

806 KAR 14:110. Dividend plans; filing, participation.

RELATES TO: KRS 304.3-050, 304.12-010, 304.12-080-304.12-110, 304.13-031, 304.13-051, 304.13-053, 304.13-057, 304.13-058, 304.13-061, 304.13-071, 304.13-075, 304.13-169, 304.14-120, 304.15-380, 304.24-250, 304.24-310, 304.24-320, 304.24-330

STATUTORY AUTHORITY: KRS 304.2-110

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 provision of the Kentucky Insurance Code, as defined in KRS 304.1-010. This administrative regulation permits the participation by insureds in dividend premium plans under "participating" policies and requires a filing of the dividend plans with the commissioner.

Section 1. To encourage savings in the net cost of insurance protection, insurers authorized to transact insurance in this state may, issue a policy allowing the insured to participate in the dividend earning of the insurer. This administrative regulation shall not apply to dividends to shareholders in a stock company or to general dividends to policyholders in a mutual company.

Section 2.

(1) An insurer shall file or refile with the commissioner, in the same manner as a rate filing, every proposed dividend plan and every modification of a dividend plan, including discontinuance, which it intends to use, accompanied by the information that supports the filing.

(2)

(a) A filing shall not propose both a participating and nonparticipating policy for the same class of risk. Any classification by the insurer of its participating policy and of risks assumed under that policy which the insurer may make shall be reasonable and nondiscriminatory. In determining the proposed eligibility requirements for a dividend plan, the underlying standard shall be the demonstrated or demonstrable success in savings in expenses or in losses above levels anticipated in previously filed rates.

(b) Any proposed dividend plan shall be made available to all insureds meeting the eligibility requirements set forth in the dividend plan.

(c) An agent appointed by one (1) or more companies of a group of affiliated insurers shall also be appointed by the company within the group authorized to write participating insurance policies. Notice and details of the availability of the program in Kentucky shall be given to all licensed agents within the authorized group.

(3) If the filing is an initial filing or the facts or the laws have changed since a prior filing has been used, the filing shall contain either satisfactory evidence of proper specific charter as defined in KRS 304.3-050, authority to issue a participating policy, or satisfactory evidence that unless otherwise provided by its charter, the laws of its domicile provide that it may issue a policy entitled to participate in the earnings of the insurer through dividends.

(4) The filing shall also contain proposed policy provisions or proposed policy endorsement forms for the payment of dividends which shall further provide that all dividends be paid by the insurer directly to the insured, and that no dividends may be assigned to associations or others, except upon assignment of the policy for value. If the provision for the payment of dividends is made by separate endorsement rather than incorporated in the policy form, the endorsement shall be attached to each policy issued.

Section 3.

(1) Dividends to participating policies shall be paid only out of that part of surplus funds that derives from any realized net profits from the insurer's business. An insurer or its

agents shall not guarantee or promise to a policyholder or prospective policyholder the amount of percentage of dividends to be paid. A dividend, otherwise earned, shall not be made contingent upon payment of renewal premium on any policy, or membership in, or affiliation with, any association.

(2) All brochures and advertising material shall affirmatively and clearly set forth that dividends are not guaranteed and that all policyholders are eligible for the dividend program whether or not they are members of, or affiliated with, any association.

(I-14.11; 1 Ky.R. 1082; Am. 2 Ky.R. 27; eff. 7-2-75; TAm eff. 8-9-2007; Crt eff. 2-26-2020; 47 Ky.R. 1659, 2390; eff. 8-3-2021.)