

CHAPTER 36

(HB 250)

AN ACT relating to the regulation of travel-related commerce.

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

➔SECTION 1. SUBTITLE 52 OF KRS CHAPTER 304 IS ESTABLISHED, AND A NEW SECTION THEREOF IS CREATED TO READ AS FOLLOWS:

As used in this subtitle:

- (1) *"Blanket travel insurance" means a policy of travel insurance issued to any eligible group providing coverage for specific classes of persons defined in the policy, with coverage provided to all members of the eligible group without a separate charge to individual members of the eligible group;*
- (2) *"Cancellation fee waiver" means a contractual agreement between a supplier of travel services and its customer to waive some or all of the non-refundable cancellation fee provisions of the supplier's underlying travel contract with or without regard to the reason for the cancellation or form of reimbursement;*
- (3) *"Certificate holder" means an individual person who elects and purchases group travel insurance;*
- (4) *"Eligible group" means two (2) or more persons who are engaged in a common enterprise, or have an economic, educational, or social affinity or relationship, including but not limited to the following:*
 - (a) *1. Any entity engaged in the business of providing travel or travel services, including but not limited to tour operators, lodging providers, vacation property owners, hotels and resorts, travel clubs, travel agencies, property managers, cultural exchange programs, and common carriers; or*
 - 2. The operator, owner, or lessor of a means of transportation of passengers, including but not limited to airlines, cruise lines, railroads, steamship companies, and public bus carriers;*

wherein, with regard to any particular travel or type of travel or travelers, all members or customers of the group have a common exposure to risk attendant to the travel;

 - (b) *Any college, school, or other institution of learning covering students, teachers, employees, or volunteers;*
 - (c) *Any employer covering any group of employees, volunteers, contractors, board of directors, dependents, or guests;*
 - (d) *Any sports team, camp, or sponsor of a sports team or camp, covering participants, members, campers, employees, officials, supervisors, or volunteers;*
 - (e) *Any religious, charitable, recreational, educational, or civic organization, or branch thereof, covering any group of members, participants, or volunteers;*
 - (f) *Any financial institution or financial institution vendor, or parent holding company, trustee, or agent of or designated by one (1) or more financial institutions or financial institution vendors, including account holders, credit card holders, debtors, guarantors, or purchasers;*
 - (g) *Any incorporated or unincorporated association, including a labor union, that:*
 - 1. Has a common interest, constitution, and bylaws; and*
 - 2. Is organized and maintained in good faith for purposes other than obtaining insurance to cover members or participants of the association;*
 - (h) *Any trust or the trustees of a fund established, created, or maintained for the benefit of and covering members, employees, or customers of one (1) or more associations meeting the requirements of paragraph (g) of this subsection, if the commissioner permits the use of a trust;*
 - (i) *Any entertainment production company covering any group of participants, volunteers, audience members, contestants, or workers;*
 - (j) *Any:*

1. *Volunteer fire department, ambulance, rescue, police, or court; or*
2. *First aid, civil defense, or other such volunteer group;*
- (k) *Any preschool, daycare institution for children or adults, or senior citizen club;*
- (l) *Any automobile, truck rental, or leasing company covering a group of individuals who may become renters, lessees, or passengers as defined by their travel status on the rented or leased vehicles, if the common carrier, operator, owner, or lessor of a means of transportation, or the automobile, truck rental, or leasing company, is the certificate holder under a policy to which this subtitle applies; or*
- (m) *Any other group for which the commissioner has determined that:*
 1. *The members are engaged in a common enterprise, or have an economic, educational, or social affinity or relationship; and*
 2. *Issuance of travel insurance to the group would not be contrary to the public interest;*
- (5) *"Fulfillment materials" means documentation sent to the purchaser of a travel protection plan confirming the purchase and providing the travel protection plan's travel insurance coverage and travel assistance services details;*
- (6) *"Group travel insurance" means travel insurance issued to any eligible group;*
- (7) *"Limited lines travel insurance producer" means a:*
 - (a) *Licensed managing general agent;*
 - (b) *Licensed administrator;*
 - (c) *Licensed insurance agent with the applicable line of authority;*
 - (d) *Licensed limited lines travel insurance agent; or*
 - (e) *Surplus lines broker;*
- (8) *"Negotiate" or "negotiated" has the same meaning as "negotiate" in Section 10 of this Act;*
- (9) *"Policyholder" means an individual person who elects and purchases individual travel insurance;*
- (10) *"Sold" or "selling" has the same meaning as "sell" in Section 10 of this Act;*
- (11) *"Solicit" or "solicited" has the same meaning as "solicit" in Section 10 of this Act;*
- (12) *"Travel assistance services":*
 - (a) *Means non-insurance services:*
 1. *For which the consumer is not indemnified based on a fortuitous event; and*
 2. *Where providing the services does not result in a transfer or shifting of risk that would constitute the business of insurance; and*
 - (b) *Shall include but are not limited to security advisories, destination information, vaccination and immunization information services, travel reservation services, entertainment, activity and event planning, translation assistance, emergency messaging, international legal and medical referrals, medical case monitoring, coordination of transportation arrangements, emergency cash transfer assistance, medical prescription replacement assistance, passport and travel document replacement assistance, lost luggage assistance, concierge services, and any other non-insurance services that are furnished in connection with planned travel;*
- (13) *"Travel insurance":*
 - (a) *Means insurance coverage for personal risks incident to planned travel, including:*
 1. *Interruption or cancellation of a trip or event;*
 2. *Loss of baggage or personal effects;*
 3. *Damages to accommodations or rental vehicles;*
 4. *Sickness, accident, disability, or death occurring during travel;*
 5. *Emergency evacuation;*

- 6. *Repatriation of remains; or*
- 7. *Any other contractual obligations to indemnify or pay a specified amount to the traveler upon determinable contingencies related to travel, as approved by the commissioner; and*
- (b) *Does not include insurance coverage that provides comprehensive medical protection for travelers with trips lasting longer than six (6) months, including but not limited to those working or residing overseas as an expatriate or any other product that requires a specific insurance producer license; and*

(14) *"Travel protection plan" means a plan that provides one (1) or more of the following:*

- (a) *Travel insurance;*
- (b) *Travel assistance services; or*
- (c) *A cancellation fee waiver.*

➔SECTION 2. A NEW SECTION OF SUBTITLE 52 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) *The provisions of this subtitle shall:*

- (a) *Apply to travel insurance that covers any resident of this state, and is sold, solicited, negotiated, or offered in this state, and policies and certificates are delivered or issued for delivery in this state; and*
- (b) *Not apply to cancellation fee waivers or travel assistance services, except as expressly provided.*
- (2) *All other provisions of this chapter shall apply to travel insurance, to the extent applicable and not in conflict with the express provisions of this subtitle.*
- (3) (a) *A cancellation fee waiver shall not be considered a contract of, or for, insurance.*
- (b) *Travel assistance services shall not be considered insurance or related to insurance.*

➔SECTION 3. A NEW SECTION OF SUBTITLE 52 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) *As used in this section:*

- (a) *"Offer and disseminate," "offers and disseminates," or "offering and disseminating" means to:*
 - 1. *Provide general information relating to the travel insurance offered, including a description of the coverage and price;*
 - 2. *Receive applications and premiums; and*
 - 3. *Perform other activities permitted by the commissioner that do not require a license; and*
- (b) *"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) *No person may act as a limited lines travel insurance producer unless the person is properly licensed as:*
 - 1. *A managing general agent in accordance with KRS 304.9-085;*
 - 2. *An administrator in accordance with KRS 304.9-052;*
 - 3. *An insurance agent in accordance with KRS 304.9-105 with the applicable line of authority;*
 - 4. *A limited lines travel insurance agent in accordance with KRS 304.9-230; or*
 - 5. *A surplus lines broker in accordance with KRS 304.10-120.*
- (b) *A limited lines travel insurance producer may sell, solicit, or negotiate travel insurance through a licensed or authorized insurer.*
- (3) *A travel retailer may offer and disseminate travel insurance under the supervision of a business entity limited lines travel insurance producer only if the following conditions are met:*

- (a) *The limited lines travel insurance producer or travel retailer provides to purchasers of travel insurance:*
1. *A description of the material terms or the actual material terms of the insurance coverage;*
 2. *A description of the process for filing a claim;*
 3. *A description of the review or cancellation process for the travel insurance policy; and*
 4. *The identity and contact information of the insurer and the limited lines travel insurance producer;*
- (b) *The limited lines travel insurance producer establishes and maintains a register, on a form prescribed by the commissioner, of each travel retailer that offers and disseminates travel insurance on the limited lines travel insurance producer's behalf;*
- (c) *The register shall be maintained and updated 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;*
- (d) *The limited lines travel insurance producer submits the register to the commissioner upon request;*
- (e) *The limited lines travel insurance producer certifies that the registered travel retailer offering and disseminating travel insurance on its behalf complies with 18 U.S.C. sec. 1033;*
- (f) *The limited lines travel insurance producer designates one (1) of its employees, who shall be an individual limited lines travel insurance producer, as the person responsible for compliance with the travel insurance laws and regulations of the state that are applicable to the limited lines travel insurance producer and its registrants;*
- (g) *The individual designated under paragraph (f) of this subsection, the president, secretary, and treasurer of, and any other officer or person who directs or controls the limited lines travel insurance producer's insurance operations, complies with the fingerprinting requirements applicable to an insurance agent in the home state of the limited lines travel insurance producer;*
- (h) *The limited lines travel insurance producer has paid all applicable licensing fees as set forth in KRS 304.4-010; and*
- (i) *1. The limited lines travel insurance producer requires each employee and authorized representative of the travel retailer whose duties include offering and disseminating travel insurance to receive a program of instruction or training which is subject, at the discretion of the commissioner, to review and approval; and*
- 2. The training material shall, at a minimum, contain adequate instructions on the type of insurance offered, ethical sales practices, and required disclosures to prospective customers.*
- (4) *A travel retailer that offers and disseminates travel insurance shall make available to prospective purchasers of travel insurance brochures or other written materials that:*
- (a) *Have been approved by the insurer providing the travel insurance; and*
- (b) *Contain the following:*
1. *The identity and contact information of the insurer and the limited lines travel insurance producer;*
 2. *An explanation that the purchase of travel insurance is not required in order to purchase any other product or service from the travel retailer; and*
 3. *An explanation that a travel retailer that is not licensed as an insurance agent is permitted to provide only general information about the travel insurance offered by the travel retailer, including a description of the coverage and price, but is not qualified or authorized to answer technical questions about the terms and conditions of the travel insurance or to evaluate the adequacy of the customer's existing insurance coverage.*
- (5) *Unless licensed as an insurance agent, an employee or authorized representative of a travel retailer shall not:*

- (a) *Evaluate or interpret the technical terms, benefits, and conditions of the travel insurance coverage;*
 - (b) *Evaluate or provide advice concerning a prospective purchaser's existing insurance coverage; or*
 - (c) *Hold himself or herself out as a licensed or authorized insurer, licensed insurance agent, or insurance expert.*
- (6) *Notwithstanding any other provisions of law, a travel retailer, including its employees and authorized representatives, whose insurance-related activities 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 of this subtitle, shall be authorized to receive related compensation, upon registration by the limited lines travel insurance producer as described in subsection (3)(b) of this section.*
- (7) *A limited lines travel insurance producer shall be responsible for the acts of the travel retailer and shall use reasonable means to ensure compliance by the travel retailer with this chapter.*

➔SECTION 4. A NEW SECTION OF SUBTITLE 52 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

- (1) *A travel protection plan may be offered for one (1) price if:*
- (a) *The plan clearly discloses to the consumer, at or prior to the time of purchase, that:*
 - 1. *It includes travel insurance, travel assistance services, and cancellation fee waivers, as applicable; and*
 - 2. *The consumer has the opportunity to obtain additional information regarding the features and pricing of the travel insurance, travel assistance services, and cancellation fee waivers, as applicable; and*
 - (b) *The fulfillment materials:*
 - 1. *Describe any travel insurance, travel assistance services, and cancellation fee waivers in the travel protection plan; and*
 - 2. *Include:*
 - a. *Travel insurance disclosures required by this section, Section 3 of this Act, and Section 5 of this Act; and*
 - b. *Contact information for persons providing any travel assistance services or cancellation fee waivers.*
- (2) *The prohibition of negative options or opt-outs as provided in subsection (7) of Section 5 of this Act shall apply to the offer, solicitation, or negotiation of a travel protection plan.*

➔SECTION 5. A NEW SECTION OF SUBTITLE 52 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

- (1) *"Aggregator site" means a Web site that provides access to information for use in comparison shopping regarding insurance products from more than one (1) insurer, including product and insurer information.*
- (2) *All persons offering travel insurance to residents of this state shall be subject to the provisions of Subtitle 12 of this chapter to the extent applicable and not in conflict with the provisions of this subtitle.*
- (3) *No person shall engage in the following in this state, which shall constitute an unfair trade practice:*
- (a) *Offering or selling a travel insurance policy that could never result in payment of any claims for any insured under the policy; or*
 - (b) *Marketing blanket travel insurance as free.*
- (4) (a) *All documents provided to consumers prior to the purchase of travel insurance, including but not limited to sales materials, advertising materials, and marketing materials, shall be consistent with the travel insurance policy or certificate itself, including but not limited to forms, endorsements, policies, rate filings, and certificates of insurance.*

- (b) *For travel insurance policies or certificates containing pre-existing condition exclusions, information, and an opportunity to learn more, about the pre-existing condition exclusions shall be provided to the consumer prior to the time of purchase and in the fulfillment materials.*
- (c)
 1. *The fulfillment materials and the information described in subsection (3)(a) of Section 3 of this Act shall be provided to a policyholder or certificate holder as soon as practicable following the purchase of a travel protection plan.*
 2. *Unless an insured has either started a covered trip or filed a claim under the travel insurance coverage, the policyholder or certificate holder may cancel a policy or certificate for a full refund of the travel protection plan price from the date of purchase of a travel protection plan until at least:*
 - a. *Fifteen (15) days following the date of delivery of the travel protection plan's fulfillment materials by postal mail; or*
 - b. *Ten (10) days following the date of delivery of the travel protection plan's fulfillment materials by means other than postal mail.*
 3. *Delivery of the fulfillment materials may be made by:*
 - a. *Handing the fulfillment materials to the policyholder or certificate holder; or*
 - b. *Sending the fulfillment materials by postal mail or electronic means to the policyholder or certificate holder.*
- (5) *An insurer shall disclose in the policy documentation and fulfillment materials whether the travel insurance is primary or secondary to other applicable coverage.*
- (6) *The following shall not constitute an unfair trade practice or other violation of law:*
 - (a) *Providing an accurate summary or short description of coverage on an insurer's Web site, or through an aggregator site, that markets travel insurance directly to the consumer, so long as the consumer has access to the full provisions of the travel insurance policy through electronic means; and*
 - (b) *When a consumer's destination jurisdiction requires insurance coverage, requiring the consumer to choose between the following options as a condition of purchasing a trip or travel package:*
 1. *Purchasing the coverage required by the destination jurisdiction through the travel retailer, or limited lines travel insurance producer, supplying the trip or travel package; or*
 2. *Agreeing to obtain, and provide proof of, coverage that meets the destination jurisdiction's requirements prior to departure.*
- (7) *A person offering, soliciting, or negotiating travel insurance, on an individual or group basis, shall not do so through the use of a negative option or opt-out, which would require a consumer to take an affirmative action to deselect coverage, including unchecking a box on an electronic form, when the consumer purchases a trip.*

➔SECTION 6. A NEW SECTION OF SUBTITLE 52 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

- (1) *A person holding a managing general agent license or an administrator license in this state, or an insurance agent licensed in this state with property and casualty lines of authority for activities permitted under that license, may directly or indirectly underwrite, collect charges, collateral, or premiums from, or adjust or settle claims without an adjuster license on residents of this state, in connection with travel insurance.*
- (2) *An insurer is responsible for:*
 - (a) *The acts of a managing general agent, administrator, or licensed insurance agent administering travel insurance underwritten by the insurer; and*
 - (b) *Ensuring that the managing general agent, administrator, or licensed insurance agent maintains all books and records relevant to the insurer, which shall be made available by the managing general agent, administrator, or licensed insurance agent to the commissioner upon request.*

➔SECTION 7. A NEW SECTION OF SUBTITLE 52 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

- (1) *Notwithstanding any other provision of this chapter:*
 - (a) *Except as provided in paragraph (b) of this subsection, travel insurance shall be classified and filed, for purposes of rates and forms, as inland marine insurance; and*
 - (b) *Travel insurance that provides coverage for sickness, accident, disability, or death occurring during travel, either exclusively or in conjunction with related coverages of emergency evacuation or repatriation of remains, may be classified and filed by an insurer as either health insurance or inland marine insurance.*
- (2) *Travel insurance may be in the form of an individual, group, or blanket policy or certificate.*
- (3) *Eligibility and underwriting standards for travel insurance may be developed and provided based on travel protection plans designed for individual or identified marketing or distribution channels if those standards also meet:*
 - (a) *The state's statutory standards for inland marine insurance, if the travel insurance is classified as inland marine insurance; or*
 - (b) *The state's statutory standards for health insurance, if the travel insurance is classified as health insurance.*

➔SECTION 8. A NEW SECTION OF SUBTITLE 52 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

The commissioner may promulgate administrative regulations to implement the provisions of this subtitle.

➔SECTION 9. A NEW SECTION OF SUBTITLE 52 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

This subtitle may be cited as the Travel Insurance Act.

➔Section 10. 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), (22), (27), and (29) of this section and any other line of insurance that the commissioner identifies in accordance with KRS 304.9-230(1)(g) 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) "Pharmacy benefit manager" means an entity that, on behalf of a health benefit plan, state agency, insurer, managed care organization providing services under KRS Chapter 205, or other third-party payor:
- (a) Contracts directly or indirectly with pharmacies to provide prescription drugs to individuals;
 - (b) Administers a prescription drug benefit;
 - (c) Processes or pays pharmacy claims;
 - (d) Creates or updates prescription drug formularies;
 - (e) Makes or assists in making prior authorization determinations on prescription drugs;
 - (f) Administers rebates on prescription drugs; or
 - (g) Establishes a pharmacy network;
- (16) "Portable electronics" means electronic devices that are portable and the accessories and services related to the use of the device;
- (17) (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;
- (18) "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;
- (19) "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;
- (20) "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;
- (21) "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 vehicles, 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 vehicle 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 vehicle occupants for accidental death or dismemberment and for medical expenses resulting from an accident that occurs with the rental vehicle during the rental period;
 2. Liability insurance that provides protection to the renters and other authorized drivers of a rental vehicle for liability arising from the operation or use of the rental vehicle 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;
- (22) "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;
- (23) "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;

- (24) "Sell" means to exchange a contract of insurance by any means, for money or other valuable consideration, on behalf of an insurer;
- (25) "Solicit" means attempting to sell insurance or asking or urging a person to apply for a particular kind of insurance from a particular insurer;
- (26) "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;
- (27) "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;
- (28) "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;
- (29) ~~[(a)]~~ "Travel insurance" **has the same meaning as in Section 1 of this Act** ~~{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 expatriate or military personnel being deployed;~~
- (30) "Uniform business entity application" means the current version of the uniform business entity application for resident and nonresident business entities; and
- (31) "Uniform individual application" means the current version of the uniform individual application for resident and nonresident individuals.

➔Section 11. KRS 304.9-080 is amended to read as follows:

- (1) **Except as provided in Section 3 of this Act**, 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) Except as provided in KRS 304.9-430, 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 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 rental vehicle agent or rental vehicle managing employee shall not place, and an 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, **on behalf or under the direction of**, and an insurer shall not accept any travel insurance **from, a** ~~{for which the}~~ limited lines travel insurance producer **except in accordance with Section 3 of this Act** ~~{does not then hold a license and appointment pursuant to KRS 304.9-475}~~.
- (7) **No person shall act as a travel retailer that offers and disseminates travel insurance unless that person is registered in accordance with subsection (3) of Section 3 of this Act.**
- (8) The commissioner shall prescribe and furnish all forms required under this subtitle as to licenses and appointments.

➔Section 12. KRS 304.9-421 is amended to read as follows:

Except as otherwise provided in Section 3 of this Act, no agent, consultant, adjuster, or surplus lines broker shall directly or indirectly share his or her commission or other compensation received or to be received on account of a transaction under his or her license with any individual or business entity not also licensed as agent, consultant, adjuster, or surplus lines broker under this subtitle as to the kinds of insurance involved in the transaction. This provision shall not affect personal use of the commissions or compensation, override commission, payment of the regular salaries due employees of the agent, consultant, adjuster, or surplus lines broker, or distribution in the regular course of business of compensation and profits among members, employees, or stockholders of licensee business entities.

➔Section 13. KRS 304.9-430 is amended to read as follows:

- (1) Except as provided in this section *and Section 6 of this Act*, no person shall in this state act as or hold himself, herself, or itself out to be an independent, staff, or public adjuster unless then licensed by the department as an independent, staff, or public adjuster.
- (2) An individual applying for a resident independent, staff, or public adjuster license shall make application to the commissioner on the appropriate uniform individual application and in a format prescribed by the commissioner. The applicant shall declare under penalty of suspension, revocation, or refusal of the license that the statements made in the application are true, correct, and complete to the best of the individual's knowledge and belief. Before approving the application, the commissioner shall find that the individual to be licensed:
 - (a) Is at least eighteen (18) years of age;
 - (b) Is eligible to designate Kentucky as his or her home state;
 - (c) Is trustworthy, reliable, and of good reputation, evidence of which shall be determined through an investigation by the commissioner;
 - (d) Has not committed any act that is a ground for probation or suspension, revocation, or refusal of a license as set forth in KRS 304.9-440;
 - (e) Has successfully passed the examination for the adjuster license and the applicable line of authority for which the individual has applied;
 - (f) Has paid the fees established by the commissioner pursuant to KRS 304.4-010; and
 - (g) Is financially responsible to exercise the license.
- (3) (a) To demonstrate financial responsibility, a person applying for a public adjuster license shall obtain a bond or irrevocable letter of credit prior to issuance of a license and shall maintain the bond or letter of credit for the duration of the license with the following limits:
 1. A surety bond executed and issued by an insurer authorized to issue surety bonds in Kentucky, which bond shall:
 - a. Be in the minimum amount of twenty thousand dollars (\$20,000);
 - b. Be in favor of the state of Kentucky and shall specifically authorize recovery of any person in Kentucky who sustained damages as the result of erroneous acts, failure to act, conviction of fraud, or conviction for unfair trade practices in his or her capacity as a public adjuster; and
 - c. Not be terminated unless written notice is given to the licensee at least thirty (30) days prior to the termination; or
 2. An irrevocable letter of credit issued by a qualified financial institution, which letter of credit shall:
 - a. Be in the minimum amount of twenty thousand dollars (\$20,000);
 - b. Be subject to lawful levy of execution on behalf of any person to whom the public adjuster has been found to be legally liable as the result of erroneous acts, failure to act, conviction of fraud, or conviction for unfair practices in his or her capacity as a public adjuster; and

- c. Not be terminated unless written notice is given to the licensee at least thirty (30) days prior to the termination.
 - (b) The commissioner may ask for evidence of financial responsibility at any time he or she deems relevant.
 - (c) The public adjuster license shall automatically terminate if the evidence of financial responsibility terminates or becomes impaired and shall be promptly surrendered to the commissioner without demand.
- (4) A business entity applying for a resident independent or public adjuster license shall make application to the commissioner on the appropriate uniform business entity application and in a format prescribed by the commissioner. The applicant shall declare under penalty of suspension, revocation, or refusal of the license that the statements made in the application are true, correct, and complete to the best of the business entity's knowledge and belief. Before approving the application, the commissioner shall find that the business entity:
 - (a) Is eligible to designate Kentucky as its home state;
 - (b) Has designated a licensed independent or public adjuster responsible for the business entity's compliance with the insurance laws and regulations of Kentucky;
 - (c) Has not committed an act that is a ground for probation or suspension, revocation, or refusal of an independent or public adjuster's license as set forth in KRS 304.9-440; and
 - (d) Has paid the fees established by the commissioner pursuant to KRS 304.4-010.
- (5) The commissioner may require additional information or submissions from applicants and may obtain any documents or information reasonably necessary to verify the information contained in an application.
- (6) Unless denied licensure pursuant to KRS 304.9-440, a person or business entity who has met the requirements of subsections (2) to (5) of this section shall be issued an independent, staff, or public adjuster license.
- (7) An independent or staff adjuster may qualify for a license in one (1) or more of the following lines of authority:
 - (a) Property and casualty;
 - (b) Workers' compensation; or
 - (c) Crop.
- (8) Notwithstanding any other provision of this subtitle, an individual who is employed by an insurer to investigate suspected fraudulent insurance claims, but who does not adjust losses or determine claims payments, shall not be required to be licensed as a staff adjuster.
- (9) A public adjuster may qualify for a license in one (1) or more of the following lines of authority:
 - (a) Property and casualty; or
 - (b) Crop.
- (10) Notwithstanding any other provision of this subtitle, a license as an independent adjuster shall not be required of the following:
 - (a) An individual who is sent into Kentucky on behalf of an insurer for the sole purpose of investigating or making adjustment of a particular loss resulting from a catastrophe, or for the adjustment of a series of losses resulting from a catastrophe common to all losses;
 - (b) An attorney licensed to practice law in Kentucky, when acting in his or her professional capacity as an attorney;
 - (c) A person employed solely to obtain facts surrounding a claim or to furnish technical assistance to a licensed independent adjuster;
 - (d) An individual who is employed to investigate suspected fraudulent insurance claims, but who does not adjust losses or determine claims payments;
 - (e) A person who solely performs executive, administrative, managerial, or clerical duties, or any combination thereof, and who does not investigate, negotiate, or settle claims with policyholders, claimants, or their legal representatives;

- (f) A licensed health care provider or its employee who provides managed care services as long as the services do not include the determination of compensability;
- (g) A health maintenance organization or any of its employees or an employee of any organization providing managed care services as long as the services do not include the determination of compensability;
- (h) A person who settles only reinsurance or subrogation claims;
- (i) An officer, director, manager, or employee of an authorized insurer, surplus lines insurer, or risk retention group, or an attorney-in-fact of a reciprocal insurer;
- (j) A United States manager of the United States branch of an alien insurer;
- (k) A person who investigates, negotiates, or settles claims arising under a life, accident and health, or disability insurance policy or annuity contract;
- (l) An individual employee, under a self-insured arrangement, who adjusts claims on behalf of his or her employer;
- (m) A licensed agent, attorney-in-fact of a reciprocal insurer, or managing general agent of the insurer, to whom claim authority has been granted by the insurer; or
- (n) A person who:
 1. Is an employee of a licensed independent adjuster or an employee of an affiliate that is a licensed independent adjuster or is supervised by a licensed independent adjuster, if there are no more than twenty-five (25) persons under the supervision of one (1) licensed individual independent adjuster or licensed agent who is exempt from licensure pursuant to paragraph (m) of this subsection;
 2. Collects claim information from insureds or claimants;
 3. Enters data into an automated claims adjudication system; and
 4. Furnishes claim information to insureds or claimants from the results of the automated claims adjudication system.

For purposes of this paragraph, "automated claims adjudication system" means a preprogrammed computer system designed for the collection, data entry, calculation, and system-generated final resolution of consumer electronic products insurance claims that complies with claim settlement practices pursuant to Subtitle 12 of KRS Chapter 304.

- (11) Notwithstanding any other provision of this subtitle, a license as a public adjuster shall not be required of the following:
 - (a) An attorney licensed to practice law in Kentucky, when acting in his or her professional capacity as an attorney;
 - (b) A person who negotiates or settles claims arising under a life or health insurance policy or an annuity contract;
 - (c) A person employed only for the purpose of obtaining facts surrounding a loss or furnishing technical assistance to a licensed public adjuster, including photographers, estimators, private investigators, engineers, and handwriting experts;
 - (d) A licensed health care provider or its employee who prepares or files a health claim form on behalf of a patient; or
 - (e) An employee or agent of an insurer adjusting claims relating to food spoilage with respect to residential property insurance in which the amount of coverage for the applicable type of loss is contractually limited to one thousand dollars (\$1,000) or less.
- (12) Notwithstanding any other provision of this subtitle, a license as a staff adjuster shall not be required of an employee or agent of an insurer adjusting claims relating to food spoilage with respect to residential property insurance in which the amount of coverage for the applicable type of loss is contractually limited to one thousand dollars (\$1,000) or less.

- (13) For purposes of this section, "home state" means any state or territory of the United States or the District of Columbia in which an independent, staff, or public adjuster maintains his, her, or its principal place of residence or business and is licensed to act as a resident independent, staff, or public adjuster. If the state of the principal place of residence does not license an independent, staff, or public adjuster for the line of authority sought, the independent, staff, or public adjuster shall designate as his, her, or its home state, any state in which the independent or public adjuster is licensed and in good standing.
- (14) Temporary registration for emergency independent or staff adjusters shall be issued by the commissioner in the event of a catastrophe declared in Kentucky in the following manner:
- (a) An insurer shall notify the commissioner by submitting an application for temporary emergency registration of each individual not already licensed in the state where the catastrophe has been declared, who will act as an emergency independent adjuster on behalf of the insurer;
 - (b) A person who is otherwise qualified to adjust claims, but who is not already licensed in the state, may act as an emergency independent or staff adjuster and adjust claims if, within five (5) days of deployment to adjust claims arising from the catastrophe, the insurer notifies the commissioner by providing the following information, in a format prescribed by the commissioner:
 - 1. The name of the individual;
 - 2. The Social Security number of the individual;
 - 3. The name of the insurer that the independent or staff adjuster will represent;
 - 4. The catastrophe or loss control number;
 - 5. The catastrophe event name and date; and
 - 6. Any other information the commissioner deems necessary; and
 - (c) An emergency independent or staff adjuster's registration shall remain in force for a period not to exceed ninety (90) days, unless extended by the commissioner.
- (15) (a) Unless refused licensure in accordance with KRS 304.9-440, a nonresident person shall receive a nonresident independent, staff, or public adjuster license if:
- 1. The person is currently licensed in good standing as an independent, staff, or public adjuster in his, her, or its home state;
 - 2. The person has submitted the proper request for licensure, and has paid the fees required by KRS 304.4-010;
 - 3. The person has submitted, in a form or format prescribed by the commissioner, the uniform individual application; and
 - 4. The person's designated home state issues nonresident independent, staff, or public adjuster licenses to persons of Kentucky on the same basis.
- (b) The commissioner may verify the independent, staff, or public adjuster's licensing status through any appropriate database or may request certification of good standing.
- (c) As a condition to the continuation of a nonresident adjuster license, the licensee shall maintain a resident adjuster license in his, her, or its home state.
- (d) The nonresident adjuster license issued under this section shall terminate and be surrendered immediately to the commissioner if the resident adjuster license terminates for any reason, unless the termination is due to the adjuster being issued a new resident independent or public adjuster license in his, her, or its new home state. If the new resident state does not have reciprocity with Kentucky, the nonresident adjuster license shall terminate.

➔Section 14. KRS 304.9-440 is amended to read as follows:

- (1) The commissioner may place on probation, suspend, or may impose conditions upon the continuance of a license for not more than twenty-four (24) months, revoke, or refuse to issue or renew any license issued under this subtitle or any surplus lines broker, life settlement broker, or life settlement provider license, or may levy a civil penalty in accordance with KRS 304.99-020, or any combination of actions for any one (1) or more of the following causes:

- (a) Providing incorrect, misleading, incomplete, or materially untrue information in the license application;
 - (b) Violating any insurance laws, or violating any administrative regulations, subpoena, or order of the commissioner or of another state's insurance commissioner;
 - (c) Obtaining or attempting to obtain a license through misrepresentation or fraud;
 - (d) Improperly withholding, misappropriating, or converting any moneys or properties received in the course of doing insurance or the business of life settlements;
 - (e) Intentionally misrepresenting the terms of an actual or proposed insurance contract, life settlement contract, or application for insurance;
 - (f) Having been convicted of or having pled guilty or nolo contendere to any felony;
 - (g) Having admitted or been found to have committed any unfair insurance trade practice, insurance fraud, or fraudulent life settlement act;
 - (h) Using fraudulent, coercive, or dishonest practices; or demonstrating incompetence, untrustworthiness, or financial irresponsibility; or being a source of injury or loss to the public in the conduct of business in this state or elsewhere;
 - (i) Having an insurance license, life settlement license, or its equivalent, denied, suspended, or revoked in any other state, province, district, or territory;
 - (j) Surrendering or otherwise terminating any license issued by this state or by any other jurisdiction, under threat of disciplinary action, denial, or refusal of the issuance of or renewal of any other license issued by this state or by any other jurisdiction; or revocation or suspension of any other license held by the licensee issued by this state or by any other jurisdiction;
 - (k) Forging another's name to an application for insurance, to any other document related to an insurance transaction, or to any document related to the business of life settlements;
 - (l) Cheating, including improperly using notes or any other reference material to complete an examination for license;
 - (m) Knowingly accepting insurance or life settlement business from an individual or business entity who is not licensed, but who is required to be licensed under this subtitle;
 - (n) Failing to comply with an administrative or court order imposing a child support obligation;
 - (o) Failing to pay state income tax or to comply with any administrative or court order directing payment of state income tax;
 - (p) Having been convicted of a misdemeanor for which restitution is ordered in excess of three hundred dollars (\$300), or of any misdemeanor involving dishonesty, breach of trust, or moral turpitude;
 - (q) Failing to no longer meet the requirements for initial licensure;
 - (r) If a life settlement provider, demonstrating a pattern of unreasonable payments to owners or failing to honor contractual obligations set out in a life settlement contract;
 - (s) Entering into any life settlement contract or using any form that has not been approved pursuant to Subtitle 15 of this chapter;
 - (t) If a licensee, having assigned, transferred, or pledged a policy subject to a life settlement contract to a person other than a life settlement provider licensed in this state, an accredited investor or qualified institutional buyer as defined, respectively, in Regulation D, Rule 501 or Rule 144a of the Federal Securities Act of 1933, as amended, a financing entity, a special purpose entity, or a related provider trust; or
 - (u) Any other cause for which issuance of the license could have been refused, had it then existed and been known to the commissioner.
- (2) The license of a business entity may be suspended, revoked, or refused for any cause relating to an individual designated in or registered under the license if the commissioner finds that an individual licensee's violation was known or should have been known by one (1) or more of the partners, officers, or managers acting on

behalf of the business entity and the violation was not reported to the Department of Insurance nor corrective action taken.

- (3) The license of a pharmacy benefit manager may, in the discretion of the commissioner, be suspended, revoked, or refused for any cause enumerated in subsection (1) of this section, and for violations of KRS 205.647, 304.9-053, 304.9-054, 304.9-055, and 304.17A-162. The pharmacy benefit manager shall also be subject to the same civil penalties under KRS 304.99-020 as an insurer.
- (4) The applicant or licensee may make written request for a hearing in accordance with KRS 304.2-310.
- (5) The commissioner shall retain the authority to enforce the provisions and penalties of this chapter against any individual or business entity who is under investigation for or charged with a violation of this chapter, even if the individual's or business entity's license has been surrendered or has lapsed by operation of law.
- (6) The commissioner may suspend, revoke, or refuse to renew the license of a licensed insurance agent operating as a life settlement broker, pursuant to KRS 304.15-700, if the commissioner finds that such insurance agent has violated the provisions of KRS 304.15-700 to 304.15-725.
- (7) If the commissioner denies a license application or suspends, revokes, or refuses to renew the license of a life settlement provider or life settlement broker, or suspends, revokes, or refuses to renew the license of a licensed life insurance agent operating as a life settlement broker pursuant to KRS 304.15-700, the commissioner shall comply with the provisions of this section and KRS Chapter 13B.
- (8) ***The sanctions and penalties applicable to licenses and licensees under subsection (1) of this section shall also be applicable to registrations and registrants under subsection (3) of Section 3 of this Act.***

➔Section 15. The following KRS section is repealed:

304.9-475 Travel insurance offered by travel retailer on behalf of limited lines travel insurance producer -- Requirements.

Signed by Governor March 17, 2021.