

**304.3-625 Exemption from requirements of KRS 304.3-600 to 304.3-635 and 304.99-055 -- Conditions.**

- (1) An insurer shall be exempt from the requirements of KRS 304.3-600 to 304.3-635 and 304.99-055 if:
  - (a) The insurer has annual direct written and unaffiliated assumed premium in an amount less than five hundred million dollars (\$500,000,000), including international direct and assumed premium, but excluding premiums reinsured with the Federal Crop Insurance Corporation or the Federal Flood Program; and
  - (b) The insurance group of which the insurer is a member has annual direct written and unaffiliated assumed premium in an amount less than one billion dollars (\$1,000,000,000), including international direct and assumed premium, but excluding premiums reinsured with the Federal Crop Insurance Corporation or the Federal Flood Program.
- (2) If an insurer qualifies for exemption pursuant to subsection (1)(a) of this section, but the insurance group of which the insurer is a member does not qualify for the exemption pursuant to subsection (1)(b) of this section, the ORSA Summary Report that may be required pursuant to KRS 304.3-620 shall include every insurer within the insurance group. This requirement may be satisfied by the submission of more than one (1) ORSA Summary Report for any combination of insurers, provided any combination of reports includes every insurer within the insurance group.
- (3) If an insurer does not qualify for exemption pursuant to subsection (1)(a) of this section, but the insurance group of which it is a member qualifies for exemption pursuant to subsection (1)(b) of this section, the only ORSA Summary Report that may be required pursuant to KRS 304.3-620 shall be the report applicable to the insurer that does not qualify for the exemption.
- (4) An insurer that does not qualify for exemption pursuant to subsection (1) of this section may apply to the commissioner for a waiver from the requirements of KRS 304.3-600 to 304.3-635 and 304.99-055, based upon unique circumstances. In deciding whether to grant the insurer's request for waiver, the commissioner may consider the type and volume of business written, ownership and organizational structure of the insurer, and any other factor the commissioner considers relevant to the insurer or insurance group of which the insurer is a member. If the insurer is part of an insurance group, with insurers domiciled in more than one (1) state, the commissioner shall coordinate with the lead state commissioner and with the other domiciliary commissioners in considering whether to grant the insurer's request for a waiver.
- (5) Notwithstanding the exemptions stated in this section:
  - (a) The commissioner may require that an insurer maintain a risk management framework, conduct an ORSA, and file an ORSA Summary Report based on unique circumstances, including but not limited to the type and volume of business written, ownership and organizational structure, federal agency requests, and international supervisor requests; and

- (b) The commissioner may require that an insurer maintain a risk management framework, conduct an ORSA, and file an ORSA Summary Report if the insurer:
1. Has risk-based capital for a company action level event as set forth in KRS 304.3-120, 304.3-190, and 304.38-070, and any applicable administrative regulations;
  2. Meets one (1) or more of the standards of an insurer deemed to be in hazardous financial condition as described in KRS 304.2-065 and any applicable administrative regulations; or
  3. Otherwise exhibits qualities of a troubled insurer as determined by the commissioner.
- (6) If an insurer that qualifies for an exemption pursuant to subsection (1) of this section then subsequently does not qualify for that exemption due to changes in premium as reflected in the insurer's most recent annual statement or in the most recent annual statements of the insurers within the insurance group of which the insurer is a member, the insurer shall have one (1) year, following the year the threshold is exceeded, to comply with the requirements of KRS 304.3-600 to 304.3-635 and 304.99-055.

**Effective:** January 1, 2015

**History:** Created 2014 Ky. Acts ch. 119, sec. 6, effective January 1, 2015.

**Legislative Research Commission Note** (1/1/2015). In 2014 Ky. Acts ch. 119, sec. 6 (this statute), the phrase "standards of an insurer deemed to be in hazardous financial condition as defined in KRS 304.2-065 and any applicable administrative regulations" was used in subsection (5)(b)2. Standards to be used by the Commissioner of Insurance in determining whether an insurer is in hazardous financial condition are contained in KRS 304.2-065 and 806 KAR 2:150, but are not technically defined in either. In codification, the Reviser of Statutes has changed the word "defined" to "described" for the sake of clarity and accuracy to avoid confusion.