

1 AN ACT relating to insurance.

2 *Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

3 ➔SECTION 1. A NEW SECTION OF SUBTITLE 45 OF KRS CHAPTER 304
4 IS CREATED TO READ AS FOLLOWS:

- 5 *(1) (a) 1. The board of directors of a risk retention group shall have a majority*
6 *of independent directors.*
- 7 *2. No director shall qualify as independent unless the board of directors*
8 *affirmatively determines that the director has no material relationship*
9 *with the risk retention group. Each risk retention group shall disclose*
10 *these determinations to the commissioner at least annually.*
- 11 *3. No director shall be deemed to have a material relationship with the*
12 *risk retention group solely because the director is a direct or indirect*
13 *owner or member of the risk retention group or is an officer, director,*
14 *or employee of an owner or member of the risk retention group.*
- 15 *(b) If the risk retention group is a reciprocal insurer, then an attorney-in-fact*
16 *shall be required to adhere to the same standards regarding independence*
17 *of operation and governance as imposed on the risk retention group's board*
18 *of directors pursuant to this section. Unless prohibited under state law,*
19 *service providers of a reciprocal risk retention group shall contract with the*
20 *risk retention group and not the attorney-in-fact.*
- 21 *(c) No person shall qualify as independent until one (1) year after the end of a*
22 *material relationship. For material relationships established pursuant to*
23 *subsection (9)(a) of Section 2 of this Act, no person shall qualify as*
24 *independent until one (1) year after the compensation or payment of any*
25 *other item of value from the risk retention group or a consultant or service*
26 *provider to the risk retention group falls below the threshold established in*
27 *that subsection.*

1 (2) (a) No contract with a service provider that creates or results in a material
2 relationship shall be entered into by a risk retention group unless the risk
3 retention group has provided written notice to the commissioner of its
4 intention to enter into the contract at least thirty (30) days prior to the
5 execution of the contract and the commissioner has not disapproved the
6 proposed contract within the notice period.

7 (b) The term of any material service provider contract with a risk retention
8 group shall not exceed five (5) years.

9 (c) Any material service provider contract, or its renewal, shall require the
10 approval of the majority of a risk retention group's independent directors.
11 At any time, the risk retention group's board of directors has the right to
12 terminate any service provider contract for cause after providing adequate
13 notice as defined in the contract.

14 (d) For the purposes of this subsection, "service provider" includes:

15 1. Captive managers;

16 2. Auditors;

17 3. Accountants;

18 4. Actuaries;

19 5. Investment advisors;

20 6. Lawyers other than defense counsel retained by the risk retention
21 group to defend claims, unless the amount of fees paid to the defense
22 counsel creates or results in a material relationship;

23 7. Managing general underwriters; and

24 8. Other parties responsible for underwriting, determining rates,
25 collecting premiums, adjusting and settling claims, or preparing
26 financial statements;

27 (3) A risk retention group's board of directors shall adopt a written policy in its plan

1 of operation that requires the board to:

2 (a) Ensure that all owners of the risk retention group receive evidence of
3 ownership interest;

4 (b) Develop a set of corporate governance standards applicable to the risk
5 retention group that satisfies, at a minimum, the requirements of this
6 section;

7 (c) Oversee the evaluation of the risk retention group's management including
8 but not limited to the performance of the captive manager, managing
9 general underwriter, or other party or parties responsible for underwriting,
10 determining rates, collecting premiums, adjusting or settling claims, or
11 preparing financial statements;

12 (d) Review and approve the amount to be paid for all material service
13 providers; and

14 (e) Review and approve, at least annually:

15 1. The goals and objectives relevant to the risk retention group's
16 compensation of officers and service providers;

17 2. The officers' and service providers' performance in light of those
18 goals and objectives; and

19 3. The continued engagement of the officers and material service
20 providers.

21 (4) (a) A risk retention group shall have an audit committee composed of at least
22 three (3) independent directors. Non-independent directors may participate
23 in the activities of the audit committee if invited by the committee members,
24 but cannot be members of the committee.

25 (b) The audit committee shall have a written charter that defines the
26 committee's purpose, which, at a minimum, shall include the following:

27 1. Assist board oversight of:

- 1 a. The integrity of the financial statements;
- 2 b. Compliance with legal and regulatory requirements; and
- 3 c. The qualification, independence, and performance of the
- 4 independent auditor and actuary;
- 5 2. Discuss the annual audited financial statements and the quarterly
- 6 financial statements with management;
- 7 3. Discuss the annual audited financial statements and, if advisable, the
- 8 quarterly financial statements with its independent auditors;
- 9 4. Discuss policies with respect to risk assessment and risk management;
- 10 5. Meet separately and periodically, either directly or through a
- 11 designated representative of the committee, with management and
- 12 independent auditors;
- 13 6. Review with the independent auditors any audit problems or
- 14 difficulties and management's response;
- 15 7. Set clear hiring policies regarding the hiring of employees or former
- 16 employees of the independent auditor;
- 17 8. Require external auditors to rotate the lead or coordinating audit
- 18 partner having primary responsibility for the risk retention group's
- 19 audit as well as the audit partner responsible for reviewing that audit
- 20 so that neither individual performs audit services for more than five
- 21 (5) consecutive fiscal years; and
- 22 9. Report regularly to the board of directors.
- 23 (c) The commissioner may waive the requirement to establish an audit
- 24 committee composed of independent directors if the risk retention group
- 25 demonstrates to the commissioner that:
- 26 1. It is impracticable to do so; and
- 27 2. The risk retention group's board of directors is otherwise capable of

1 accomplishing the purposes of an audit committee.

2 (5) (a) The governance standards adopted by the board of directors pursuant to
3 paragraph (3)(b) of this section shall include:

4 1. The process by which the directors are elected by the owners;

5 2. Director qualification standards;

6 3. Director responsibilities;

7 4. Director access to management and, as necessary and appropriate,
8 independent advisors;

9 5. Director compensation;

10 6. Director orientation and continuing education;

11 7. The policies and procedures for management succession;

12 8. The policies and procedures for annual performance evaluation of the
13 board; and

14 9. A code of business conduct and ethics for directors, officers, and
15 employees.

16 (b) The board of directors shall make the governance standards required by this
17 section available through electronic or other means and provide the
18 information to the risk retention group's members upon request.

19 (6) (a) The code of business conduct and ethics for directors, officers, and
20 employees required by subsection (5) of this section shall address the
21 following topics:

22 1. Conflicts of interest;

23 2. Matters covered under the corporate opportunities doctrine under the
24 state of domicile;

25 3. Confidentiality;

26 4. Fair dealing;

27 5. Protection and proper use of risk retention group assets;

- 1 6. Compliance with all applicable laws, rules, and regulations; and
- 2 7. Requiring the reporting of any illegal or unethical behavior which
- 3 affects the operation of the risk retention group.

4 (b) Any waivers of the code for directors or executive officers shall be promptly
 5 disclosed to the board of directors.

6 (7) The captive manager, president, or chief executive officer of the risk retention
 7 group shall promptly notify the commissioner in writing if he or she becomes
 8 aware of any material noncompliance with any of the provisions of this section.

9 ➔Section 2. KRS 304.45-020 is amended to read as follows:

10 As used in this subtitle:

11 (1) "Board of directors" or "board" means the governing body of a risk retention
 12 group elected by its owners to establish policy, elect or appoint officers and
 13 committees, and make other governing decisions.

14 (2) "Commissioner" means the commissioner of the Kentucky Department of Insurance
 15 or the insurance supervisor of another state;

16 ~~(3)~~(2) "Completed operations liability" means liability arising out of the installation,
 17 maintenance, or repair of any product at a site which is not owned or controlled by:

- 18 (a) Any person who performs that work; or
- 19 (b) Any person who hires an independent contractor to perform that work, but
- 20 shall include liability for activities which are completed or abandoned before
- 21 the date of the occurrence giving rise to the liability;

22 (4) "Director" means a natural person designated in the articles of a risk retention
 23 group, or designated, elected, or appointed by any other manner, name, or title to
 24 act as a director;

25 ~~(5)~~(3) "Domicile," for the purposes of determining the state in which a purchasing
 26 group is domiciled, means:

- 27 (a) For a corporation, the state in which the purchasing group is incorporated; and

1 (b) For an unincorporated entity, the state of its principal place of business;

2 ~~(6)~~~~(4)~~ "Hazardous financial condition" means a condition in which, based on its
3 present or reasonably anticipated financial condition, a risk retention group,
4 although not yet financially impaired or insolvent, is unlikely to be able:

5 (a) To meet obligations to policyholders with respect to known claims and
6 reasonably anticipated claims; or

7 (b) To pay other obligations in the normal course of business;

8 ~~(7)~~~~(5)~~ "Insurance" means primary insurance, excess insurance, reinsurance, surplus
9 lines insurance, and any other arrangement for shifting and distributing risks which
10 is determined to be insurance under the laws of this state;

11 ~~(8)~~~~(6)~~ "Liability":

12 (a) Means legal liability for damages (including costs of defense, legal costs and
13 fees, and other claims expenses) because of injuries to other persons, damage
14 to their property, or other damage or loss to ~~those~~~~such~~ other persons
15 resulting from or arising out of:

16 1. Any business (whether profit or nonprofit), trade, product, services
17 (including professional services), premises, or operations; or

18 2. Any activity of any state or local government, or any agency or political
19 subdivision thereof; but

20 (b) Does not include personal risk liability or an employer's liability with respect
21 to its employees other than legal liability under the Federal Employers'
22 Liability Act (45 U.S.C. secs. 51 et seq.);

23 **(9) "Material relationship" includes but is not limited to:**

24 **(a) The receipt in any one (1) twelve (12) month period by a person, a member**
25 **of the person's immediate family, or any business with which the person is**
26 **affiliated of compensation or payment of any other item of value from the**
27 **risk retention group or a consultant or service provider to the risk retention**

1 group that exceeds or equals the greater of the following, as measured at
2 the end of any fiscal quarter falling in the twelve (12) month period:

3 1. Five percent (5%) of the risk retention group's gross written premium
4 for the twelve (12) month period; or

5 2. Two percent (2%) of the risk retention group's surplus for the twelve
6 (12) month period;

7 (b) A director or immediate family member of a director who is affiliated with
8 or employed in a professional capacity by a present or former internal or
9 external auditor of the risk retention group; or

10 (c) A director or immediate family member of a director who is employed as an
11 executive officer of another company where any of the risk retention
12 group's present executives serve on that other company's board of directors;

13 (10) "Material service provider contract" means a contract between a risk retention
14 group and a service provider where the amount to be paid for the contract
15 exceeds or equals the greater of the following:

16 (a) Five percent (5%) of the risk retention group's annual gross written
17 premium; or

18 (b) Two percent (2%) of the risk retention group's surplus;

19 (11)~~(7)~~ "Personal risk liability" means liability for damages because of injury to any
20 person, damage to property, or other loss or damage arising from any personal,
21 familial, or household responsibilities or activities, rather than from responsibilities
22 or activities referred to in subsection (6) of this section;

23 (12)~~(8)~~ "Plan of operation or a feasibility study" means an analysis which presents the
24 expected activities and results of a risk retention group, including, at a minimum:

25 (a) Information sufficient to verify that its members are engaged in businesses or
26 activities similar or related with respect to the liability to which its~~such~~
27 members are exposed by virtue of any related, similar, or common business,

- 1 trade, product, services, premises, or operations;
- 2 (b) For each state in which it intends to operate, the coverages, deductibles,
3 coverage limits, rates, and rating classification system for each kind of
4 insurance the group intends to offer;
- 5 (c) Historical and expected loss experience of the proposed members and national
6 experience of similar exposures to the extent that this experience is reasonably
7 available;
- 8 (d) Pro forma financial statements and projections;
- 9 (e) Appropriate opinions by a qualified, independent casualty actuary, including a
10 determination of minimum premium or participation levels required to
11 commence operations and to prevent a hazardous financial condition;
- 12 (f) Identification of management, underwriting, and claim procedures, marketing
13 methods, managerial oversight methods, and investment policies; and
- 14 (g) ~~Any~~~~[Such]~~ other matters as may be prescribed by the commissioner for
15 liability insurance companies authorized by the insurance laws of the state in
16 which the risk retention group is chartered;
- 17 ~~(13)~~~~[(9)]~~ "Product liability" means liability for damages because of any personal injury,
18 death, emotional harm, consequential economic damage, or property damage
19 (including damages resulting from the loss of use of property) arising out of the
20 manufacture, design, importation, distribution, packaging, labeling, lease, or sale of
21 a product, but does not include the liability of any person for those damages if the
22 product involved was in the possession of ~~that~~~~[such]~~ person when the incident
23 giving rise to the claim occurred;
- 24 ~~(14)~~~~[(10)]~~ "Purchasing group" means any group which:
- 25 (a) Has as one (1) of its purposes the purchase of liability insurance on a group
26 basis;
- 27 (b) Purchases ~~that~~~~[such]~~ insurance only for its group members and only to cover

1 their similar or related liability exposure, as described in paragraph (c) of this
2 subsection;

3 (c) Is composed of members whose businesses or activities are similar or related
4 with respect to the liability to which members are exposed by virtue of any
5 related, similar, or common business, trade, product, services, premises, or
6 operations; and

7 (d) Is domiciled in any state;

8 (15)~~(14)~~ "Risk retention group" means any corporation or other limited liability
9 association:

10 (a) Whose primary activity consists of assuming and spreading all, or any portion,
11 of the liability exposure of its group members;

12 (b) Which is organized for the primary purpose of conducting the activity
13 described under paragraph (a) of this subsection;

14 (c) Which:

15 1. Is chartered and licensed as a liability insurance company and authorized
16 to engage in the business of insurance under the laws of any state; or

17 2. Before January 1, 1985, was chartered or licensed and authorized to
18 engage in the business of insurance under the laws of Bermuda or the
19 Cayman Islands and, before that~~such~~ date, had certified to the
20 commissioner of at least one (1) state that it satisfied the capitalization
21 requirements of that~~such~~ state, except that any ~~such~~ group shall be
22 considered to be a risk retention group only if it has engaged in business
23 continuously since that~~such~~ date and only for the purpose of
24 continuing to provide insurance to cover product liability or completed
25 operations liability (as the~~such~~ terms were defined under the Product
26 Liability Risk Retention Act of 1981 prior to the date of the enactment
27 of the Liability Risk Retention Act of 1986);

- 1 (d) Which does not exclude any person from membership in the group solely to
 2 provide for members of the[such] group a competitive advantage over
 3 that[such] person;
- 4 (e) Which:
- 5 1. Has as its owners only persons who comprise the membership of the risk
 6 retention group and who are provided insurance by the[such] group; or
 7 2. Has as its sole owner an organization which has as its members only
 8 persons who comprise the membership of the risk retention group and as
 9 its owners only persons who comprise the membership of the risk
 10 retention group and who are provided insurance by the[such] group;
- 11 (f) Whose members are engaged in businesses or activities similar or related with
 12 respect to the liability to which the[such] members are exposed by virtue of
 13 any related, similar, or common business, trade, product, services, premises,
 14 or operations; and
- 15 (g) Whose activities do not include the provision of insurance other than:
- 16 1. Liability insurance for assuming and spreading all or any portion of the
 17 liability of its group members; and
 18 2. Reinsurance with respect to the liability of any other risk retention group
 19 or any members of the[such] other group which is engaged in businesses
 20 or activities so that the[such] group or member meets the requirement
 21 described in paragraph (f) of this subsection from membership in the
 22 risk retention group and which provides the[such] reinsurance; and
- 23 (h) The name of which includes the phrase "risk retention group"; and
- 24 (16)[(-12)] "State" means any state of the United States or the District of Columbia.
- 25 ➔Section 3. KRS 304.45-030 is amended to read as follows:
- 26 (1) A risk retention group shall, pursuant to the provisions of this chapter, be chartered
 27 and licensed to write only liability insurance pursuant to this subtitle, and, except as

1 otherwise provided in this subtitle, shall comply with all of the laws, regulations,
 2 and requirements applicable to such insurers chartered and licensed in this state and
 3 with KRS 304.45-040 to the extent such requirements are not a limitation on laws,
 4 regulations, or requirements of this state.

5 (2) Notwithstanding any other provision to the contrary, all risk retention groups
 6 chartered in this state shall file with the department and the National Association of
 7 Insurance Commissioners (NAIC), an annual statement in a form prescribed by the
 8 NAIC and completed in accordance with the NAIC instructions and the NAIC
 9 accounting practices and procedures manual.

10 (3) Before it may offer insurance in any state, each risk retention group shall also
 11 submit for approval to the commissioner of this state a plan of operation or a
 12 feasibility study and revisions of ~~the~~^[such] plan or study if the group intends to offer
 13 any additional kinds of liability insurance. The ***risk retention*** group shall not offer
 14 any additional kinds of liability insurance in this state or any other state until a
 15 revision of ~~the~~^[such] plan or study is approved by the commissioner. ***In the event of***
 16 ***any other subsequent material change in any item of the plan or study, the risk***
 17 ***retention group shall submit an appropriate revision to the commissioner within***
 18 ***ten (10) days of the change.***

19 (4) ***(a)*** At the time of filing its application for charter, the risk retention group shall
 20 provide to the commissioner in summary form ***the following information:***

21 ***1.*** The identity of the initial members of the group:^[,]

22 ***2.*** The identity of those individuals who organized the group or who will
 23 provide administrative services or otherwise influence or control the
 24 activities of the group:^[,]

25 ***3.*** The amount and nature of initial capitalization:^[,]

26 ***4.*** The coverages to be afforded:^[,] and

27 ***5.*** The states in which the group intends to operate.

1 **(b)** Upon receipt of the information, the commissioner shall forward ~~the~~[such]
2 information to the National Association of Insurance Commissioners.
3 Providing notification to the National Association of Insurance
4 Commissioners is in addition to and shall not be sufficient to satisfy the
5 requirements of KRS 304.45-040 and all other sections of this subtitle.

6 (5) A risk retention group shall, within ten (10) days, notify the commissioner of any
7 changes in the identity of those individuals who provide administrative services or
8 otherwise influence or control the activities of the group, the coverages afforded,
9 and the states in which the group operates.

10 (6) A risk retention group chartered and licensed in this state as a product liability risk
11 retention group under the provisions of KRS Chapter 304 in effect prior to July 13,
12 1990, may continue to act as ~~one~~[such] without complying with this subtitle as long
13 as it complies with the provisions of KRS Chapter 304 in effect prior to July 13,
14 1990. The exception provided in this subsection shall cease to apply to any product
15 liability risk retention group which offers any other kind of liability insurance other
16 than product liability or completed operations liability insurance.

17 ➔Section 4. KRS 304.45-040 is amended to read as follows:

18 Risk retention groups chartered and licensed in states other than this state and seeking to
19 do business as a risk retention group in this state shall observe and abide by the laws of
20 this state as follows:

21 (1) Before offering insurance in this state, a risk retention group shall submit to the
22 commissioner:

23 (a) A statement identifying the state or states in which the risk retention group is
24 chartered and licensed as a liability insurance company, date of chartering and
25 licensing, its principal place of business, and ~~any~~[such] other information,
26 including information on its membership, as the commissioner of this state
27 may require to verify that the risk retention group is qualified under KRS

- 1 304.45-020~~(15)~~~~((11))~~;
- 2 (b) A copy of its plan of operation~~[operations]~~ or a feasibility study and revisions
- 3 of the~~[such]~~ plan or study submitted to its state of domicile, but the provision
- 4 relating to the submission of a plan of operation or a feasibility study shall not
- 5 apply as to any kind or classification of liability insurance which was defined
- 6 in the Product Liability Risk Retention Act of 1981 before October 27, 1986,
- 7 and was offered before that~~[such]~~ date by any risk retention group which had
- 8 been chartered and operating for not less than three (3) years at that
- 9 time~~[before such date]~~; and
- 10 (c) A statement of registration which designates the Secretary of State as its agent
- 11 for the purpose of receiving service of legal documents or process.
- 12 (2) Any risk retention group doing business in this state shall submit to the
- 13 commissioner:
- 14 (a) A copy of the group's financial statement submitted to the state in which the
- 15 risk retention group is chartered and licensed, which shall be certified by an
- 16 independent public accountant and contain a statement of opinion on loss and
- 17 loss adjustment expense reserves made by a member of the American
- 18 Academy of Actuaries or a qualified loss reserve specialist under criteria
- 19 established by the National Association of Insurance Commissioners;
- 20 (b) A copy of each financial, market conduct, or other examination of the risk
- 21 retention group as certified by the commissioner or public official conducting
- 22 the examination;
- 23 (c) Upon request by the commissioner, a copy of any audit performed with
- 24 respect to the risk retention group; and
- 25 (d) Any~~[Such]~~ information as may be required to verify its continuing
- 26 qualification as a risk retention group under KRS 304.45-020~~(15)~~~~((11))~~.
- 27 (3) A risk retention group shall, within ten (10) days, notify the commissioner of any

- 1 changes in any of the information required in subsections (1) and (2) of this section.
- 2 (4) Any risk retention group shall submit to an examination by the commissioner to
- 3 determine its financial condition if the commissioner of the jurisdiction in which the
- 4 group is chartered and licensed has not initiated an examination or does not initiate
- 5 an examination within sixty (60) days after a request by the commissioner of this
- 6 state. Any ~~such~~ examination shall be coordinated to avoid unjustified repetition
- 7 and conducted in an expeditious manner and in accordance with the National
- 8 Association of Insurance Commissioners' examiner handbook. The~~Such~~
- 9 examinations shall be conducted in accordance with KRS 304.2-210 to 304.2-300.
- 10 (5) Any application used or any policy issued by a risk retention group shall contain in
- 11 ten (10) point boldface type the following legend:

12 NOTICE

13 THIS POLICY IS ISSUED BY YOUR RISK RETENTION GROUP. YOUR

14 RISK RETENTION GROUP MAY NOT BE SUBJECT TO ALL OF THE

15 INSURANCE LAWS AND REGULATIONS OF YOUR STATE. STATE

16 INSURANCE INSOLVENCY GUARANTY FUNDS ARE NOT

17 AVAILABLE FOR YOUR RISK RETENTION GROUP.

- 18 (6) In the solicitation or sale of insurance, a risk retention group shall not:
- 19 (a) Solicit or sell insurance to any person who is not eligible for membership in
- 20 the~~such~~ group; and
- 21 (b) Solicit or sell insurance issued by, or otherwise operate, a risk retention group
- 22 that is in a hazardous financial condition or is financially impaired.
- 23 (7) No risk retention group shall be allowed to do business in this state if an insurance
- 24 company is directly or indirectly a member or owner of the~~such~~ risk retention
- 25 group, except if all members of the risk retention group are insurance companies.
- 26 (8) A risk retention group shall not offer insurance policy coverage prohibited by
- 27 statute or regulation or declared unlawful by the highest court of this state.

- 1 (9) A risk retention group not chartered in this state and doing business in this state
 2 shall comply with a lawful order issued in a voluntary dissolution proceeding or in a
 3 delinquency proceeding commenced by a commissioner if there has been a finding
 4 of financial impairment after an examination under subsection (4) of this section.
- 5 (10) A risk retention group registered in this state as a product liability risk retention
 6 group under the provisions of KRS Chapter 304 in effect prior to July 13, 1990,
 7 may continue to act as ~~one~~ without complying with this subtitle as long as it
 8 complies with the provisions of KRS Chapter 304 in effect prior to July 13, 1990.
 9 The exception provided in this subsection shall cease to apply to any product
 10 liability risk retention group which offers kinds of liability insurance other than
 11 product liability or completed operations liability insurance.

12 ➔SECTION 5. KRS 304.45-050 IS REPEALED AND REENACTED TO READ
 13 AS FOLLOWS:

14 *A purchasing group and its insurer or insurers shall be subject to all applicable laws of*
 15 *this state, except that a purchasing group and its insurer or insurers shall be exempt*
 16 *from any law regarding liability insurance for the purchasing group that would:*

17 *(1) Prohibit the establishment of a purchasing group;*

18 *(2) Make it unlawful for an insurer to provide or offer to provide to a purchasing*
 19 *group or its members insurance on a basis that provides advantages based on the*
 20 *purchasing group's loss and expense experience not afforded to other persons*
 21 *with respect to rates, policy forms, coverages, or other matters;*

22 *(3) Prohibit a purchasing group or its members from purchasing insurance on a*
 23 *group basis described in subsection (2) of this section;*

24 *(4) Prohibit a purchasing group from obtaining insurance on a group basis because*
 25 *the group has not been in existence for a minimum period of time or because any*
 26 *member has not belonged to the group for a minimum period of time;*

27 *(5) Require that a purchasing group have a minimum number of members, common*

- 1 ownership or affiliation, or certain legal form;
 2 (6) Require that a certain percentage of a purchasing group obtain insurance on a
 3 group basis;
 4 (7) Otherwise discriminate against a purchasing group or any of its members; or
 5 (8) Require that any insurance policy issued to a purchasing group or any of its
 6 members be countersigned by an insurance agent or broker residing in this state.

7 ➔Section 6. KRS 304.45-060 is amended to read as follows:

- 8 (1) A purchasing group which intends to do business in this state shall, prior to doing
 9 business, furnish notice to the commissioner which shall:
- 10 (a) Identify the state in which the purchasing group is domiciled;
- 11 (b) Specify the kinds and classification of liability insurance which the purchasing
 12 group intends to purchase;
- 13 (c) Identify the insurance company or companies from which the purchasing
 14 group intends to purchase its insurance and the domicile or domiciles of
 15 ~~the~~_[such] insurance company or insurance companies;
- 16 (d) Specify the method by which and the person or persons, if any, through whom
 17 insurance will be offered to its members whose risks are resident or located in
 18 this state;
- 19 (e) Identify the principal place of business of the purchasing group; and
- 20 (f) Provide ~~any~~_[such] other information as may be required by the commissioner
 21 to verify that the purchasing group is qualified under KRS 304.45-
 22 020(~~14~~)(~~10~~) and is otherwise in compliance with the laws of this state.
- 23 (2) A purchasing group shall, within ten (10) days, notify the commissioner of any
 24 changes in any of the items set forth in subsection (1) of this section.
- 25 (3) The purchasing group shall register with and designate the Secretary of State as its
 26 agent solely for the purpose of receiving legal documents or process, except that
 27 ~~this~~_[such] requirement shall not apply in the case of a purchasing group:

- 1 (a) Which in any state of the United States:
 - 2 1. Was domiciled before April 1, 1986; and
 - 3 2. Is domiciled on and after October 27, 1986;
- 4 (b) Which:
 - 5 1. Before October 27, 1986, purchased insurance from an insurer licensed
 - 6 in any state; and
 - 7 2. Since October 27, 1986, purchased its insurance from an insurer licensed
 - 8 in any state;
- 9 (c) Which was a purchasing group under the requirements of the Product Liability
- 10 Risk Retention Act of 1981 (P.L. 97-45) before October 27, 1986; and
- 11 (d) Which does not purchase insurance that was not authorized for purposes of an
- 12 exemption under that act, as in effect before October 27, 1986.
- 13 (4) Any purchasing group which was doing business in this state prior to July 13, 1990,
- 14 shall, within thirty (30) days after July 13, 1990, furnish notice to the commissioner
- 15 pursuant to the provisions of this subtitle and furnish the information required
- 16 pursuant to this subtitle.
- 17 ➔Section 7. This Act takes effect on January 1, 2018.