

### **304.3-070 Eligibility for certificate of authority.**

- (1) To qualify for and hold authority to transact insurance in this state, an insurer must be otherwise in compliance with this code and with its charter powers, and must be an incorporated stock or mutual insurer, or a combined stock and mutual life insurer, or a reciprocal insurer, or Lloyd's plan insurer, of the same general type as may be formed as a domestic insurer under this code, or an association, including incorporated and individual unincorporated underwriters, meeting the requirements of subsection (3) of this section, except that:
  - (a) No foreign insurer shall be authorized to transact insurance in this state which does not maintain reserves as required by Subtitle 6 as applicable to the kind or kinds of insurance transacted by such insurer, wherever transacted in the United States; or which transacts business anywhere in the United States on the assessment plan, or stipulated premium plan, or any similar plan;
  - (b) No insurer shall be authorized to transact a kind of insurance in this state unless duly authorized or qualified to transact such insurance in the state or country of its domicile;
  - (c) No insurer shall be authorized to transact in this state any kind of insurance which is not within the definition as set forth in Subtitle 5;
  - (d) No such authority shall be granted or continued as to any insurer while in arrears to the state for fees, licenses, taxes, assessments, fines or penalties accrued on business previously transacted in this state;
  - (e) A combined stock and mutual life insurer must maintain separate accounting for income, expenses, assets, liabilities and surplus funds allocated between the "mutual" branch and the "stock" branch, in a manner as provided by a regulation to be promulgated by the commissioner. The "mutual" branch shall not invest any moneys in equity securities of the "stock" branch, nor shall it loan any moneys to the "stock" branch. The "stock" branch shall not loan any moneys to the "mutual" branch; and
  - (f) A life insurer in forming the "stock" branch or the "mutual" branch of a combined stock and mutual life insurer, must possess the capital funds required pursuant to KRS 304.3-120 for the stock branch, and must possess the surplus funds required under KRS 304.24-100 for the mutual branch. The commissioner shall not grant a certificate of authority to any life insurer to conduct its business as a combination stock and mutual life insurer, unless the aforesaid capitalization requirements are fulfilled.
- (2) In determining the solvency of or impairment to any foreign or alien insurer which is requesting the issuance or continuance of any certificate of authority to do business in this state, the commissioner may admit as assets only those items which would qualify as admitted assets for a domestic insurer similarly situated.
- (3) To qualify for and hold authority to transact insurance in this state, an association, including incorporated and individual unincorporated underwriters, in addition to meeting the requirements of subsection (1) of this section, shall have:
  - (a) Collective minimum capital and surplus equivalents, net of liabilities, on a

several, not joint, basis of at least two hundred fifty million dollars (\$250,000,000) and a central fund containing a balance of at least two hundred fifty million dollars (\$250,000,000);

- (b) The incorporated members of the association:
  - 1. Shall not be engaged in any business, other than underwriting; and
  - 2. Shall be subject to the same level of regulation and solvency control by the association's domiciliary regulator as are the unincorporated members;
- (c) An association, including incorporated and individual unincorporated underwriters that meet the requirements of this subsection, shall not be deemed a Lloyd's plan insurer as defined in KRS 304.3-040, and shall not be subject to the requirements of Subtitle 28 of this chapter; and
- (d) The underwriting members of an association, including incorporated and individual unincorporated underwriters, that qualify for and hold authority to transact insurance in this state pursuant to this section, may also qualify as eligible surplus lines insurers pursuant to KRS 304.10-070.

**Effective:** July 15, 2014

**History:** Amended 2014 Ky. Acts ch. 36, sec. 1, effective July 15, 2014. -- Amended 2010 Ky. Acts ch. 24, sec. 958, effective July 15, 2010. -- Amended 1984 Ky. Acts ch. 343, sec. 3, effective July 13, 1984. -- Created 1970 Ky. Acts ch. 301, subtit. 3, sec. 7, effective June 18, 1970.