

1 AN ACT relating to insurance adjusters.

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

3 ➔Section 1. KRS 304.9-080 is amended to read as follows:

- 4 (1) An individual or business entity shall not sell, solicit, or negotiate insurance in this
5 state unless duly licensed as the appropriate insurance producer for that line of
6 authority in accordance with this subtitle or Subtitle 10 of this chapter.
- 7 (2) **Except as provided in Section 2 of this Act,** no individual or business entity shall in
8 this state be, act as, or hold himself, herself, or itself out as an adjuster unless then
9 licensed as an adjuster.
- 10 (3) No individual or business entity shall in this state be, act as, or hold himself, herself,
11 or itself out as a consultant unless then licensed as a consultant. No consultant shall
12 act as a consultant with respect to any kind of insurance unless duly licensed as a
13 consultant for that line of authority.
- 14 (4) Except as provided in KRS 304.9-410 and 304.9-270(4), no agent shall place, and
15 no insurer shall accept, any insurance with any insurer as to which the agent does
16 not then hold a license and appointment as agent under this subtitle.
- 17 (5) A rental vehicle agent or rental vehicle managing employee shall not place, and an
18 insurer shall not accept, any insurance with any insurer as to which the licensee
19 does not then hold a license and appointment under this subtitle.
- 20 (6) A travel retailer, its employee, or its representative shall not offer and disseminate
21 travel insurance, and an insurer shall not accept any travel insurance, for which the
22 limited lines travel insurance producer does not then hold a license and appointment
23 pursuant to KRS 304.9-475.
- 24 (7) The commissioner shall prescribe and furnish all forms required under this subtitle
25 as to licenses and appointments.
- 26 ➔Section 2. KRS 304.9-430 is amended to read as follows:
- 27 (1) **Except as provided in this section,** no person shall in this state act as or hold

1 himself, herself, or itself out to be an independent, staff, or public adjuster unless
2 then licensed by the department as an independent, staff, or public adjuster.

3 (2) An individual applying for a resident independent, staff, or public adjuster license
4 shall make application to the commissioner on the appropriate uniform individual
5 application and in a format prescribed by the commissioner. The applicant shall
6 declare under penalty of suspension, revocation, or refusal of the license that the
7 statements made in the application are true, correct, and complete to the best of the
8 individual's knowledge and belief. Before approving the application, the
9 commissioner shall find that the individual to be licensed:

- 10 (a) Is at least eighteen (18) years of age;
- 11 (b) Is eligible to designate Kentucky as his or her home state;
- 12 (c) Is trustworthy, reliable, and of good reputation, evidence of which shall be
13 determined through an investigation by the commissioner;
- 14 (d) Has not committed any act that is a ground for probation or suspension,
15 revocation, or refusal of a license as set forth in KRS 304.9-440;
- 16 (e) Has successfully passed the examination for the adjuster license and the
17 applicable line of authority for which the individual has applied;
- 18 (f) Has paid the fees established by the commissioner pursuant to KRS 304.4-
19 010; and
- 20 (g) Is financially responsible to exercise the license.

21 (3) (a) To demonstrate financial responsibility, a person applying for a public
22 adjuster license shall obtain a bond or irrevocable letter of credit prior to
23 issuance of a license and shall maintain the bond or letter of credit for the
24 duration of the license with the following limits:

- 25 1. A surety bond executed and issued by an insurer authorized to issue
26 surety bonds in Kentucky, which bond shall:
- 27 a. Be in the minimum amount of twenty thousand dollars (\$20,000);

- 1 b. Be in favor of the state of Kentucky and shall specifically
2 authorize recovery of any person in Kentucky who sustained
3 damages as the result of erroneous acts, failure to act, conviction
4 of fraud, or conviction for unfair trade practices in his or her
5 capacity as a public adjuster; and
- 6 c. Not be terminated unless written notice is given to the licensee at
7 least thirty (30) days prior to the termination; or
- 8 2. An irrevocable letter of credit issued by a qualified financial institution,
9 which letter of credit shall:
- 10 a. Be in the minimum amount of twenty thousand dollars (\$20,000);
11 b. Be subject to lawful levy of execution on behalf of any person to
12 whom the public adjuster has been found to be legally liable as the
13 result of erroneous acts, failure to act, conviction of fraud, or
14 conviction for unfair practices in his or her capacity as a public
15 adjuster; and
- 16 c. Not be terminated unless written notice is given to the licensee at
17 least thirty (30) days prior to the termination.
- 18 (b) The commissioner may ask for evidence of financial responsibility at any time
19 he or she deems relevant.
- 20 (c) The public adjuster license shall automatically terminate if the evidence of
21 financial responsibility terminates or becomes impaired and shall be promptly
22 surrendered to the commissioner without demand.
- 23 (4) A business entity applying for a resident independent or public adjuster license shall
24 make application to the commissioner on the appropriate uniform business entity
25 application and in a format prescribed by the commissioner. The applicant shall
26 declare under penalty of suspension, revocation, or refusal of the license that the
27 statements made in the application are true, correct, and complete to the best of the

- 1 business entity's knowledge and belief. Before approving the application, the
2 commissioner shall find that the business entity:
- 3 (a) Is eligible to designate Kentucky as its home state;
 - 4 (b) Has designated a licensed independent or public adjuster responsible for the
5 business entity's compliance with the insurance laws and regulations of
6 Kentucky;
 - 7 (c) Has not committed an act that is a ground for probation or suspension,
8 revocation, or refusal of an independent or public adjuster's license as set forth
9 in KRS 304.9-440; and
 - 10 (d) Has paid the fees established by the commissioner pursuant to KRS 304.4-
11 010.
- 12 (5) The commissioner may require additional information or submissions from
13 applicants and may obtain any documents or information reasonably necessary to
14 verify the information contained in an application.
- 15 (6) Unless denied licensure pursuant to KRS 304.9-440, a person or business entity
16 who has met the requirements of subsections (2) to (5) of this section shall be issued
17 an independent, staff, or public adjuster license.
- 18 (7) An independent or staff adjuster may qualify for a license in one (1) or more of the
19 following lines of authority:
- 20 (a) Property and casualty;
 - 21 (b) Workers' compensation; or
 - 22 (c) Crop.
- 23 (8) Notwithstanding any other provision of this subtitle, an individual who is employed
24 by an insurer to investigate suspected fraudulent insurance claims, but who does not
25 adjust losses or determine claims payments, shall not be required to be licensed as a
26 staff adjuster.
- 27 (9) A public adjuster may qualify for a license in one (1) or more of the following lines

1 of authority:

2 (a) Property and casualty; or

3 (b) Crop.

4 (10) Notwithstanding any other provision of this subtitle, a license as an independent
5 adjuster shall not be required of the following:

6 (a) An individual who is sent into Kentucky on behalf of an insurer for the sole
7 purpose of investigating or making adjustment of a particular loss resulting
8 from a catastrophe, or for the adjustment of a series of losses resulting from a
9 catastrophe common to all losses;

10 (b) An attorney licensed to practice law in Kentucky, when acting in his or her
11 professional capacity as an attorney;

12 (c) A person employed solely to obtain facts surrounding a claim or to furnish
13 technical assistance to a licensed independent adjuster;

14 (d) An individual who is employed to investigate suspected fraudulent insurance
15 claims, but who does not adjust losses or determine claims payments;

16 (e) A person who solely performs executive, administrative, managerial, or
17 clerical duties, or any combination thereof, and who does not investigate,
18 negotiate, or settle claims with policyholders, claimants, or their legal
19 representatives;

20 (f) A licensed health care provider or its employee who provides managed care
21 services as long as the services do not include the determination of
22 compensability;

23 (g) A health maintenance organization or any of its employees or an employee of
24 any organization providing managed care services as long as the services do
25 not include the determination of compensability;

26 (h) A person who settles only reinsurance or subrogation claims;

27 (i) An officer, director, manager, or employee of an authorized insurer, surplus

1 lines insurer, or risk retention group, or an attorney-in-fact of a reciprocal
2 insurer;

3 (j) A United States manager of the United States branch of an alien insurer;

4 (k) A person who investigates, negotiates, or settles claims arising under a life,
5 accident and health, or disability insurance policy or annuity contract;

6 (l) An individual employee, under a self-insured arrangement, who adjusts claims
7 on behalf of his or her employer;

8 (m) A licensed agent, attorney-in-fact of a reciprocal insurer, or managing general
9 agent of the insurer, to whom claim authority has been granted by the insurer;†
10 †

11 (n) A person who:

12 1. Is an employee of a licensed independent adjuster or an employee of an
13 affiliate that is a licensed independent adjuster or is supervised by a
14 licensed independent adjuster, if there are no more than twenty-five (25)
15 persons under the supervision of one (1) licensed individual independent
16 adjuster or licensed agent who is exempt from licensure pursuant to
17 paragraph (m) of this subsection;

18 2. Collects claim information from insureds or claimants;

19 3. Enters data into an automated claims adjudication system; and

20 4. Furnishes claim information to insureds or claimants from the results of
21 the automated claims adjudication system.

22 For purposes of this paragraph, "automated claims adjudication system"
23 means a preprogrammed computer system designed for the collection, data
24 entry, calculation, and system-generated final resolution of consumer
25 electronic products insurance claims that complies with claim settlement
26 practices pursuant to Subtitle 12 of KRS Chapter 304; or

27 (o) An employee of an insurer adjusting claims relating to food spoilage with

1 *respect to residential property insurance in which the amount of coverage*
 2 *for the applicable type of loss is contractually limited to five hundred dollars*
 3 *(\$500) or less.*

4 (11) Notwithstanding any other provision of this subtitle, a license as a public adjuster
 5 shall not be required of the following:

6 (a) An attorney licensed to practice law in Kentucky, when acting in his or her
 7 professional capacity as an attorney;

8 (b) A person who negotiates or settles claims arising under a life or health
 9 insurance policy or an annuity contract;

10 (c) A person employed only for the purpose of obtaining facts surrounding a loss
 11 or furnishing technical assistance to a licensed public adjuster, including
 12 photographers, estimators, private investigators, engineers, and handwriting
 13 experts;~~or~~

14 (d) A licensed health care provider or its employee who prepares or files a health
 15 claim form on behalf of a patient; or

16 *(e) An employee of an insurer adjusting claims relating to food spoilage with*
 17 *respect to residential property insurance in which the amount of coverage*
 18 *for the applicable type of loss is contractually limited to five hundred dollars*
 19 *(\$500) or less.*

20 (12) *Notwithstanding any other provision of this subtitle, a license as a staff adjuster*
 21 *shall not be required of an employee of an insurer adjusting claims relating to*
 22 *food spoilage with respect to residential property insurance in which the amount*
 23 *of coverage for the applicable type of loss is contractually limited to five hundred*
 24 *dollars (\$500) or less.*

25 **(13)** For purposes of this section, "home state" means any state or territory of the United
 26 States or the District of Columbia in which an independent, staff, or public adjuster
 27 maintains his, her, or its principal place of residence or business and is licensed to

1 act as a resident independent, staff, or public adjuster. If the state of the principal
2 place of residence does not license an independent, staff, or public adjuster for the
3 line of authority sought, the independent, staff, or public adjuster shall designate as
4 his, her, or its home state, any state in which the independent or public adjuster is
5 licensed and in good standing.

6 ~~(14)~~~~(13)~~ Temporary registration for emergency independent or staff adjusters shall be
7 issued by the commissioner in the event of a catastrophe declared in Kentucky in
8 the following manner:

9 (a) An insurer shall notify the commissioner by submitting an application for
10 temporary emergency registration of each individual not already licensed in
11 the state where the catastrophe has been declared, who will act as an
12 emergency independent adjuster on behalf of the insurer;

13 (b) A person who is otherwise qualified to adjust claims, but who is not already
14 licensed in the state, may act as an emergency independent or staff adjuster
15 and adjust claims if, within five (5) days of deployment to adjust claims
16 arising from the catastrophe, the insurer notifies the commissioner by
17 providing the following information, in a format prescribed by the
18 commissioner:

- 19 1. The name of the individual;
- 20 2. The Social Security number of the individual;
- 21 3. The name of the insurer that the independent or staff adjuster will
22 represent;
- 23 4. The catastrophe or loss control number;
- 24 5. The catastrophe event name and date; and
- 25 6. Any other information the commissioner deems necessary; and

26 (c) An emergency independent or staff adjuster's registration shall remain in force
27 for a period not to exceed ninety (90) days, unless extended by the

1 commissioner.

2 ~~(15)~~~~(14)~~ (a) Unless refused licensure in accordance with KRS 304.9-440, a
3 nonresident person shall receive a nonresident independent, staff, or public
4 adjuster license if:

- 5 1. The person is currently licensed in good standing as an independent,
6 staff, or public adjuster in his, her, or its home state;
- 7 2. The person has submitted the proper request for licensure, and has paid
8 the fees required by KRS 304.4-010;
- 9 3. The person has submitted, in a form or format prescribed by the
10 commissioner, the uniform individual application; and
- 11 4. The person's designated home state issues nonresident independent,
12 staff, or public adjuster licenses to persons of Kentucky on the same
13 basis.

14 (b) The commissioner may verify the independent, staff, or public adjuster's
15 licensing status through any appropriate database or may request certification
16 of good standing.

17 (c) As a condition to the continuation of a nonresident adjuster license, the
18 licensee shall maintain a resident adjuster license in his, her, or its home state.

19 (d) The nonresident adjuster license issued under this section shall terminate and
20 be surrendered immediately to the commissioner if the resident adjuster
21 license terminates for any reason, unless the termination is due to the adjuster
22 being issued a new resident independent or public adjuster license in his, her,
23 or its new home state. If the new resident state does not have reciprocity with
24 Kentucky, the nonresident adjuster license shall terminate.

25 ➔Section 3. KRS 304.9-436 is amended to read as follows:

26 (1) An authorized insurer shall not do business in Kentucky with an adjuster who is
27 unlicensed in violation of KRS 304.9-080 and 304.9-430. This section shall not

1 apply to transactions between an authorized insurer and persons providing adjusting
2 services pursuant to KRS 304.9-430(10), (11), (12), and (14)~~[(13)]~~.

3 (2) An authorized insurer shall not do business in Kentucky with an administrator who
4 is not licensed in accordance with KRS 304.9-052. This subsection shall not apply
5 to transactions between an authorized insurer and persons providing administrator
6 services pursuant to KRS 304.9-051.