

304.3-750 Definitions for KRS 304.3-750 to 304.3-768.

As used in KRS 304.3-750 to 304.3-768:

- (1) "Consumer" means an individual, including but not limited to an applicant, policyholder, insured, beneficiary, claimant, and certificate holder:
 - (a) Who is a resident of this Commonwealth; and
 - (b) Whose nonpublic information is in a licensee's possession, custody, or control;
- (2) "Cybersecurity event":
 - (a) Means an event resulting in unauthorized access to, disruption of, or misuse of an information system or nonpublic information stored on an information system; and
 - (b) Shall not include:
 1. Unauthorized acquisition of encrypted nonpublic information if the encryption, process, or key is not also acquired, released, or used without authorization; or
 2. An event with regard to which the licensee has determined that the nonpublic information accessed by an unauthorized person:
 - a. Has not been used or released; and
 - b. Has been returned or destroyed;
- (3) "Encrypted" means the transformation of data into a form that results in a low probability of assigning meaning without the use of a protective process or key;
- (4) "Information security program" means the administrative, technical, and physical safeguards that a licensee uses to access, collect, distribute, process, protect, store, use, transmit, dispose of, or otherwise handle nonpublic information;
- (5) "Information system":
 - (a) Means a discrete set of electronic nonpublic information resources organized for the collection, processing, maintenance, use, sharing, dissemination, or disposition of electronic information; and
 - (b) Shall include any specialized system such as industrial or process controls systems, telephone switching and private branch exchange systems, and environmental control systems;
- (6) "Licensee":
 - (a) Means any person who is, or is required to be, licensed, authorized to operate, or registered pursuant to the insurance laws of this state; and
 - (b) Shall not include:
 1. A purchasing group or a risk retention group chartered and licensed in a state other than this state; or
 2. A licensee that is acting as an assuming insurer that is domiciled in another state or jurisdiction;
- (7) "Nonpublic information":
 - (a) Means electronic information that is not publicly available information; and

- (b) Shall include:
 - 1. Business-related information of a licensee that if tampered with, or disclosed, accessed, or used without authorization, would cause a material adverse impact to the business, operations, or security of the licensee;
 - 2. Any confidential personal identifying information of a consumer, including:
 - a. Social Security number;
 - b. Operator's license number or personal identification card number;
 - c. Financial account number;
 - d. Credit or debit card number;
 - e. Any security code, access code, or password that would permit access to a consumer's financial account; or
 - f. Biometric records; and
 - 3. Any information or data, except age or gender, in any form or medium created by or derived from a health care provider or a consumer that relates to:
 - a. The past, present, or future physical, mental, or behavioral health or condition of any consumer or member of the consumer's family;
 - b. The provision of health care to any consumer; or
 - c. Payment for the provision of health care to any consumer;
- (8) "Person" means any individual or nongovernmental entity, including but not limited to any nongovernmental partnership, corporation, branch, agency, or association;
- (9) (a) "Publicly available information" means any information that a licensee has a reasonable basis to believe is lawfully made available to the general public from:
 - 1. Federal, state, or local government records;
 - 2. Widely distributed media; or
 - 3. Disclosures to the general public that are required to be made by federal, state, or local law.(b) For purposes of this definition, a licensee has a reasonable basis to believe that information is lawfully made available to the general public if the licensee has taken steps to determine:
 - 1. That the information is of the type that is available to the general public; and
 - 2. Whether the consumer can direct that information not be made available to the general public, and if so, that the consumer has not done so; and
- (10) "Third-party service provider" means a person, other than a licensee, that:
 - (a) Contracts with a licensee to maintain, process, or store nonpublic information; or
 - (b) Is otherwise permitted access to nonpublic information through its provision

of services to a licensee.

Effective: January 1, 2023

History: Created 2022 Ky. Acts ch. 149, sec. 1, effective January 1, 2023.