

304.9-440 Probation, suspension, revocation, and refusal of license -- Grounds -- Penalty. (Effective until July 15, 2026)

- (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 a 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) (a) For any public adjuster or apprentice adjuster supervised by a public adjuster under KRS 304.9-432, the commissioner may deny, suspend, or revoke the adjuster's license or impose a fine not to exceed five thousand dollars (\$5,000) per act against the adjuster, or both, for any of the following causes:
- 1. Violating any provision of this chapter;
 - 2. Violating any administrative regulation or order of the commissioner;
 - 3. Receiving payment or anything of value as a result of an unfair or deceptive practice;
 - 4. Receiving or accepting any fee, kickback, or other thing of value pursuant to any agreement or understanding, oral or otherwise, from anyone other than an insured;
 - 5. Entering into a split-fee arrangement with another person who is not a public adjuster; or
 - 6. Being otherwise paid or accepting payment for public adjuster services that have not been performed.
- (b) The sanctions and penalties under this subsection shall be in addition to any other remedies, penalties, or sanctions available to the commissioner against a public adjuster or an apprentice adjuster supervised by a public adjuster under KRS 304.9-432 under this section or any other law.
- (3) 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:

- (a) 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
- (b) The violation was not reported to the department nor corrective action taken.
- (4) (a) 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.
- (b) The pharmacy benefit manager shall also be subject to the same civil penalties under KRS 304.99-020 as an insurer.
- (5) The applicant or licensee may make written request for a hearing in accordance with KRS 304.2-310.
- (6) 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.
- (7) 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.
- (8) 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.
- (9) The sanctions and penalties applicable to licenses and licensees under subsection (1) of this section shall also be applicable to registrations and registrants under KRS 304.52-030(3).

Effective: June 29, 2023

History: Amended 2023 Ky. Acts ch. 11, sec. 6, effective June 29, 2023. -- Amended 2021 Ky. Acts ch. 36, sec. 14, effective June 29, 2021. -- Amended 2018 Ky. Acts ch. 157, sec. 2, effective July 1, 2018. -- Amended 2010 Ky. Acts ch. 24, sec. 1074, effective July 15, 2010. -- Amended 2008 Ky. Acts ch. 32, sec. 19, effective July 15, 2008. -- Amended 2005 Ky. Acts ch. 58, sec. 5, effective June 20, 2005; and ch. 143, sec. 17, effective June 20, 2005. -- Amended 2002 Ky. Acts ch. 273, sec. 36, effective July 15, 2002. -- Amended 2000 Ky. Acts ch. 393, sec. 34, effective July 14, 2000. -- Amended 1998 Ky. Acts ch. 213, sec. 4, effective July 15, 1998. -- Amended 1982 Ky. Acts ch. 123, sec. 6, effective July 15, 1982. -- Created 1970 Ky. Acts ch. 301, subtit. 9, sec. 44, effective June 18, 1970.

Legislative Research Commission Note (7/15/2008). 2008 Ky. Acts ch. 32 intended to change all existing references in the KRS from "viatical settlements" to "life settlements" and from "viator" to "owner." References to "viatical settlements" and to "viator" in this section were overlooked during the bill drafting process. The Reviser of Statutes has made these changes upon the authority of KRS 7.136(1)(h).