

**304.33-330 Set-offs and counterclaims.**

- (1) Set-offs allowed in general. Mutual debt or mutual credits between the insurer and another person in connection with any action or proceeding under this subtitle shall be set off and the balance only shall be allowed or paid, except as provided in subsection (2) of this section.
- (2) Exceptions. Except as provided in KRS 304.33-055, no set-off or counterclaim shall be allowed in favor of any person where:
  - (a) The obligation of the insurer to the person would not at the date of the filing of a petition for liquidation entitle him or her to share as a claimant in the assets of the insurer;
  - (b) The obligation of the insurer to the person was purchased by or transferred to the person with a view to its being used as a set-off;
  - (c) The obligation of the person is to pay an assessment levied against the members or subscribers of the insurer, or is to pay a balance upon a subscription to the capital stock of the insurer, or is in any other way in the nature of a capital contribution; or
  - (d) The obligation of the person is to pay earned premiums to the insurer. However, the provisions of this paragraph shall only apply to reinsurance contracts entered into prior to July 13, 2004.

**Effective:** June 27, 2025

**History:** Amended 2025 Ky. Acts ch. 67, sec. 11, effective June 27, 2025. -- Amended 2004 Ky. Acts ch. 125, sec. 2, effective July 13, 2004. -- Amended 1996 Ky. Acts ch. 169, sec. 1, effective July 15, 1996. -- Created 1970 Ky. Acts ch. 301, subtit. 33, sec. 33, effective June 18, 1970.