

Insurance Legislation Adopted by the 2004 Kentucky General Assembly (Regular Session)

**COMMONWEALTH OF KENTUCKY
DEPARTMENT OF INSURANCE**

Frankfort, Kentucky

BULLETIN 2004 - 02

**INSURANCE LEGISLATION ADOPTED BY THE
2004 KENTUCKY GENERAL ASSEMBLY (REGULAR SESSION)**

JUNE 15, 2004

THIS BULLETIN IS FOR INFORMATION PURPOSES ONLY. IT DOES NOT AMEND OR INTERPRET PROVISIONS OF THE KENTUCKY REVISED STATUTES OR THE KENTUCKY ADMINISTRATIVE REGULATIONS. THE COMPLETE AND ACCURATE TEXT OF THE LAW CAN BE SECURED WHEN THE 2004 ACTS OF THE KENTUCKY GENERAL ASSEMBLY ARE PUBLISHED IN THE SUMMER OF 2004. UNLESS OTHERWISE NOTED, THE EFFECTIVE DATE OF THE LEGISLATION IS JULY 13, 2004.

(Bills as enacted are available on the LRC Web site at www.lrc.state.ky.us/record/04rs/record.htm).

Senate Bill 122 – Liability Insurance for Plumbers

This bill requires those engaged in plumbing to maintain general liability insurance of at least \$250,000, workers' compensation insurance and unemployment insurance and to submit proof of the insurance to the Office of Housing, Buildings and Construction prior to issuance or renewal of a master plumber license.

Further, the bill requires insurers to notify the Office of Housing, Buildings and Construction upon cancellation of the insurance of any licensee.

Contact: Office of Housing, Building and Construction

Division of Plumbing

(502) 573-0397

-

Senate Bill 171 – Reinsurance

In general, SB 171 addresses the amount a reinsurance company is required to pay the liquidator of an insolvent insurer and, ultimately, the Kentucky Guaranty Funds. Specifically, the bill includes the following provisions:

Sections 1 and 3 amend KRS 304.5-140 and 304.33-350 to allow a credit if the reinsurance contract specifies the reinsurance amount will cover the reported claims allowed by the liquidation court. In addition, SB 171 provides that

- The reinsurance company may pay the claim directly to the insured rather than to the liquidator, setting up a second process of claim payments in an insolvency; and
- The reinsurance contract may
 - o Require the liquidator to notify the reinsurance company of filed claims,
 - o Give the reinsurance company the authority to perform a separate investigation of the claim, and
 - o Make the liquidator pay for the separate investigation to the extent of the additional recovery.

Section 2 of SB 171 removes the exceptions limiting setoffs of a reinsurer to earned premium of the insurer after the effective date of SB 171.

The new language in Section 4 codifies current interpretation of the law by specifically prohibiting the liquidator from trying to collect claims that are "incurred but not reported".

Section 5 creates new language that allows an insurance company with a certificate of authority from Kentucky to

- Reinsure its own risks with an reinsurance company authorized in Kentucky or in any other jurisdiction; and
- Reinsure the property and casualty policies of any other insurance company insuring risks located in Kentucky.

The provisions of Section 5 take effect on or after January 1, 2005.

Contact: ***Legal Division***
 (502) 564-6032

-

Senate Bill 177 – Codification of Accounting Practices and Procedures

This legislation contains provisions designed to streamline administrative processes and bring the Kentucky Insurance Code into conformity with the NAIC Accounting Practices and Procedures. Statutory accounting principles are uniform rules of accounting that apply to entities that report to state insurance departments. These uniform accounting practices and procedures have been or will be adopted by all states.

Contact: ***Financial Standards and Examination Division***
 (502) 564-6082

-

House Bill 19 – Exemption from Local Government Premium Tax

This legislation creates a new subsection of KRS 91A.080 to exempt municipal bonds, leases or other debt instruments issued by or on behalf of a local government from the local government premium tax. However, HB 19 specifically states that the exemption does not apply if the debt instruments are issued for profit or on behalf of for-profit or private organizations.

Contact: ***Local Government Premium Tax Unit***
 (502) 564-1649

House Bill 29 – Personal Motor Vehicle Insurance Database

House Bill 29 is aimed at identifying uninsured motor vehicles.

Section 1 of this Act creates a new statute within Subtitle 39 of KRS 304 requiring every insurance company that writes liability insurance on personal motor vehicles in Kentucky to send to the Department of Vehicle Regulation, between the 1st and 15th of each month a list of the VIN numbers of each personal motor vehicle that it insured in the preceding month. This data submission will begin January 1, 2006.

Section 2 amends KRS 186A.040 to require the Department of Vehicle Regulation to begin a notification process to the insured if the VIN number of a personal motor vehicle does not appear in the AVIS database for two consecutive reporting months.

A new subsection of KRS 186A.040 is created to exempt the information required to be transmitted by insurers to the Department of Vehicle Regulation from the Kentucky Open Records Act. Further, the bill specifies that the information is only to be utilized in accordance with the federal Driver's Privacy Protection Act, 18 U.S.C. secs. 2721 et seq.

Section 3 prohibits a county clerk from processing an application on and after January 1, 2006, for any of the following for any personal motor vehicle if the vehicle is not listed as an insured vehicle in the AVIS database:

Kentucky title and registration or renewal of registration;
Replacement plate, decal or registration certificate;
Duplicate registration;
Transfer of registration; or
Temporary tag

This prohibition does not apply if the applicant has an insurance card that indicates that an insurance policy is currently in effect and the policy has been in effect no more than 45 days before the date of application. Additionally, this section does not apply to transactions involving licensed Kentucky motor vehicle dealers.

Section 5 of this Act provides that the AVIS database shall serve as evidence to a peace officer of the insured status of a personal motor vehicle. If the vehicle is not listed as an insured vehicle in the database, a peace officer may accept an insurance card that indicates that an insurance policy is currently in effect and the policy has been in effect no more than 45 days before the date on which the peace officer requests the card.

The Department of Vehicle Regulation, Division of Motor Vehicle Licensing expects this to be modeled on the current voluntary KyRenew program. Details of the KVIS Insurance Reporting Guidelines are available at <http://transportation.ky.gov/mvl/>.

Contact: ***Division of Motor Vehicle Licensing***
 (Willie Payton or Eddie Deskins)
 (502) 564-5301

Property and Casualty Division
(502) 564-6046

House Bill 321 – Charitable Health Care Providers

This Act amends the definition of “charitable health care provider” in KRS 216.940 and 304.40-075 to include persons, agencies, clinics or facilities providing dentistry services within the dentist’s scope of practice under KRS Chapter 313 without compensation or charge.

Additionally, KRS 313.445 is amended to permit a dentist with a specialty license to provide dentistry services beyond the specialty in which he or she is licensed when providing services as a charitable health care provider.

Contact: ***Property and Casualty Division***
 (502) 564-6046

House Bill 508 – Housekeeping

This bill amends to the following statutes in order to clean-up typographical and grammatical errors within the Insurance Code.

- Technical correction to KRS 304.14-650 to delete limited benefit coverage from definition of short-term nursing home coverage
- Technical correction to KRS 304.17A-245 to make statute apply only to health benefit plans rather than all health insurance policies
- Technical correction to KRS 304.38-191 to fix cross-reference
- Technical correction to KRS 304.17A-527

Additionally, the bill amends KRS 304.10-040 to allow the affidavits required for surplus lines business to be filed in a form prescribed through administrative regulation. This amendment will allow the Office of Insurance to accept these filings electronically, which will streamline the process for both the Office of Insurance and the surplus lines brokers.

Contact: ***Health Insurance Policy and Managed Care Division***
 (502) 564-6088

Property and Casualty Division
(502) 564-6046

House Bill 609 – Administrative Regulations

Section 1 of this Act amends the duties of the Commission on Small Business Advocacy to include reviewing administrative regulations that may impact small business. It authorizes the commission to

submit a written report to the agency promulgating the regulation to be considered as comments received during the public comment period. A copy of the report is to be filed with the regulations compiler of the Legislative Research Commission.

Section 2 of this Act amends KRS 13A.010, relating to the promulgation of administrative regulations, to define “small business” to be a business entity, including its affiliates that

- Is independently owned and operated; and
- Either employs fewer than 150 full-time employees or their equivalent or has gross annual sales of less than \$6,000,000.

Additionally, “government” is defined as including a city, county, urban-county, charter county, consolidated local government, special district, or a quasi-governmental body authorized by the Kentucky Revised Statutes or a local ordinance.

Section 3 amends KRS 13A.030 to permit the Administrative Regulation Review Subcommittee to find an administrative regulation deficient because it appears to impose an unreasonable burden on government or small business or both.

Section 4 amends KRS 13A.210 to require agencies promulgating administrative regulations to tier their administrative regulations to reduce disproportionate impacts on certain classes of regulated entities, including government or small business or both. The methods of tiering may include waiving fines or other penalties.

Section 5 amends KRS 13A.270 to require the agency promulgating the regulation to e-mail a copy of any administrative regulation and all attachments to the executive director of the Commission on Small Business Advocacy and each government within 1 day after the regulation is filed, if those entities are impacted by the regulation.

Contact: **Legal Division**
 (502) 564-6032

House Bill 633 – Health Coverage Tax Credit (Emergency)

This Act allows an insurer to vary premium rates for individual health benefit plans by more than 35% of the index rate to cover individuals who are eligible for the health coverage tax credit under the federal Trade Act of 2002.

The federal health coverage tax credit program provides a credit equal to 65% of the eligible premium for the purchase of health insurance for certain displaced workers and those covered through the Pension Benefit Guaranty Corporation. This bill will allow private insurers to develop qualified health plans for participation in this program.

House Bill 633 is emergency legislation that became effective on April 22, 2004.

Contact: *Health Insurance Policy and Managed Care Division*
 (502) 564-6088

House Bill 650 – Health Insurance Initiatives

House Bill 650 makes several changes to KRS 304 Subtitle 17A.

Section 1 created a new statute in Subtitle 17A that imposes a 3-year moratorium on legislating new mandated benefits. Insurers that issue or renew health benefit plans on or after January 1, 2005, and before December 31, 2007, are not required to include any additional state mandated benefit beyond those already statutorily required on July 13, 2004. An insurer would still be required to include any benefit mandated by federal law during this time.

Section 2 creates a new statute in Subtitle 17A to set forth the statutory requirements for insurers offering a health plan that is not a managed care plan, but provides financial incentives for a covered person to access a network of providers.

Section 3 amends KRS 304.17A-095 to allow for a retroactive reduction in health benefit plan rates only if the filing contained misrepresentations or was based on fraudulent information.

Section 4 amends KRS 304.17A-250 to provide insurers the option of offering the standard health benefit plan. Additionally, this section removes the requirement that a benefits comparison be delivered to a prospective applicant for health insurance coverage.

Section 5 amends KRS 304.17A-330 to allow an exemption from the annual data reporting requirement for entities whose total number of insureds is less than 500.

Sections 11 through 13 make changes to mirror Kentucky's statutes with the federal Department of Labor (DOL) time standards for utilization review decisions.

Sections 14 through 15 amend the statutes regarding external review to require an independent review entity to make a determination within 21 calendar days from receipt of all information required from the insurers, rather than receipt of the request for the external review. Additionally, the requirement that an independent review entity submit an annual report has been repealed.

The remaining sections provide clean-up changes or conforming changes related to the initiatives outlined above.

Contact: ***Health Insurance Policy and Managed Care Division***
 (502) 564-6088

House Joint Resolution 207 – Study Regarding Health Reimbursement Accounts for State Employees

This resolution requires the Personnel Cabinet, in conjunction with the Kentucky Group Health Insurance Board, to conduct a study to determine if a health reimbursement arrangement would provide a benefit to state employees. The findings are required to be submitted to the Governor, General Assembly and Chief Justice of the Supreme Court by October 1, 2004.

Contact: ***Health Insurance Policy and Managed Care Division***
 (502) 564-6088

Glenn Jennings

Date

Acting Executive Director

Kentucky Office of Insurance