

201 KAR 11:220. Errors and omissions insurance requirements.

RELATES TO: KRS 324.010, 324.020, 324.395

STATUTORY AUTHORITY: KRS 324.281(5), 324.282, 324.395(1), (4), (5)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 324.281(5) and 324.282 require the Real Estate Commission, with the approval of the executive director of the Kentucky Real Estate Authority, to promulgate administrative regulations to carry out and enforce the provisions of KRS Chapter 324. KRS 324.395(1) requires all real estate licensees, except those whose licenses are in inactive status to carry errors and omissions insurance to cover all activities contemplated under KRS Chapter 324. KRS 324.395(5) requires the commission to determine the terms and conditions of mandatory errors and omissions insurance coverage. This administrative regulation sets forth the minimum terms and conditions of insurance coverage required under KRS 324.395.

Section 1. Minimum Coverage Requirements. A licensee shall carry continuous errors and omissions coverage that, at a minimum includes:

- (1) A limit of liability not less than \$100,000 for any one (1) claim, excluding the cost of investigation and defense; and
- (2) An annual aggregate limit of liability of not less than \$1,000,000, excluding the cost of investigation and defense.

Section 2. Firm Coverage. A principal broker who purchases errors and omissions "firm coverage" insurance shall have at least the following aggregate amounts:

- (1) One (1) to forty (40) licensees shall carry a \$1,000,000 annual aggregate; or
- (2) Forty-one (41) or more licensees shall carry a \$2,000,000 annual aggregate.

Section 3. Deductibles. All errors and omissions coverage or professional liability insurance policies shall have maximum deductibles, which may be separate deductibles, which shall not exceed:

- (1) \$2,500 for judgment or settlement; and
- (2) \$1,000 for the cost of investigation and defense.

Section 4. Exclusions permitted Coverage may exclude claims brought against the insured, regardless of whether the professional service involves an activity for which a license is required by the Commonwealth of Kentucky, consistent with common custom in the market.

Section 5. Licensee certification of compliance. A licensee who chooses to obtain an insurance policy other than the group insurance policy obtained by the commission pursuant to KRS 324.395(3) shall file with the commission a Certification of Insurance Coverage, KREC Form 203, as incorporated by reference in 201 KAR 11:210, annually upon issuance of the initial private insurance policy or its renewal. (14 Ky.R. 1021; eff. 12-11-1987; 1579; eff. 3-10-1988; 33 Ky.R. 449; 720; eff. 10-6-2006; 33 Ky.R. 3434; eff. 8-31-2007; 40 Ky.R. 365; 787; eff. 365; 787; eff. 11-1-2013; 46 Ky.R. 606; 1463; 18296; eff. 12-16-2019.)