ***insurers of various interests;***~~[an insurer from each of the following three (3) associations: American Insurance Association, National Association of Mutual Insurance Companies, the Property Casualty Insurers Association of America, and]~~
  - (d) One (1) licensed insurance agent; ***and***
  - (e) ***One (1) person that meets the requirements of paragraph (a), (b), (c), or (d) of this subsection.***
- (2) The "FAIR" plan shall maintain a formulated plan and articles consistent with this subtitle. The governing committee of the association may, on its own initiative or shall at the request of the commissioner, amend the plan and articles, subject to approval by the commissioner.
- (3) The governing committee of the association shall, on or before April 1 of each year, file with the commissioner, on such forms as the commissioner requires, an accounting of the plan's operations during the preceding calendar year together with its financial condition, and its underwriting experience as to each separate account maintained therein, as of the end of such year. The commissioner may require interim accountings on a quarterly basis or examine the affairs of the association when, in his or her opinion, such action is necessary to determine the continued solvency of the Reinsurance Association.

- (4) If at any time the commissioner determines that the Reinsurance Association is or may become unable to meet its financial obligations during the current year, the commissioner shall order the governing committee to levy appropriate assessments within the limitations of KRS 304.35-030(1) against all members.

➔Section 4. KRS 417.050 is amended to read as follows:

A written agreement to submit any existing controversy to arbitration or a provision in written contract to submit to arbitration any controversy thereafter arising between the parties is valid, enforceable and irrevocable, save upon such grounds as exist at law for the revocation of any contract. This chapter does not apply to:

- (1) Arbitration agreements between employers and employees or between their respective representatives;~~and~~
- (2) Insurance contracts. Nothing in this subsection shall be deemed to invalidate or render unenforceable contractual arbitration provisions between two (2) or more insurers, including reinsurers; *and*
- (3) *Arbitration agreements entered by any industrial insured captive insurer that is created under the Product Liability Risk Retention Act of 1981, 15 U.S.C. secs. 3901 et seq., as amended.*

➔Section 5. The following KRS sections are repealed:

304.9-460 Return of license to commissioner.

304.15-175 Notice by insurer of paid-up life insurance policy.

**Signed by Governor March 26, 2019.**