

FREE CONFERENCE COMMITTEE REPORT

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The Free Conference Committee on **HB 568** has met as provided in the Rules of the House and Senate and hereby reports the following to be adopted:

_____ **GA** X **SCS** _____ **HCS**

For the above-referenced bill, with these amendments (if applicable):

Committee (list by chamber and number): _____;

Floor (list by chamber and number): _____; and

The following Free Conference Committee action:

Starting on page 1, line 3, and continuing through page 7, line 16, delete Section 1 in its entirety and insert the following in lieu thereof:

"➔Section 1. KRS 304.9-020 is amended to read as follows:

As used in this subtitle:

- (1) "Agent" means a person who sells, solicits, or negotiates insurance or annuity contracts;
- (2) "Appointment" means a notification filed with the insurance department that an insurer has established an agency relationship with a producer;
- (3) "Appointment renewal" means continuation of an insurer's existing appointment based on payment of the required fee without submission of an appointment form;
- (4) "Apprentice adjuster" means an individual who meets the qualification requirements to hold a license as an independent, staff, or public adjuster, except for the experience, education, and training requirements;
- (5) "Business entity" means a corporation, association, partnership, limited liability company, limited liability partnership, employer group, professional employer organization, or other legal entity;
- (6) "Catastrophe" means an event that results in a declaration of emergency by the Governor

- 1 pursuant to KRS 39A.100 and:
- 2 (a) A large number of deaths or injuries;
- 3 (b) Extensive damage or destruction of facilities that provide and sustain human needs;
- 4 (c) An overwhelming demand on state and local response resources and mechanisms;
- 5 (d) A severe long-term effect on general economic activity; or
- 6 (e) A severe effect on state, local, and private sector capabilities to begin and sustain
- 7 response activities;
- 8 (7) "Crop insurance" means insurance providing protection against damage to crops from
- 9 unfavorable weather conditions, fire or lightning, flood, hail, insect infestation, disease, or
- 10 other yield-reducing conditions or perils provided by the private insurance market or that is
- 11 subsidized by the Federal Crop Insurance Corporation, including multi-peril crop
- 12 insurance;
- 13 (8) "Home state" means the District of Columbia and any state or territory of the United States
- 14 in which a licensee maintains his or her principal place of residence or principal place of
- 15 business and is licensed by that state;
- 16 (9) "Independent adjuster" means a person who:
- 17 (a) Is an independent contractor, an employee of an independent contractor, or for tax
- 18 purposes is treated as an independent contractor under Subtitle C of the Internal
- 19 Revenue Code, 26 U.S.C. secs. 3101 et seq.;
- 20 (b) Is compensated by an insurer or self-insurer; and
- 21 (c) Investigates, negotiates, or settles property, casualty, or workers' compensation
- 22 claims for insurers or self-insurers;
- 23 (10) "Insurance producer":
- 24 (a) Means an individual or business entity required to be licensed under the laws of
- 25 Kentucky to sell, solicit, or negotiate insurance or annuity contracts; ~~and~~
- 26 (b) [~~"Insurance producer"~~] Includes an agent, managing general agent, surplus lines
- 27 broker, reinsurance intermediary broker and manager, rental vehicle agent and rental

- 1 vehicle agent managing employee, and consultant;
- 2 (11) "Limited line credit insurance" includes credit life, credit disability, credit property, credit
3 unemployment, involuntary unemployment, mortgage life, mortgage guaranty, mortgage
4 disability, guaranteed automobile protection insurance, and any other form of insurance
5 offered in connection with an extension of credit that is limited to partially or wholly
6 extinguishing that credit obligation that the commissioner determines should be designated
7 a form of limited line credit insurance;
- 8 (12) "Limited line credit insurance agent" means an individual or business entity who sells,
9 solicits, or negotiates one (1) or more forms of limited line credit insurance coverage to
10 individuals through a master, corporate, group, or individual policy;
- 11 (13) "Limited lines insurance" means:
- 12 **(a)** The lines of insurance defined in subsections (7), (11), (22), (27), and (29) of this
13 section; and
- 14 **(b)** Any other line of insurance that the commissioner identifies in accordance with KRS
15 304.9-230(1)(g) or recognizes for the purpose of complying with KRS 304.9-140(5);
- 16 (14) "Negotiate":
- 17 **(a)** Means the act of conferring directly with, or offering advice directly to, a purchaser
18 or prospective purchaser of a particular contract of insurance concerning any of the
19 substantive benefits, terms, or conditions of the contract, provided that the person
20 engaged in that act either sells insurance or obtains insurance from insurers for
21 purchasers; ~~and~~
- 22 **(b)** Unless the context requires otherwise, ~~"Negotiate"~~ does not include negotiating a
23 claims settlement;
- 24 (15) "Pharmacy benefit manager" means an entity that, on behalf of a health benefit plan, state
25 agency, insurer, managed care organization providing services under KRS Chapter 205, or
26 other third-party payor:
- 27 (a) Contracts directly or indirectly with pharmacies to provide prescription drugs to

- 1 individuals;
- 2 (b) Administers a prescription drug benefit;
- 3 (c) Processes or pays pharmacy claims;
- 4 (d) Creates or updates prescription drug formularies;
- 5 (e) Makes or assists in making prior authorization determinations on prescription drugs;
- 6 (f) Administers rebates on prescription drugs; or
- 7 (g) Establishes a pharmacy network;
- 8 (16) "Portable electronics" means electronic devices that are portable and the accessories and
- 9 services related to the use of the device;
- 10 (17) ~~[(a)]~~ "Portable electronics insurance":
- 11 (a) Means insurance providing coverage for the repair or replacement of portable
- 12 electronics for any one (1) or more of the following:
- 13 1. Loss;
- 14 2. Theft;
- 15 3. Inoperability due to mechanical failure;
- 16 4. Malfunction;
- 17 5. Damage; or
- 18 6. Other similar causes of loss; and ~~[]~~
- 19 (b) ~~["Portable electronics insurance"]~~ Does not include ~~[mean]~~:
- 20 1. A service contract governed by KRS 304.5-070;
- 21 2. A policy of insurance covering a seller's or manufacturer's obligations under a
- 22 warranty; or
- 23 3. A homeowner's, renter's, private passenger automobile, commercial multi-peril,
- 24 or similar policy;
- 25 (18) "Portable electronics insurance supervising entity" means a business entity that is a
- 26 licensed insurer or insurance agent that is appointed by an insurer to supervise the
- 27 administration of a portable electronics insurance program;

1 (19) "Portable electronics retailer" means a licensed business entity that offers and sells portable
 2 electronic devices and offers and disseminates portable electronics insurance on behalf and
 3 under the direction of a portable electronics insurance supervising entity;

4 (20) "Public adjuster":

5 **(a)** Means any person who ~~for compensation or anything of value~~:

6 ~~1.(a)~~ **For compensation or reward paid by or on behalf of an insured, renders**
 7 **advice or assistance to the insured in a first-party claim for loss or damages**
 8 **under any policy, certificate, or contract of insurance covering real or**
 9 **personal property** ~~[Acts on behalf of an insured or aids an insured, solely in~~
 10 ~~relation to first party claims arising under insurance contracts that insure the~~
 11 ~~real or personal property of the insured, in negotiating for, or effecting the~~
 12 ~~settlement of, a claim for loss or damage covered by an insurance contract]; or~~

13 ~~2.(b)~~ **Advertises, solicits business, or holds itself out to the public as an**
 14 **adjuster described in subparagraph 1. of this paragraph** ~~[for employment as a~~
 15 ~~public adjuster of insurance claims, solicits business or represents himself,~~
 16 ~~herself, or itself to the public as a public adjuster of first party insurance claims~~
 17 ~~for losses or damages arising out of policies of insurance that insure real or~~
 18 ~~personal property; or~~

19 ~~(c) Directly or indirectly solicits business, investigates or adjusts losses, advises an~~
 20 ~~insured about first party claims for losses or damages arising out of policies of~~
 21 ~~insurance that insure real or personal property for another person, or engages in the~~
 22 ~~business of adjusting losses or damages covered by an insurance policy for the~~
 23 ~~insured]; and~~

24 **(b) Does not include:**

25 **1. An attorney licensed to practice law in Kentucky, when acting in his or her**
 26 **professional capacity as an attorney; or**

27 **2. A person employed only for the purpose of obtaining facts surrounding a loss**

1 or furnishing technical assistance to a licensed public adjuster, including
2 photographers, estimators, private investigators, engineers, and handwriting
3 experts;

4 (21) "Rental vehicle agent" means a business entity with a rental vehicle agent managing
5 employee that is licensed to sell, solicit, or negotiate insurance offered, sold, or solicited in
6 connection with, and incidental to, the rental of rental vehicles, whether at the rental office
7 or by preselection of coverage in master, corporate, or group agreements that:

8 (a) Are nontransferable;

9 (b) Apply only to the rental vehicle that is the subject of the rental agreement; and

10 (c) Are limited to the following kinds of insurance:

11 1. Personal accident insurance for renters and other rental vehicle occupants for
12 accidental death or dismemberment and for medical expenses resulting from an
13 accident that occurs with the rental vehicle during the rental period;

14 2. Liability insurance that provides protection to the renters and other authorized
15 drivers of a rental vehicle for liability arising from the operation or use of the
16 rental vehicle during the rental period;

17 3. Personal effects insurance that provides coverage to renters and other vehicle
18 occupants for loss of or damage to personal effects in the rental vehicle during
19 the rental period;

20 4. Roadside assistance insurance;

21 5. Emergency sickness protection insurance; or

22 6. Any other coverage designated by the commissioner;

23 (22) "Rental vehicle insurance" means insurance underwritten by an insurer authorized to
24 transact business in Kentucky that is sold in connection with, and incidental to, a rental
25 vehicle agreement;

26 (23) "Rental vehicle agent managing employee" means an individual who:

27 (a) Is a salaried full-time employee of a licensed rental vehicle agent business entity that

- 1 holds a license under KRS 304.9-505; and
- 2 (b) Is responsible for the supervision of the other employees engaged in the placement of
- 3 insurance;
- 4 (24) "Sell" means to exchange a contract of insurance by any means, for money or other
- 5 valuable consideration, on behalf of an insurer;
- 6 (25) "Solicit" means attempting to sell insurance or asking or urging a person to apply for a
- 7 particular kind of insurance from a particular insurer;
- 8 (26) "Staff adjuster" means an individual who is an employee of an insurer who investigates,
- 9 negotiates, or settles property, casualty, or workers' compensation claims on behalf of his
- 10 or her employer;
- 11 (27) "Surety" means insurance or bond that covers obligation to pay the debts of, or answer for
- 12 the default of another, including faithlessness in a position of public or private trust. Surety
- 13 also includes surety insurance as defined in KRS 304.5-060;
- 14 (28) "Terminate" means the cancellation of the relationship between an insurance producer and
- 15 the insurer or the termination of an insurance producer's authority to transact insurance;
- 16 (29) "Travel insurance" has the same meaning as in KRS 304.52-010;
- 17 (30) "Uniform business entity application" means the current version of the uniform business
- 18 entity application for resident and nonresident business entities; and
- 19 (31) "Uniform individual application" means the current version of the uniform individual
- 20 application for resident and nonresident individuals."; and
- 21 On page 7, line 23, after "date" insert "*of this section*"; and
- 22 On page 8, line 1, after "date" insert "*of this section*"; and
- 23 On page 8, line 3, after "date" insert "*of this section*"; and
- 24 On page 19, line 9, after "date" insert "*of this section*"; and
- 25 On page 24, delete line 9 in its entirety and insert the following in lieu thereof;
- 26 "2. Authorizes the public adjuster to *render advice and assistance to the insured in*
- 27 *accordance with this subtitle*~~represent the insured's interest~~; and"; and

1 On page 26, after line 27, insert the following:

2 "**(7) For a period of two (2) years beginning on the effective date of this section of this Act, a**
 3 **public adjuster shall not negotiate with an insurer on behalf of an insured in the**
 4 **adjustment or settlement of a claim.**"; and

5 On page 33, after line 21, insert the following:

6 "➔SECTION 9. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ
 7 AS FOLLOWS:

8 **(1) (a) A violation of Section 4, 5, 6, or 7 of this Act shall be deemed to be an unfair, false,**
 9 **misleading, or deceptive act or practice in the conduct of trade or commerce in**
 10 **violation of KRS 367.170.**

11 **(b) All of the remedies, powers, and duties provided to the Attorney General or any**
 12 **other person under KRS 367.110 to 367.300, and the penalties provided in KRS**
 13 **367.990, pertaining to acts and practices declared unlawful by KRS 367.170, shall**
 14 **apply with equal force and effect to a violation of this section.**

15 **(2) (a) The remedies and penalties prescribed in this section shall be cumulative.**

16 **(b) This section shall not be construed to limit or restrict the powers, duties, remedies,**
 17 **or penalties available to the Attorney General, the Commonwealth, or any other**
 18 **person under any other statutory or common law.**"; and

19 Renumber subsequent sections accordingly; and

20 On page 38, after line 17, insert the following:

21 "➔Section 12. KRS 196.026 is amended to read as follows:

22 The Department of Corrections shall consist of the following organizational units:

23 (1) Division of Compliance;

24 (2) Division of Public Affairs;

25 (3) Office of Adult Institutions, which shall have the following divisions:

26 (a) Division of Operations and Program Services;

27 (b) Division of Medical Services;

- 1 (c) Division of Mental Health Services;
- 2 (d) Division of Education;
- 3 (e) Division of Correctional Industries;
- 4 (f) Division of Kentucky State Reformatory;
- 5 (g) Division of Luther Lockett Correctional Complex;
- 6 (h) Division of Roederer Correctional Complex;
- 7 (i) Division of Blackburn Correctional Complex;
- 8 (j) Division of Kentucky Correctional Institution for Women;
- 9 (k) Division of Northpoint Training Center~~[Division]~~;
- 10 (l) Division of Eastern Kentucky Correctional Complex;
- 11 (m) Division of Bell County Forestry Camp;
- 12 (n) Division of Kentucky State Penitentiary;
- 13 (o) Division of Western Kentucky Correctional Complex;
- 14 (p) Division of Green River Correctional Complex;
- 15 (q) Division of Little Sandy Correctional Complex;~~[and]~~
- 16 (r) Division of Southeast State Correctional Complex; ***and***
- 17 ***(s) Division of Central Kentucky Medical Correctional Complex.***

18 Each division specified in paragraphs (f) to ~~(s)~~~~(r)~~ of this subsection shall be headed by a
 19 warden pursuant to KRS 196.160;

- 20 (4) Office of Community Services and Facilities, which shall have the following divisions:
 - 21 (a) Division of Probation and Parole;
 - 22 (b) Division of Reentry;
 - 23 (c) Division of Local Facilities; and
 - 24 (d) Division of Addiction Services; and
- 25 (5) Office of Support Services, which shall have the following divisions:
 - 26 (a) Division of Administrative Services;
 - 27 (b) Division of Corrections Training;

- 1 (c) Division of Population Management;
- 2 (d) Division of Offender Information Services; and
- 3 (e) Division of Parole Board Support.

4 ➔Section 13. KRS 342.908 is amended to read as follows:

- 5 (1) The commissioner shall notify a guaranty fund if the commissioner has knowledge that any
6 member of the guaranty fund has failed to timely pay workers' compensation benefits
7 required by this chapter or if a court of competent jurisdiction has declared the member to
8 be bankrupt or insolvent.
- 9 (2) In the event of issuance of a certificate of default, the commissioner shall call all security
10 and transfer it to the appropriate guaranty fund created pursuant to this section. The
11 commissioner shall also immediately notify, by certified mail, the guaranty fund and order
12 the guaranty fund to assume the workers' compensation obligations of the member required
13 in this chapter. The guaranty fund shall commence payment of these obligations within
14 fourteen (14) days of receipt of notification and order of the commissioner. Payment shall
15 be made to claimants whose entitlement to benefits can be ascertained by the guaranty fund
16 with or without proceedings before the Department of Workers' Claims or a court of
17 competent jurisdiction. Upon assumption of the obligations of a member by a guaranty
18 fund, the guaranty fund shall have the right to immediate possession of any security, and
19 the custodian, surety, or issuer of any irrevocable letter of credit shall turn over the
20 security, proceeds of the surety bond, or letter of credit to the guaranty fund, together with
21 the interest that has accrued since the date of the member's insolvency. The guaranty fund
22 may administer payment of benefits or it may retain a third party to do so.
- 23 (3) Notwithstanding any other provision of law, any cash, securities, irrevocable letters of
24 credit, specific excess or aggregate excess insurance proceeds, or any other security
25 deposited or posted in accordance with this section shall be used first, when due, to pay
26 workers' compensation claims. After the security has been exhausted, the payment of
27 workers' compensation claims from member assessments may be made. Where the

1 guaranty fund member-assessment account is used to pay workers' compensation claims on
2 an emergency or an interim basis, pending receipt by the guaranty fund of security which is
3 due but not yet received, the member-assessment account shall be reimbursed for payment
4 from the security when it is received, and the priorities stated above shall thereafter apply.

5 (4) (a) To the extent necessary to secure funds for the initial establishment of each guaranty
6 fund member-assessment account, the board of directors of each guaranty fund
7 created pursuant to this section shall levy assessments based on the premium of each
8 individual self-insured employer, as defined and calculated pursuant to KRS
9 342.0011(28), for members of the Kentucky individual self-insurers guaranty fund
10 and for the Kentucky coal employers self-insurance guaranty fund, and KRS
11 342.0011(24) for the Kentucky group self-insurance guaranty fund, but no such
12 assessments shall ever exceed, in the aggregate, from all members of a single
13 guaranty fund, an amount in excess of one million dollars (\$1,000,000) at any given
14 time.

15 (b) The assessments shall be made at a maximum annual assessment of:

16 1. One-half of one percent (0.5%) of the premium for each member of the
17 Kentucky individual self-insurance guaranty fund as defined and calculated
18 pursuant to KRS 342.0011(28);

19 2. Two percent (2%) of the premium for each member of the Kentucky coal
20 employers guaranty fund as defined and calculated pursuant to KRS
21 342.0011(28); and

22 3. Three-fourths of one percent (0.75%) of the premium for each member of the
23 Kentucky group self-insurance guaranty fund as defined and calculated
24 pursuant to KRS 342.0011(24).

25 (5) The initial assessment for each guaranty fund created pursuant to this section shall be for
26 an amount equal to five hundred thousand dollars (\$500,000), to be levied and collected
27 within a one (1) year period. There shall be no reassessments against any member unless

1 the current balance of such guaranty fund created pursuant this section is insufficient after
2 deducting the amount paid for or reserved for outstanding claims and for administrative
3 and other costs in managing the guaranty fund at which point the board of directors shall
4 raise assessments sufficient to bring the minimum amount of the guaranty fund to five
5 hundred thousand dollars (\$500,000) or such other amount not to exceed, in any event, one
6 million dollars (\$1,000,000) based upon a maximum annual assessment for each guaranty
7 fund.

8 (6) A guaranty fund created pursuant to this section shall pay no dividends, rebates, interest, or
9 otherwise distribute income from the guaranty fund to any of its members, unless the
10 guaranty fund has the assets prescribed in subsection (5) of this section and the
11 distributions are approved by the commissioner.

12 (7) The commissioner shall be provided with any relevant information by the employer, any
13 excess insurer, any third party administrator, or any issuer of any irrevocable letter of
14 credit, issuer of any surety bond, or custodian of any security necessary for the
15 commissioner to carry out the commissioner's obligations under this chapter, and the
16 commissioner shall provide this information to the guaranty fund as necessary to carry out
17 its obligations.

18 (8) The payment of benefits by a guaranty fund does not release any person or entity from any
19 liability to the individual guaranty fund for full reimbursement.

20 **(9) (a) As used in this subsection:**

21 **1. "Annual special fund assessment" means the assessment imposed upon a**
22 **member fund pursuant to KRS 342.122(1)(b);**

23 **2. "Division" means the Division of Workers' Compensation Funds in the**
24 **Department of Workers' Claims;**

25 **3. "Group fund" means the Kentucky group self-insurance fund established**
26 **pursuant to KRS 342.906(2); and**

27 **4. "Member fund" means a member or former member of the Kentucky group**

1 self-insurance fund that is assessed under subsection (4) of this section on or
2 after January 1, 2026, for liabilities incurred while a member.

3 (b) Notwithstanding any provision of KRS 342.122 to the contrary, or any other
4 provision of this chapter or other law, for calendar years beginning January 1,
5 2027, and January 1, 2028:

6 1. The amount of the annual special fund assessment imposed upon a member
7 fund shall be retained by the member fund and paid to the credit of the group
8 fund for the purpose of satisfying the group fund's outstanding workers'
9 compensation claims; and

10 2. A member fund shall pay the amounts of its annual special fund assessment
11 to the group fund on the schedule set forth in KRS 342.122(2)(a) and (b) and
12 shall provide the division with notice of the assessments paid.

13 (c) This subsection shall not apply to any special fund assessment for any calendar
14 year beginning after December 31, 2028."; and

15 Renumber subsequent section accordingly; and

16 On page 38, line 19, after "date" insert "of Sections 4 to 7"; and

17 On page 38, after line 19, insert the following:

18 "➔Section 15. Whereas ensuring adequate licensing requirements for public adjusters is
19 crucial for the protection of consumers, and it is critical to ensure that the Department of
20 Corrections is able to provide the care and capacity necessary for the inmate population, an
21 emergency is declared to exist, and Sections 1, 2, 3, 10, 11, and 12 of this Act take effect upon its
22 passage and approval by the Governor or upon its otherwise becoming a law."; and

23 Amend the title to read "AN ACT relating to public protection and declaring an
24 emergency.".

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Senate Members

House Members

The above-named members, in separate votes by house, all concur in the provisions of this report.

DATE

For Clerk's Use:

Adopted: _____

Repassage Vote: _____