

## **806 KAR 9:025. Agent licensing process.**

RELATES TO: KRS 304.4-010, 304.9-105, 304.9-130, 304.9-150, 304.9-160, 304.9-230, 304.9-270, 304.9-295, 304.9-320, 304.9-430

STATUTORY AUTHORITY: KRS 304.2-110, 304.9-080, 304.9-105, 304.9-160, 304.9-170, 304.9-230, 304.9-270, 304.9-295

NECESSITY, FUNCTION, AND CONFORMITY: KRS 304.2-110 authorizes the Commissioner of Insurance to promulgate administrative regulations necessary for or as an aid to the effectuation of any provisions of the Kentucky Insurance Code. KRS 304.9-080 requires the commissioner to prescribe and furnish all forms required for licenses and appointments under Subtitle 9 of the insurance code. KRS 304.9-105 requires the commissioner to promulgate administrative regulations to mandate a prelicensing course of study for all agents except for a variable life and variable annuities line of authority and limited lines of authority. KRS 304.9-230 requires the commissioner to promulgate administrative regulations regarding a prelicensing course of study for limited lines of authority. KRS 304.9-160 requires the commissioner to establish the examination process, and KRS 304.9-170 provides exemptions to the examination requirement. KRS 304.9-270 requires the commissioner to prescribe a form required for appointment of individual and business entity agents. KRS 304.9-295 requires the commissioner to establish forms and standards for the approval of pre-licensing and continuing education course providers, instructors, and courses. This administrative regulation establishes the guidelines for individual agents, business entities, consultants, and adjusters to become licensed, obtain appointments, as required, in Kentucky, maintain their licenses through the completion of continuing education, and surrender their license voluntarily or have their appointment terminated by an insurer.

### **Section 1. Pre-Licensing Course Requirements.**

(1) An individual applying for an agent license shall complete a pre-licensing course study approved by the commissioner for a minimum of forty (40) hours for life and health insurance, forty (40) hours for property and casualty insurance, or twenty (20) hours for each line of authority, as applicable, for the lines of authority included in the application, unless the applicant is:

- (a) Seeking a limited line of authority under KRS 304.9-230; or
- (b) Exempt pursuant to KRS 304.9-170.

(2)

(a) All prelicensing courses, providers, and instructors shall be approved by the commissioner prior to offering a course.

(b) A prelicensing course provider shall submit either in writing or electronically through the department's Web site, <http://insurance.ky.gov>:

- 1. A Form KYP-01, Provider Approval Application, submitted once to become an approved course provider;
- 2. A Form CE/PL-100, Course Approval Application, for each course the approved provider wants to offer;
- 3. A Form CE/PL-200, Instructor Approval Application, for each course instructor;
- 4. The fee, as applicable, established for provider, instructor, and course approval in 806 KAR 4:010; and
- 5. An outline of the content of the course of study.

(c) In approving a prelicensing course of study, the commissioner or the commissioner's designee shall consider whether the course of study covers the subject matter included in the department's current study outlines or their equivalent.

(d) If approved, a prelicensing course of study approved by the commissioner shall be renewed biennially.

- (e) If approved previously, the provider and instructor approval applications are not required to be submitted with each course.
- (3) A prelicensing course of study is valid for one (1) year from the date of completion.
- (4) The prelicensing provider shall submit proof of completion of a course of study to the department and applicant on Form CPL-01, Certificate of Pre-Licensing Course Completion or electronically through the department's Web site, <http://insurance.ky.gov>, for each applicant.

## Section 2. Agent Examinations.

- (1) All applicants for a license shall file with the commissioner:
  - (a) A completed Form 8301, NAIC Individual Insurance Producer License Application;
  - (b) Documentation demonstrating successful completion of any required prelicensing courses;
  - (c) A completed background check through the administrative office of the courts; and
  - (d) Payment of the fees applicable to the license and lines of authority sought according to KRS 304.4-010 and 806 KAR 4:010.
- (2) If an examination is required, the documents and fees required in subsection (1) of this section shall be submitted prior to scheduling an examination.
- (3) An individual applying for a line of authority identified in KRS 304.9-030(2) shall successfully complete examinations as follows:
  - (a) For life line of authority, a life examination;
  - (b) For health line of authority, a health examination;
  - (c) For property line of authority, a property examination;
  - (d) For casualty line of authority, a casualty examination;
  - (e) For personal lines, a property and casualty personal lines examination;
  - (f) For a line of authority identified in accordance with KRS 304.9-030(2)(h), an examination appropriate for the kind of insurance; and
  - (g) For variable life and variable annuity products, no examination is required.
- (4) Examinations shall only be required for the following limited lines of authority identified in KRS 304.9-230:
  - (a) For crop limited of authority, a crop examination; and
  - (b) For rental vehicle limited line of authority, a rental vehicle examination shall be administered or monitored by a rental vehicle agent pursuant to 806 KAR 9:265.
- (5) Every applicant for a license required to take an examination shall answer correctly seventy (70) percent of the questions to pass the examination.
- (6) To retake an examination, an applicant shall submit:
  - (a) Form 8304, Examination Retake Form; and
  - (b) The applicable examination retake fees established in 806 KAR 4:010.

## Section 3. Adjuster Examinations.

- (1) An individual applying for an adjuster line of authority identified in KRS 304.9-430(7) or (8) shall:
  - (a) For property and casualty line of authority, successfully complete a property and casualty adjuster examination;
  - (b) For workers' compensation line of authority, successfully complete a workers' compensation adjuster examination; and
  - (c) For crop line of authority, either:
    - 1. Successfully complete a crop adjuster examination; or
    - 2. Demonstrate certification through the Crop Adjuster Proficiency Program, by providing to the department a copy of a Crop Adjuster Proficiency Program certification identification card with an active status issued by the federal Risk Management Agency, an agency within the U.S. Department of Agriculture, which

specifies the applicant has passed a proficiency examination to adjust multi-peril crop claims.

- (2) Every applicant for a license required to take an examination shall answer correctly seventy (70) percent of the questions to pass the examination.

Section 4. Consultant Examination. An applicant for a consultant license shall answer correctly seventy (70) percent of the questions to pass the consultant examination and obtain a license.

Section 5. Continuing Education.

- (1) Continuing education providers, instructors, and courses shall be approved by the commissioner unless specifically exempted by KRS 304.9-295.

(a) Continuing education courses providers shall submit a completed Form KYP-01, Provider Approval Application.

(b) Continuing education course instructors shall submit a completed Form CE/PL-200, Instructor Approval Application.

(c) A continuing education course shall be filed by submitting the Form CE/PL-100, Course Approval Application form at least sixty (60) days in advance of advertising, unless good cause is demonstrated by the provider for the failure to file. If the course is offered in multiple states, the provider may use the National Association of Insurance Commissioners' NAIC Uniform Continuing Education Reciprocity Course Filing Form for approval.

(d) The commissioner shall consider the following in determining approval of continuing education courses:

1. Whether the applicant has remitted all fees due once the total credit hours are determined pursuant to 806 KAR 4:010;

2. Whether the continuing education course contributes directly, at a professional level, to the competence of the licensee with respect to the following subjects:

- a. Insurance, annuities, and risk management;
- b. Insurance laws and administrative regulations;
- c. Mathematics, statistics, and probability;
- d. Economics;
- e. Business law;
- f. Finance;
- g. Taxes;
- h. Agency management including all aspects of agency operations that support the long-term stability of the agency system and encourage the service and protection of customers;
- i. Ethics; or
- j. Other topics approved by the commissioner which contribute directly at a professional level to the competence of the licensee.

(e) The continuing education course shall:

1. Include current, relevant, accurate, and valid reference materials, graphics, and interactivity;
2. Have clearly defined objectives and course completion criteria;
3. Have a written outline and study materials or texts; and
4. Include a means for evaluation.

(f) Self-study courses shall require successful completion of an examination.

(g) Continuing education credit shall not be provided for:

1. Any course used to prepare for taking an examination required pursuant to KRS Chapter 304;
2. Committee service for professional organizations;
3. Computer training to develop functional skills; and

4. Motivational or self-help courses.

(h) The commissioner shall measure continuing education course credit hours by the following:

1. Each credit hour for live instruction courses, completed in a classroom, by video, teleconference, or computer, shall include at least fifty (50) minutes of continuous instruction or participation.

2. Each credit hour for recorded self-study courses, completed online or by correspondence, shall be calculated in accordance with the National Association of Insurance Commissioners', Recommended Guidelines for Online Courses.

(i) Any material change in a previously approved continuing education course shall be filed and approved by the commissioner prior to use.

(j) Biennially, providers shall renew approval of continuing education courses and instructors by submitting all applicable information and fee payment to the commissioner prior to June 30 of even-numbered years.

(2) Licensees engaging in the sale, solicitation, or negotiation of specialized products as noted are subject to the following:

(a) Resident licensees selling, soliciting, or negotiating insurance products that qualify under the Long-Term Care Partnership Insurance Program, as described in KRS 304.14-642, shall complete eight (8) hours of initial long-term care training, and four (4) hours of additional training for each biennial continuing education compliance period;

(b) Any resident licensee licensed with Property and Casualty lines of authority selling federal flood insurance shall complete three (3) hours of training in accordance with the Flood Insurance Reform Act of 2004, as set forth in Pub.L. 108-264, Section 207; and

(c) Any individual licensee who holds a life line of authority shall successfully complete four (4) hours of initial training, prior to the sale, solicitation, or negotiation of annuities, unless the licensee has documented the completion of substantially similar training in another state, that shall include information on the following topics:

1. The types of annuities and various classifications of annuities;

2. Identification of the parties to an annuity;

3. The manner in which fixed, variable, and indexed annuity contract provisions affect consumers;

4. The application of income taxation of qualified and non-qualified annuities;

5. The primary uses of annuities; and

6. Appropriate sales practices, replacement, and disclosure requirements.

(3) Continuing education providers shall:

(a) Within thirty (30) days of completion of a continuing education course, submit to the commissioner the Continuing Education Certificate of Completion forms and attendance roster for all licensees who satisfactorily completed the course;

(b) Issue the Form CE-301, Approved Continuing Education Certificate of Completion form to the licensee that successfully completed the course; and

(c) Maintain all attendance rosters and course completion certificates in hard copy or electronic format for at least five (5) years for review, as necessary, by the commissioner.

(4) Licensees remain responsible for the timely submission of continuing education certificates of completion to the commissioner even if the provider does not fulfill their responsibilities under this section.

(5) Licensees may carry forward up to twelve (12) excess credit hours to the subsequent continuing education biennium.

(6) If the department does not receive proof of fulfillment of a licensee's continuing education requirement on or before the deadline, the commissioner shall:

- (a) Make information of the deficiency available to the licensee; and
  - (b) Terminate the license if proof of completion of the deficient hours is not received as prescribed by KRS 304.9-295.
- (7) Licensees whose license is terminated due to the failure to submit the certification of continuing education by the required deadline shall:
- (a) Have the license reissued within twelve (12) months of the license termination if the licensee:
    - 1. Satisfies the delinquent continuing education requirements;
    - 2. Submits a new application with required attachments included within Section 2(1) of this administrative regulation for a license; and
    - 3. Submits the applicable fees established in 806 KAR 4:010; or
  - (b) Be required to complete all licensing requirements specified in KRS Chapter 304, Subtitle 9 and this administrative regulation after the continuing education delinquency remains unsatisfied for twelve (12) months or longer.
- (8) A licensee may seek exemption from Continuing Education requirements by completing a Form CE AFF 304, Affidavit for Exemption from Continuing Education Requirement.
- (a) An agent exempted from continuing education requirements on the basis of a supporting affidavit that the agent license is maintained for the sole purpose of receiving renewals or deferred commissions may withdraw the continuing education exemption and may have all restrictions against selling, soliciting, and negotiating insurance removed from the agent license by:
    - 1. Completing the continuing education requirements for the immediate preceding continuing education biennium;
    - 2. Providing a certification of completion of those continuing education requirements; and
    - 3. Providing a signed, written statement withdrawing the affidavit.
  - (b) The false use of a supporting affidavit that the agent license is maintained for the sole purpose of receiving renewals or deferred commissions for any reason, including for the purpose of obtaining an extension for completion of continuing education requirements for a continuing education biennium, shall be a violation of KRS 304.9-295 and shall subject the affiant to suspension or revocation of the agent license.
- (9) Members of the Armed Forces who have been mobilized or deployed in support of their duties may:
- (a) Request an extension of time for completion of continuing education requirements, in accordance with KRS 304.9-260(3), by filing with the department the Form MLW-01, Request for Waiver of Renewal Procedures or Exemption from Examination or Extension for Continuing Education Due to Active Military Service Deployment;; or
  - (b) Request a waiver of continuing education requirements in accordance with KRS 304.9-260(3).

#### Section 6. Business Entity Agent Application and Designation.

- (1) A business entity seeking an agent license pursuant to KRS 304.9-130 shall submit:
  - (a) Form 8301-BE, Uniform Application for Business Entity Insurance License; and
  - (b) The applicable fee established in 806 KAR 4:010.
- (2) A business entity shall submit Form 8305, Business Entity Designation or Termination of Designation Form to designate individuals authorized to act under the entity's license and appointments.

#### Section 7. Agent Appointment.

- (1) Each insurer shall appoint each agent acting on the insurer's behalf within fifteen (15) days of the agent contract's execution or the date on which the agent submits their first application to the insurer, whichever is earlier, as established by KRS 304.9-270.

- (2) An insurer seeking approval of an agent's appointment shall submit:
  - (a) Form 8302-AP, Producer Appointment; and
  - (b) the applicable filing fee established in 806 KAR 4:010.
- (3) An insurer terminating an appointment pursuant to KRS 304.9-280 shall submit Form 8302-TE, Termination of Producer Appointment within thirty (30) days following the effective date of an agent's termination.
- (4) The requirements of this section apply to both individual and business entity agent appointments.

Section 8. Record Correction. A licensee shall submit Form 8303, Record Correction Form with the commissioner to make a change or update the licensee's name and address.

Section 9. Material Incorporated by Reference.

- (1) The following material is incorporated by reference:
    - (a) Form CPL-01, "Certificate of Pre-licensing Course Completion," (8/2019);
    - (b) Form 8301, "NAIC Individual Insurance Producer License Application," (8/2019);
    - (c) Form 8301-BE, "Uniform Application for Business Entity Insurance License Application," (8/2019);
    - (d) Form 8302-AP, "Producer Appointment," (8/2019);
    - (e) Form 8302-TE, "Termination of Producer Appointment," (8/2019);
    - (f) Form 8305, "Business Entity Designation or Termination of Designation Form," (8/2019);
    - (g) Form 8304, "Examination Retake Form," (8/2019);
    - (h) Form KYP-01, "Provider Approval Application," (8/2019);
    - (i) Form CE/PL-100, "Course Approval Application," (8/2019);
    - (j) Form CE/PL-200, "Instructor Approval Application," (8/2019);
    - (k) Form CE-301, "Approved Continuing Education Certificate of Completion," (12/2019);
    - (l) Form CE AFF 304, "Affidavit for Exemption from Continuing Education," (8/2019);
    - (m) Form 8303, "Record Correction Form," (8/2019);
    - (n) Form MLW-01, "Request for Waiver of Renewal Procedures or Exemption from Examination or Extension for Continuing Education Due to Active Military Service Deployment," (8/2019);
    - (o) "NAIC Uniform Continuing Education Reciprocity Course Filing Form," (8/2019); and
    - (p) "Recommended Guidelines for Online Courses", National Association of Insurance Commissioners, 3/2015.
  - (2) This material may be inspected, copied or obtained, subject to applicable copyright law, at the Kentucky Department of Insurance, 215 West Main Street, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.
- (46 Ky.R. 1866; eff. 3-3-2020.)