



COMMONWEALTH OF KENTUCKY  
DEPARTMENT OF INSURANCE  
Frankfort, Kentucky

**BULLETIN  
2011-05**

**The following Bulletin is to advise the reader of the current position of the Kentucky Department of Insurance (the “Department”) on the specified issue. The Bulletin is not legally binding on either the Department or the reader.**

TO: ALL INSURERS AUTHORIZED TO TRANSACT INSURANCE BUSINESS  
IN KENTUCKY

FROM: SHARON P. CLARK, COMMISSIONER  
KENTUCKY DEPARTMENT OF INSURANCE

DATE: SEPTEMBER 19, 2011

RE: POLICY FORM CERTIFICATION PRIVILEGE PROGRAM AND  
REFERENCE FILING PROCEDURE

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The commissioner of the Kentucky Department of Insurance is issuing this Bulletin to advise insurance companies on the Department’s current position with respect to the Policy Form Certification Privilege Program and the Reference Filing Procedure.

By Order dated January 18, 1983, and effective as of February 14, 1983, Commissioner Daniel D. Briscoe established a “Policy Form Certification Privilege Program” exempting certain specified forms from the prior approval process. By Bulletin No. 83-DM-002 dated January 19, 1983, Commissioner Daniel D. Briscoe authorized an insurance company to adopt, by reference, a policy form of another company that has been filed with and approved by the Department.

A review of current insurance company practices related to the Policy Form Certification Privilege Program and the Reference Filing Procedures has revealed several problems resulting in noncompliance with the 1983 Order and Bulletin No. 83-DM-002, as well as noncompliance

with provisions of the Kentucky Insurance Code. As a result, the commissioner has determined that it is in the best interests of the public to abolish the Policy Form Certification Privilege Program and to discontinue allowing insurance companies to adopt other company's forms using the Reference Filing Procedure.

In conjunction with this Bulletin, the commissioner has issued an Order rescinding the 1983 Order establishing the Policy Form Certification Privilege Program. In addition, the commissioner's Order rescinds and withdraws Bulletin No. 83-DM-002 authorizing the Reference Filing Procedure. The effect of the order rescinding the 1983 Order and Bulletin No. 83-DM-002 is to require all insurance companies to comply with the filing and prior approval requirements in KRS 304.14-120 with respect to the forms specified in the statute.

If you have any questions regarding this Bulletin, you may contact the Health and Life Division of the Department of Insurance at (502) 564-6088.

/s/ Ray A. Perry (Deputy Commissioner)  
Sharon P. Clark, Commissioner  
Kentucky Department of Insurance  
On this 19th day of September, 2011



**COMMONWEALTH OF KENTUCKY  
DEPARTMENT OF INSURANCE  
FRANKFORT, KENTUCKY**

**IN THE MATTER OF:**

**POLICY FORM CERTIFICATION PRIVILEGE PROGRAM and  
REFERENCE FILING PROCEDURE**

\* \* \* \* \*

**ORDER**

WHEREAS, KRS 304.14-120(1) provides, in pertinent part, as follows:

No basic insurance policy or annuity contract form, or application form where written application is required and is to be made a part of the policy or contract, or printed rider or indorsement form or form of renewal certificate, shall be delivered, or issued for delivery in this state, unless the form has been filed with and approved by the commissioner...

WHEREAS, KRS 304.14-120(4) authorizes the commissioner, by order, to exempt from the requirements of KRS 304.14-120(1), for so long as the commissioner deems proper, any insurance document or form or type thereof as specified in such order to which, in the commissioner's opinion, KRS 304.14-120(1) may not practicably be applied, or the filing and approval of which are, in the commissioner's opinion, not desirable or necessary for the protection of the public.

WHEREAS, by Order dated January 18, 1983, and effective as of February 14, 1983, Commissioner Daniel D. Briscoe established a "Policy Form Certification Privilege Program" exempting certain specified forms from the prior approval process. A copy of the 1983 Order is attached hereto and labeled **Exhibit 1**;

WHEREAS, by Bulletin No. 83-DM-002 dated January 19, 1983, Commissioner Daniel D. Briscoe authorized an insurance company to adopt, by reference, a policy form of another company that has been filed with and approved by the Department. A copy of Bulletin No. 83-DM-002 is attached hereto and labeled **Exhibit 2**;

WHEREAS, the commissioner has determined that:

1. All forms filed under the previously authorized certification privilege program are reviewed by the Department of Insurance for compliance with the Kentucky Insurance Code;
2. Notwithstanding the requirement in the 1983 Order requiring an insurance company to “certify” that a filing filed under the Certification Privilege Program complies with Kentucky statutes and regulations, the Department consistently identifies errors and statutory noncompliance in the filings, thereby making the certification statement inaccurate and irrelevant; and
3. Inaccuracies and statutory violations found in filings submitted under the Certification Privilege Program, in conjunction with the reference-filing authorization in Bulletin No. 83-DM-002 have led to difficulties in tracking forms that are in use by insurance companies in the Kentucky insurance marketplace;

WHEREAS, based on the above determinations by the commissioner, the commissioner finds the exemption of form filings from prior approval based on the 1983 Order establishing the “Policy Form Certification Privilege Program” is no longer desirable and prior approval of these forms is necessary for the protection of the public;

WHEREAS, based on the above determinations by the commissioner, the commissioner finds that the reference-filing procedure authorized by Bulletin No. 83-DM-002 is no longer desirable and the filing and prior approval of all insurance companies’ forms referenced in KRS 304.14-120 is necessary for the protection of the public;

NOW THEREFORE, based on the above findings by the commissioner, it is hereby ORDERED that:

1. The Order of the commissioner effective February 14, 1983, establishing the “Policy Form Certification Privilege Program” is RESCINDED as of the effective date of this Order;
2. Bulletin No.83-DM-002 establishing a Reference Filing Procedure is RESCINDED and WITHDRAWN as of the effective date of this Order; and
3. All insurance companies shall comply with the provisions of KRS 304.14-120 requiring the filing and prior approval of the forms specified in KRS 304.14-120.

NOTICE OF APPEAL RIGHTS

Pursuant to KRS 304.2-310, please take notice that any person aggrieved by and desiring to appeal an order of the commissioner shall make application for a hearing with the Department within sixty (60) days after the aggrieved party knew, or reasonably should have known, of the order. The application for a hearing shall briefly state the respects in which the applicant is so aggrieved, together with the grounds to be relied upon as a basis for the relief to be sought at the hearing.

Done and effective this 19th day of September 2011.

/s/ Ray A. Perry (Deputy Commissioner)  
Sharon P. Clark  
Commissioner of Insurance

Certificate of Service

This is to certify that a copy of the foregoing Order was published on the Department's Website in conjunction with Bulletin 2011-05.

This 20th day of September 2011.

/s/ Sharron S. Burton  
Sharron S. Burton, General Counsel  
Office of Legal Services  
c/o Kentucky Department of Insurance  
215 West Main Street  
Frankfort, Kentucky 40601  
PH: (502) 564-6032  
FAX: (502) 564-1456

COMMONWEALTH OF KENTUCKY  
DEPARTMENT OF INSURANCE  
Frankfort, Kentucky 40601

IN THE MATTER OF:

POLICY FORM CERTIFICATION PRIVILEGE PROGRAM

O R D E R

WHEREAS, KRS 304.14-120 provides that no basic insurance policy or annuity contract form, or application form where written application is required and is to be made a part of the policy or contract, or printed rider or endorsement form or form of renewal certificate, shall be delivered or issued for delivery in this state, unless the form has been filed with and approved by the Commissioner; and

WHEREAS, KRS 304.14-120 further provides that the Commissioner may, by order, exempt from the approval process any insurance document or form or type thereof, where he determines that approval of said document is not desirable or necessary for the protection of the public; and

WHEREAS, an extensive review of each company's filings and the Department's action on those filings during the preceding calendar year has been completed; and

WHEREAS, exemption from the prior approval process of KRS 304.14-120 does not preclude the Commissioner from subsequent review and disapproval of filings of insurance contracts or forms; and

WHEREAS, KRS 304.14-210(2) provides that any insurance policy, rider, or endorsement which is issued and otherwise valid but contains conditions, omissions or provisions not in compliance with the insurance code shall be construed and applied as if such policy, rider or endorsement had been in full compliance with the insurance code.

WHEREAS, certain insurance contracts or forms can be exempted from the prior approval process without decreasing the protection afforded to the public.

NOW, THEREFORE, IT IS HEREBY ORDERED, pursuant to KRS 304.14-120, 304.2-100 and all other applicable law, that the following types of insurance contracts and forms are exempt from the prior approval process but are subject to filing and certification requirements:

A. Individual Life and Annuity Policies Including:

1. Ordinary Whole Life
2. Limited Pay Life
3. Life Paid Up at Certain Ages
4. Endowments
5. Term

EXHIBIT

1.

6. Joint Life
  7. Single Premium Life and Endowments
  8. Annuity
  9. Retirement Income
  10. Family Plans
  11. Family Income
  12. Modified Benefit Whole Life
  13. Graduated Premium Whole Life (one increase in premium level only)
  14. Industrial Life
- B. Group Life and Annuity Policies.
- C. Individual Accident and Health Policies Including:
1. Hospital Expense
  2. Medical Expense
  3. Major Medical Expense
  4. Hospital Indemnity
  5. Disability Income
  6. Specified Disease
  7. Overhead Expense Disability Income
  8. Prescription Drug
  9. Accident Only
  10. Travel Accident
  11. Accidental Death and Dismemberment
- D. Group Accident and Health Policies:
1. Hospital Expense
  2. Medical Expense
  3. Major Medical Expense
  4. Hospital Indemnity
  5. Disability Income
  6. Dental
  7. Vision Care
  8. Prescription Drug
  9. Accidental Death and Dismemberment
  10. Overhead Expense Disability Income
- E. Applications, additional benefit riders, endorsements and amendments applicable to the policies listed in A, B, C, and D above.

The aforementioned types of insurance contracts or forms shall be subject to the filing requirements specified in the statutes and regulations. An informational compilation of the filing requirements is attached hereto as Exhibit A. All contracts exempted from the prior approval process shall be subject to the Certification Privilege Program whereby the insurance company filing the contract shall certify that the contract being filed complies with the Kentucky statutes and regulations (certification forms attached hereto as Exhibit B).

It is further ordered that the following types of contracts are not included in the Certification Privilege Program but remain subject to prior approval by the Department of Insurance:

1. Adjustable Life (Universal)
2. Indeterminate Premium
3. Indeterminate Cash Value
4. Variable Life
5. Variable Annuity

6. Deposit Term
7. Medicare Supplement
8. Nursing Home
9. Credit Life and Health
10. Health Insurance Rate Filings
11. Any other form not specifically listed as being exempt

Any insurer filing an insurance contract or form under the Certification Privilege Program and improperly certifying that the filing complies with the Kentucky statutes and regulations will subject the insurance company to administrative action including loss of the certification privilege.

DONE this 18th day of January, 1983.

EFFECTIVE FEBRUARY 14, 1983.

  
DANIEL D. BRISCOE, COMMISSIONER



COMMONWEALTH OF KENTUCKY  
DEPARTMENT OF INSURANCE

Life and Health  
Forms Filing Requirements

|   | Items Required        |
|---|-----------------------|
| Individual Life and Annuity . . . . .                   | 1, 2, 3, 4, 5, ● 7, ● |
| Individual Accident and Health . . . . .                | 1, 2, 3, 4, 5, ● 7, 8 |
| Group Life and Annuity . . . . .                        | 1, 2, 3, 4, 5, 6, ● ● |
| Group Accident and Health . . . . .                     | 1, 2, 3, 4, 5, 6, ● ● |
| Credit Life and Health . . . . .                        | 1, 2, 3, 4, 5, 6, ● 8 |
| Reference Filing (See Bulletin <u>83-DM-002</u> , 1/83) | 1, 2, ● ● ● 6, * ● 8* |

Item

1. F-1 Face Sheet and Verification Form in duplicate.
2. Filing fee of \$5.00 for each single subject or coverage of insurance being filed or the domiciliary state fee, whichever is higher.
3. Policy form(s) including all riders, amendments and endorsements unless filing by reference.
4. Application form to be used with the policy completed in "John Doe" fashion.
5. Form identification number on lower left corner of each form.
6. Certificates to be issued to insured members.
7. Actuarial demonstration signed by the actuary.
8. Rates applicable to each form.
9. Enclose pre-addressed, postage free envelope for return of Face Sheet and Verification Form.

**CAUTION: COMPANY SHOULD NOT TAKE ACTION ON A FILING UNTIL THE F-1 FACE SHEET AND VERIFICATION FORM IS RETURNED WITH APPROPRIATE STAMP BY THIS DEPARTMENT.**

\* Unless not required for the type of coverage

COMMONWEALTH OF KENTUCKY  
DEPARTMENT OF INSURANCE

Frankfort, Kentucky 40601

TO: ALL COMPANIES FILING LIFE & HEALTH POLICY FORMS  
FROM: DANIEL D. BRISCOE, COMMISSIONER *Daniel D. Briscoe*  
RE: REFERENCE FILING PROCEDURE  
DATE: January 19, 1983

On February 14, 1983, the Department of Insurance will institute a new procedure relating to the filing of life and health policy forms. All life and health forms are subject to the new procedures.

A company wishing to adopt a policy form of another company that has been filed with and approved by this Department subsequent to January 1, 1982, may do so by reference filing that company's form. The January 1, 1982, date was established because it is the earliest date that this Department has policy forms on microfilm.

In reference filing a form, the only allowable variance between the original form and the new form will be the company identification, company officer's signature, and form number. Deviations beyond those listed will prohibit the company from using the reference filing procedure. If a different form number is used, it must be noted on the Face Sheet and Verification Form.

When using the reference filing procedure, it is not necessary to submit the policy form. For reference filing purposes this policy form is not considered to include the application, benefit riders, certificates of insurance or disclosure statements. Those documents must be separately noted as being adopted by reference.

To perfect a reference filing, the company must submit a completed Face Sheet and Verification Form in duplicate, an application form if not adopted by reference, the appropriate filing fee, and where applicable, the rates for that form and a certificate.

The Department will return a copy of the Face Sheet and Verification Form indicating that the filing by reference has been accepted. Companies should not take action on a reference filing until the Face Sheet and Verification Form has been returned by the Department.

EXHIBIT

2.

COMMONWEALTH OF KENTUCKY  
DEPARTMENT OF INSURANCE

POLICY FORMS FILING  
CERTIFICATION PRIVILEGE PROGRAM

Company Name: \_\_\_\_\_ N.A.I.C. No. \_\_\_\_\_

Form Number(s)  
and Title of Form(s): \_\_\_\_\_

I have reviewed or supervised the preparation of the above form(s) and certify that the form(s) comply with all of the applicable requirements of the Kentucky Revised Statutes and regulations. I also acknowledge responsibility for the validity, accuracy and completeness of the contents of the letter of transmittal and enclosures with this filing:

I understand that the Commissioner of Insurance may at any time review the form(s) submitted under the Certification Privilege Program and disapprove any form(s) not in compliance with the statutes and regulations. Further, that any form found not to be in compliance with insurance statutes and regulations, shall cause the company to be subject to penalty(ies) as provided by statute and loss of the certification privilege.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of President or designated  
representative

\_\_\_\_\_  
(Type name of person signing above)

\_\_\_\_\_  
(Type title of person signing above)

COMMONWEALTH OF KENTUCKY  
DEPARTMENT OF INSURANCE  
LIFE AND ANNUITY FILINGS  
ACTUARIAL CERTIFICATION FORM A

Company Name: \_\_\_\_\_ N.A.I.C. \_\_\_\_\_

Form number(s) to which this certificate applies:

\_\_\_\_\_  
\_\_\_\_\_

I have prepared or supervised the preparation of the actuarial formulae for the above policy(ies). I certify that the nonforfeiture benefits for these policy(ies), for every age and face amount combination, taking into consideration any policy fee, meet the nonforfeiture requirements of the Kentucky Insurance Code. I certify that the policy(ies) do not incorporate any inconsistent, ambiguous, or misleading clauses, or exceptions and conditions which deceptively affect the risk purported to be assumed in the general coverage of the policy(ies).

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of Actuary

\_\_\_\_\_  
(Type name of person signing above)

\_\_\_\_\_  
(Type title of person signing above)

COMMONWEALTH OF KENTUCKY  
DEPARTMENT OF INSURANCE

INDIVIDUAL HEALTH FORMS  
ACTUARIAL CERTIFICATION FORM B

Company Name: \_\_\_\_\_ N.A.I.C. No. \_\_\_\_\_

Form number(s) to which this certificate applies:

\_\_\_\_\_  
\_\_\_\_\_

I have prepared or supervised the preparation of the actuarial memorandum for the above policy(ies). I certify that the rates filed were determined and calculated in compliance with all applicable laws and regulations of Kentucky and that the anticipated loss ratio(s) submitted herein is expected to develop over the period for which the rates are computed and that the benefits provided in the policy form(s) are reasonable in relation to the premiums charged.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of Actuary

\_\_\_\_\_  
(Type name of person signing above)

\_\_\_\_\_  
(Type title of person signing above)