

COMMONWEALTH OF KENTUCKY  
DEPARTMENT OF INSURANCE  
Frankfort, Kentucky

BULLETIN 2012 - 02

INSURANCE LEGISLATION ADOPTED BY THE  
2012 KENTUCKY GENERAL ASSEMBLY (REGULAR SESSION)

June 1, 2012

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 2012 ACTS OF THE KENTUCKY GENERAL ASSEMBLY ARE PUBLISHED IN THE SUMMER OF 2012. UNLESS OTHERWISE NOTED, THE EFFECTIVE DATE OF THE LEGISLATION IS JULY 12, 2012.

*(Bills as enacted are available on the LRC website at [www.lrc.ky.gov/record/12rs/record.htm](http://www.lrc.ky.gov/record/12rs/record.htm))*

**Senate Bill 114 – Step Therapy**

This bill creates a new statute in KRS Chapter 304, Subtitle 17A, to establish a process for step therapy of fail-first protocols for medications used for the treatment of any medical condition. If an insurer uses a step therapy or fail-first protocol to restrict medications for use, the insurer must provide a prescribing practitioner access to a “clear and convenient process” to request an override of the restriction. The insurer must grant the override within forty-eight (48) hours if all necessary information to review the request has been provided. The bill sets forth the information that must be presented in the request for an override.

The bill prohibits any step therapy or fail-first protocol from being longer than thirty (30) days. This period may be extended up to seven (7) additional days based on documentation from the prescribing practitioner that the medication is likely to take longer than thirty (30) days to provide relief to the insured.

The provisions of the bill apply to insurers and pharmacy benefit managers.

Contact: Health and Life Division  
(502) 564-6088

### **Senate Resolution 48 – School-Located Influenza Programs**

This resolution encourages school-located influenza programs to help increase school-aged children’s access to immunization, protect them from influenza-related illness, reduce school absenteeism due to influenza, and provide protection to the community at large.

The resolution urges the Kentucky Department of Insurance and the Department of Public Health to convene a meeting with private insurers, the public health community and vaccine stakeholders to discuss ways to encourage private insurers to cover all reasonable and customary expenses incurred when an influenza vaccine is administered outside of the physician’s office in a school or other related setting.

*Contact: Health and Life Division  
(502) 564-6088*

### **House Bill 42 – Motor Vehicle Personal Injury Reparation Benefits**

This bill amends KRS 304.39-241 to permit a claimant to direct personal injury reparation benefits to reimburse:

- A health benefit plan;
- A limited health service benefit plan;
- Medicaid;
- Medicare; or
- A Medicare supplement provider.

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

### **House Bill 135 – Unclaimed Life Insurance Benefits**

This bill creates a new statute in KRS Chapter 304, Subtitle 15 to require life insurance companies to perform a quarterly comparison of its in-force life insurance policies and retained asset accounts and the United States Social Security Administration’s Death Master File or any other database that is at least as comprehensive as the Death Master File to determine whether an insured is deceased.

If the comparison identifies a potential match, within ninety (90) days, the insurer is required to:

- Make a good faith, documented effort to confirm the death or the insured or retained asset account holder against other available records and information;
- Determine whether benefits are due under the applicable policy or contract; and
- If benefits are due, provide appropriate claim forms or instructions to each beneficiary to make a claim.

If a beneficiary or retained asset account holder cannot be found, the benefits shall escheat to the state as unclaimed property pursuant to KRS 393.062.

The following policies are exempt from these provisions:

- A policy or certificate of life insurance that provides a death benefit under:
  - An employee benefit plan subject to ERISA;
  - A government plan;
  - A church plan; or
  - Any federal employee benefit program;
- Preneed funeral contracts or prearrangements as defined in KRS 304.12-240(1)(a);
- Credit life insurance or debtor life insurance; and
- Group life insurance if the insurers do not provide full record keeping services to the group policyholder.

Finally, the bill prohibits an insurer from charging insureds, account holders, or beneficiaries for any fees or costs associated with a search of the Death Master file or similar database or the verification of the death of the insured or account holder.

*Contact: Health and Life Division  
(502) 564-6088*

## **House Bill 207 – Loss Run Statements; Automobile Repair Notice**

### **Loss Run Statements**

This bill creates a new statute in KRS Chapter 304, Subtitle 20 to require an insurer to provide a loss run statement for commercial property and casualty policies to an insured or agent within twenty (20) calendar days of receipt of a written request. If the agent receives the loss run statement, the agency must provide a copy to the insured within five (5) calendar days. The loss run statement must include a five (5) year loss run history or a complete loss run if the history with the insurer is less than five (5) years. The insurer cannot impose a fee for providing one (1) loss run statement. The

provisions of this bill apply to insurers, liability self-insurance group and workers' compensation self-insured groups.

#### Automobile Repair Notice

This bill creates a new statute in KRS Chapter 304, Subtitle 12 to require an insurer that receives notification of a motor vehicle damage claim to inform a claimant that he or she has the right to choose the repair facility of his or her choice.

Additionally, on and after July 12, 2012, all appraisals are required to include the following notice in not less than ten (10) point boldfaced type:

**“NOTICE: UNDER KENTUCKY LAW, THE CONSUMER AND/OR LESSEE HAS THE RIGHT TO CHOOSE THE REPAIR FACILITY TO MAKE REPAIRS TO HIS OR HER MOTOR VEHICLE.”**

The notice provisions required by this bill do not apply to the replacement or repair of automobile glass.

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

#### **House Bill 265 – Insurance Coverage Affordability and Relief to Small Employers Program (ICARE)**

Part XII of HB 265 contains the language to continue the phase-out of the Insurance Coverage Affordability and Relief to Small Employers (ICARE) Program, a 4-year pilot program for small employer groups of 2 to 25 employees, including those who are members of an employer-organized association. All insurers that issue health benefit plans to small groups are deemed to be ICARE participating insurers.

The program was closed to new membership on June 15, 2010. Members who were approved for participation in the program as of that date and maintain their eligibility will receive a 4-year subsidy. The program will be completely phased out by June 30, 2014.

The ICARE Program provides the following premium subsidy to eligible employers for qualified health benefit plans:

- For employers who were previously uninsured
  - Premium subsidy of \$40 per employee per month (subsidy decreases by \$10 per year over the 4-years of the pilot program)
  - Qualified health benefit plans include a consumer-driven health benefit plan (HRA or HSA) or a basic health benefit plan.
- For employer groups with a high cost individual
  - Premium subsidy of \$60 per employee per month (subsidy decreases by \$15 per year over the 4-years of the pilot program)
  - Qualified health plans include a consumer-driven health benefit plan (HRA or HSA), a basic health benefit plan or a traditional health benefit plan.

A Health Risk Assessment is required to be completed for each employee participating in ICARE to encourage prevention, early treatment and promotion of healthy behaviors. Participating insurers are required to offer a premium rate that includes a healthy lifestyle discount.

In addition to the ICARE Program, Part XII of HB 265 includes the following provisions:

- Medicaid related
  - Health Insurance Premium Payment (HIPP) program disclosure
    - Requires insurers to disclose to employers the availability of the HIPP program. The HIPP program allows the State to purchase employer sponsored commercial coverage on behalf of Medicaid eligible employees when it is financially advantageous for the state.
  - Medicaid coordination of benefits
    - Requires insurers to provide eligibility information to Medicaid;
    - Ensures that Medicaid is the payor of last resort; and
    - Assesses a penalty for failing to provide information.
- Interstate Reciprocal Health Benefit Plan Compact
  - Provides enabling language to explore the creation of an interstate compact with neighboring states for health benefit plan product and rate approval.
- Transparency
  - Amends existing statute in order to promote timely, electronically accessible information available to consumers related to health care cost, quality and outcomes;

- Provides better direction and better defined access as to what information is made available to consumers via the Cabinet for Health and Family Services, regarding:
    - Cost;
    - Quality; and
    - Outcomes for hospitals and ambulatory surgery centers;
  - Requires use of nationally endorsed quality indicators for purposes of making comparative information available between hospitals in both urban and rural areas;
  - Enhances the data reporting requirements of hospitals and ambulatory care centers; and
  - Sets forth requirements for standards for protection of information (HIPAA).
- Prompt pay
    - Amends the interest rate for payment of late claims to 12% annually for claims paid between one (1) and 30 days late and 14% annually for claims over 31 days late; and
    - Updates requirement for acknowledgement to allow reasonableness for determination of claims status.

*Contact: ICARE Program  
(502) 573-1026*

*Health and Life Division  
(502) 564-6088*

### **House Bill 282 – Home Medical Equipment**

This bill creates new sections of KRS Chapter 315 to establish definitions and licensure requirements for home medical equipment and service providers under the Kentucky Board of Pharmacy.

The bill also amends KRS 304.17A-005 to include home medical equipment and service providers in the definition of “health care provider.”

*Contact: Health and Life Division  
(502) 564-6088*

## **HB 295 – Administrative Streamlining**

This bill amends various statutes and creates new statutes within the Insurance Code to address:

- Expiration of certificate of authority;
- Filing of proof of financial responsibility for licensed insurance agents, consultants, adjusters, surplus lines brokers and life settlement brokers;
- Provisions with the surplus lines law to conform to the Nonadmitted and Reinsurance Reform Act and to address penalties for the failure to affidavits and quarterly statements;
- Requirements for industrial insured captive insurers;
- Adopt the provisions of the NAIC Holding Company Act related to enterprise risk.

### Expiration of Certificate of Authority

This bill amends KRS 304.3-180 to change the date that a certificate of authority expires from June 30 to April 30. The bill also creates a new statute in KRS 304, Subtitle 99 to create a fine of \$1,000 that must be paid to reinstate a certificate of authority within three (3) months after expiration.

### Filing of Proof of Financial Responsibility

The bill amends the following statutes related to the filing of proof of financial responsibility:

- KRS 304.9-105 to remove the requirement of agents to file proof of financial responsibility with the department;
- KRS 304.9-320 and 304.9-330 to remove the requirement of consultants to file proof of financial responsibility with the department, and to remove the authority of the commissioner to license consultants based on other special experience or education;
- KRS 304.9-430 to remove the requirement of adjusters to file proof of financial responsibility with the department;
- KRS 304.10-140 to remove the requirement that a surplus lines broker file proof of financial responsibility with the department; and
- KRS 304.15-700 to remove the requirement of life settlement brokers to file proof of financial responsibility with the department.

### Surplus Lines

The bill includes the following amendments to the surplus lines law:

- KRS 304.10-030 is amended to include definitions from the Nonadmitted and Reinsurance Reform Act (within the Dodd Frank Wall Street Reform Act);

- KRS 304.10-040 is amended to clarify that the diligent search must be performed by a licensed agent with a property and casualty line of authority; and to clarify that a diligent search is not required for an exempt commercial purchaser;
- KRS 304.10-070 is amended to clarify the eligibility requirements for surplus lines insurers;
- KRS 304.10-120 is amended to clarify that an agent license with a property and casualty line of authority is not a requirement for licensure as a surplus lines broker; and
- KRS 304.99-085 is amended to create a penalty of:
  - \$100 for failure to file an affidavit in accordance with KRS 304.10-050;
  - \$1,000 to \$5,000 for a broker who exhibits a pattern of failing to file affidavits in accordance with KRS 304.10-050; and
  - \$500 for failing to file a quarterly statement in accordance with KRS 304.10-170.

#### NAIC Holding Company Act, Enterprise Risk Provisions

The bill includes the following revisions related to the NAIC Holding Company Act:

- Creates a new statute within KRS 304, Subtitle 37 to allow the department to participate in a supervisory college to assess the financial condition of insurers and other entities within a holding company system. (This provision has a delayed effective date of July 15, 2014.)
- Amends KRS 304.37-010, 304.37-020, 304.37-030, 304.37-040, 304.37-120, and 304.37-565 to adopt the updates to the NAIC Holding Company Act primarily related to enterprise risk. (The provisions include a delayed effective date of July 15, 2014 for the submission of an enterprise risk report.)
- Amends KRS 304.99-152 to allow the commissioner to disapprove a dividend or distribution or place an insurer under supervision in accordance with KRS 304.33 if a person takes steps to prevent the DOI's understanding of an enterprise risk.

#### Industrial Insured Captive Insurer

The bill amends the following statutes related to industrial insured captive insurers:

- KRS 304.49-150 to clarify the provisions of the insurance code that are applicable to industrial insured captive insurers; and
- KRS 304.49-170 to allow a captive insurer not to file an actuarial opinion summary if a certification of loss and loss expense reserves and opinion of reserve adequacy has been filed by the captive insurer with the department.

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

*Agent Licensing Division  
(502) 564-6004*

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

**House Bill 338 – Insurance Premium Surcharge**

This bill amends KRS 136.392 to require that any future changes to the insurance premium surcharge rates take effect no earlier than six (6) months from the date that the Commissioner of Insurance notifies insurers of the new rate.

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

**House Bill 349 – Pharmacy Audits**

This bill amends KRS 304.17A-741 related to pharmacy audits.

The bill prohibits an auditing entity from:

- Requiring a pharmacy to keep records longer than two (2) years or as required by state or federal law or regulation; and
- Receiving payment based on the total amount recovered in an audit.

If an audit results in the identification of a clerical or recordkeeping error:

- An auditing entity can only recoup funds if:
  - The auditing entity can provide proof of intent to commit fraud;
  - The error results in an actual overpayment to the pharmacy; or
  - The error results in the wrong medication being dispensed to the patient.
- A pharmacy is permitted to file an amended claim to correct clerical or recordkeeping errors within thirty (30) days if the prescription was dispensed according to state and federal law.

A refund or recoupment of overpayment must be made in accordance with KRS 304.17A-712 and is limited to the amount paid to the pharmacy less the amount that should have been paid to the pharmacy and the dispensing fee (if the correct medication was dispensed to the patient.)

The bill also creates a new statute in KRS Chapter 205 to specifically subject Medicaid managed care organizations to the pharmacy audit provisions in KRS 304.17A-740 to 304.17A-743.

Contact:        *Health and Life Division*  
                      (502) 564-6088

### **House Bill 392 – Sale of Travel Insurance and Portable Electronics Insurance**

This bill creates two distinct licensure schemes related to the sale of insurance for travel and portable consumer electronics.

#### **Travel Insurance**

The bill defines a limited lines travel insurance producer to mean:

- A licensed managing general agent;
- A licensed agent; or
- A limited lines travel insurance agent.

The bill also defines a travel retailer as an entity that makes, arranges, or offers travel services. Travel retailers are unlicensed entities that are permitted to offer and disseminate travel insurance under the direction of a licensed limited lines travel insurance producer.

A limited lines travel insurance producer must:

- Be clearly identified on marketing materials and fulfillment packages distributed by travel retailers to customers;
- Establish, maintain, and update annually a register of each travel retailer that offers travel insurance on its behalf;
- Submit the register to the commissioner upon request;
- Certify that it complies with 18 U.S.C. sec. 1033;
- Designate one of its employees as a licensed individual responsible for compliance with the travel insurance laws and regulations in Kentucky; and
- Require each employee of the travel retailer whose duties include offering and disseminating travel insurance to receive a program of instruction or training regarding the types of insurance offered, ethical sales practices and required disclosures to prospective consumers.

### Portable Electronics

The bill defines a portable electronics insurance supervising entity to mean a business entity that supervises the administration of a portable electronics insurance program.

The supervising entity can be:

- A licensed insurer; or
- An insurance agent appointed by an insurer.

The bill also defines a portable electronics retailer as a licensed business entity that:

- Offers and sells portable electronic devices; and
- Offers and disseminates portable electronics insurance on behalf of and under the direction of a portable electronics insurance supervising entity.

A portable electronics insurance supervising entity must:

- Maintain a register of each separate business location where a portable electronics retailer and its employees or authorized representatives offer and disseminate portable electronics insurance;
- Make the register open to inspection and examination by the commissioner upon request;
- Oversee the administration of a portable electronics retailer's insurance program.

A business entity can apply for a portable electronics insurance retailer license by submitting the following to the commissioner:

- A written application including:
  - Information solely related to an employee or officer of the portable electronics retailer designated by the applicant as a person responsible for compliance; and
  - If the portable electronics retailer derives more than fifty percent (50%) of its revenue from the sale of portable electronics insurance, information for all officers, directors, and shareholders of record that have beneficial ownership of 10 percent (10%) or more of any class of securities, who are subject to 15 U.S.C. sec. 78p; and
- The application fee.

A licensed portable electronics retailer shall authorize an employee or authorized representative to offer and disseminate portable electronics insurance without being licensed, registered or otherwise individually identified if:

- The employee or authorized representative operates with permission from the portable electronics retailer;
- The portable electronics retailer assumes responsibility for the insurance activities of its unlicensed employees;

- The employee or authorized representative operates under the supervision of a portable electronics supervising entity who is available for consultation and supervision of the sale, solicitation, or negotiation of portable electronics insurance; and
- The employee or authorized representative is not primarily compensated based on the amount of insurance sold, although compensation may be received for activities incidental to the employee or authorized representative's overall compensation.

At each location where portable electronics insurance is offered to a customer, brochures or other written materials shall be made available to a customer which:

- Disclose that portable electronics insurance may provide a duplication of coverage already provided by a customer's homeowner's insurance policy, renter's insurance policy, or other source of coverage;
- State that the enrollment by the customer in a portable electronics insurance policy is not required in order to purchase or lease portable electronics or services;
- Summarize the material terms of the insurance coverage including:
  - The identity of the insurer;
  - The identity of the portable electronics insurance supervising entity;
  - The amount of any applicable deductible and how it is to be paid;
  - Benefits of the coverage; and
  - Key terms and conditions of coverage including but not limited to whether portable electronics may be repaired with nonoriginal manufacturer parts or equipment or replaced with a similar make and model that is reconditioned;
- Summarize the process for filing a claim, including a description of how to return portable electronics and the maximum fee applicable if the customer fails to comply with any equipment return requirements; and
- State that an enrolled customer may cancel enrollment for coverage under a portable electronics insurance policy at any time and the person paying the premium shall receive a refund of any applicable unearned premium.

The bill sets forth the following requirements for the sale of portable electronics insurance:

- Insurance may be offered on a month-to-month basis or another period basis as a group or master commercial inland marine policy;
- Eligibility and underwriting standards for each portable electronics insurance policy are required to be established;

- The charges for coverage may be billed and collected by the portable electronics retailer.
  - Charges to a customer that are not included in the cost associated with the purchase or lease of portable electronics must be separately itemized on the customer's bill.
  - When charges to a customer are included in the cost associated with the purchase or lease of portable electronics, the portable electronics retailer must clearly and conspicuously disclose to the customer that the charge for coverage is included.
- A portable electronics retailer is not required to maintain the funds for portable electronics insurance in a segregated account if:
  - The insurer authorizes the retailer to hold the funds in an alternative manner;
  - The retailer remits the funds to the portable electronics insurance supervising entity within sixty (60) days of receipt; and
  - The retailer holds the funds in a fiduciary capacity for the benefit of the insurer.
- Required notices or correspondence concerning a policy of portable electronics insurance shall be sent in the following manner:
  - If mailed, to the portable electronics retailer at the retailer's mailing address and each affected enrolled customer at the last known mailing address of the customer on file with the insurer; or
  - If sent by electronic means, to the portable electronics retailer at the retailer's electronic mail address and to each affected enrolled customer at the last known electronic mail address provided by the enrolled customer to the insurer or portable electronics retailer.

*Contact: Agent Licensing Division  
(502) 564-6004*

**House Bill 417 – Automobile Guaranty**

With regard to service contracts and insurance products, this bill amends KRS 190.090 to allow the cash sale price of a motor vehicle to include the charges for a service contract, mechanical breakdown insurance, a maintenance agreement, a vehicle protection product and any other goods or services related to the sale that the buyer agrees to purchase from the seller.

The bill specifically states that the following shall not be considered a contract of, or for, insurance:

- A maintenance agreement;
- A service contract; and
- A vehicle protection product.

The definition of automobile guaranty insurance in KRS 304.5-070(1)(p) is amended to reference these exclusions.

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

### **House Bill 497 – Insurance Consumer Protections**

This bill amends various provisions within the Insurance Code related to:

- Group life insurance policies;
- Exceptions to rating, underwriting, cancellation, and nonrenewal for an applicant or insured whose credit information has been directly influenced by an extraordinary life event;
- Restrictions on cancellation or nonrenewal of automobile or homeowner’s insurance related to coverage inquiries;
- Timeframes for providing information of the cancellation of an automobile insurance policy; and
- Provisions in provider agreements with a doctor of chiropractic and provider agreements related to limited health service benefit plans.

### **Group Life Insurance**

This bill amends KRS 304.16-030(2) and KRS 304.16-090(2) to allow insureds to contribute to the cost of their group life insurance.

The definition of “dependent” in KRS 304.16-085 is amended to include a dependent child who is unmarried and incapable of self-sustaining employment because of a mental or physical condition if:

- The child was incapacitated prior to attainment of the age at which dependent coverage would otherwise terminate;
- The child is chiefly dependent upon the employee or member for support and maintenance;
- The insurance of the employee or member remains in force;
- The dependent child remains incapable of self-sustaining employment; and
- The employee or member submits proof of the dependent child’s incapacity within thirty-one (31) days of the dependent’s attainment of the termination age.

Finally, the bill creates a new statute in KRS 304, Subtitle 16 to allow for discretionary groups upon a finding of the commissioner that:

- The issuance of the group policy is not contrary to the best interests of the public;
- The issuance of the group policy would result in economies of acquisition or administration; and
- The benefits of the group policy are reasonable in relation to the premiums charged.

#### Extraordinary Life Events

The bill creates a new section of KRS 304, Subtitle 13 to require an insurer that uses credit information to provide reasonable exceptions to rates, rating classifications, company or tier placement or underwriting rules or guidelines for an applicant whose credit information has been directly influenced by an extraordinary life event. An insurer is required to provide an applicant or an insured with a notice that reasonable exceptions are available and information on how to inquire further.

An extraordinary life event is identified in the bill as:

- Catastrophic event, as declared by the federal or state government;
- Serious illness or injury to the insured, or serious illness or injury to an immediate family member;
- Death of a spouse, child, or parent;
- Divorce or involuntary interruption of legally owed alimony or support payments;
- Identity theft;
- Temporary loss of employment for a period of three (3) months or more, if it results from involuntary termination;
- Military deployment overseas; or
- Other events, as determined by the insurer.

The applicant is required to submit a written request to the insurer for an exception. Upon receipt of the request, an insurer may:

- Require the applicant or insured to provide reasonable written and independently verifiable documentation of the event;
- Require the applicant or insured to demonstrate that the event had direct and meaningful impact on his or her credit information;
- Require that the request be made no more than sixty (60) days from the date of the application for insurance or the policy renewal;

- Grant an exception despite the applicant or insured not providing the initial request for an exception in writing; or
- Grant an exception where the applicant or insured asks for consideration of repeated events or the insurer has considered this event previously.

Within thirty (30) days of receipt of sufficient documentation the insurer must provide the insured or applicant of the outcome.

Additionally, the bill amends KRS 304.20-040 and KRS 304.20-042 to prohibit an insurer from declining, nonrenewing or cancelling an insurance policy for personal risks solely because of an extraordinary life circumstance that directly influences the credit history of an applicant or insured.

#### Coverage Inquiries

This bill creates a new statute in KRS 304, Subtitle 20 to prohibit an insurer from cancelling, nonrenewing or increasing the premium for personal motor vehicle insurance or homeowner's insurance solely as the result of an inquiry related to an insured's coverage which does not reasonably apprise the insurer of a claim.

#### Cancellation of Automobile Insurance Policies

This bill amends KRS 304.20-040, related to nonrenewal and cancellation of automobile insurance policies, to:

- Remove from the exceptions to the definition of "policy" a policy insuring more than four (4) automobiles;
- Require at least 14 days' notice before canceling a policy that has been in effect for less than sixty (60) days;
- Remove policies that have been in effect for less than sixty (60) days from the reasons for cancellation listed in KRS 304.20-040(2)(b); and
- Require insurers to respond for a request for information from the commissioner within seven (7) days from receipt of the request.

#### Provider Agreements

The bill amends KRS 304.17A-150, related to unfair trade practices in the marketing and selling of health benefit plans, to prohibit an insurer from imposing requirements in a provider agreement with a doctor of chiropractic that restrict, reduce or negate the benefits that are otherwise provided to an insured under a health benefit plan. Insurers are specifically permitted to perform a utilization review in accordance with KRS 304.17A-600 to 304.17A-633.

The bill creates a new statute in KRS 304 Subtitle 17C, related to limited health service benefit plans, to prohibit terms in a provider agreement that require a health care provider to provide services at a fee set by or subject to approval by an insurance company unless the services are covered services.

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

*Health and Life Division  
(502) 564-6088*

### **House Bill 499 – Local Government Premium Tax Exemption**

The bill includes non-codified language to exempt from local government premium taxes premiums paid by non-profit self-insurance groups whose membership consists of cities, counties, charter county governments, urban-county governments, consolidated local governments, school districts, or any other political subdivisions of the Commonwealth. This exemption is applicable for the fiscal year beginning July 1, 2012 and expires June 30, 2014.

*Contact: Consumer Protection Division  
(502) 564-6034*

## **Additional Legislation of Interest**

### **Senate Bill 3 – Drugs Containing Ephedrine, Pseudoephedrine, or Phenylpropanolamine**

This bill amends KRS 218A.1446 to address requirements for the sale of drugs containing ephedrine, pseudoephedrine or phenylpropanolamine including requirements for electronic logging and dispensing limitations.

### **Senate Bill 89 – Seat Belts**

This bill amends KRS 189.125 to apply seat belt requirements to vehicles designed to carry fifteen (15) or fewer passengers.

### **Senate Bill 110 – Community Use of School Facilities and Property**

This bill creates a new statute in KRS Chapter 162 to permit a local school board to authorize the use of school property by the community during non-school hours for the

purpose of recreation, sport, academic, literary, artistic, or community uses. The bill specifically addresses liability protections related to the use of the facility and property.

#### **Senate Bill 144 – Electronic Prescribing**

This bill creates a new statute in KRS 217.005 to 217.215 and a new statute in KRS 218A to address issues related to electronic prescribing including a patient's freedom to select a pharmacy, software design and consideration of the national standards for electronic prior authorization developed by the National Council for Prescription Drug Programs.

#### **House Bill 358 – Boiler External Piping Inspections**

This bill amends various statutes in KRS Chapter 236 related to boiler inspectors. In part, the bill permits an owner facility subject to piping inspection to apply for a license to allow the facility to conduct its own site piping inspections. The application requires the owner facility to provide evidence that the facility has general liability insurance through a company permitted to transact insurance in Kentucky.

#### **House Bill 409 – Property Forfeitures in the Case of Unlawful Deaths**

This bill, in part, amends KRS 381.280 to remove the requirement that insurance professionals make reasonable efforts to advise clients of the provisions of the law related to property forfeiture in the case of an unlawful death prior to the sale of an insurance policy.

#### **House Bill 433 – Condominiums**

This bill, in part, amends KRS 381.9187 to remove the requirement that an insurer issue certificates or memoranda of insurance to the condominium association and, upon written request, to any unit owner or mortgagee. It also removes the requirement that the insurer not cancel or nonrenew the policy until thirty (30) days after notice has been mailed to the association, each unit owner and each mortgagee who has been issued a certificate or memorandum of insurance.

#### **House Bill 328 – Operation of a Motorcycle**

This bill amends KRS 186.450 related to the issuance of a motorcycle permit or operator's license. The bill allows a person who has received an intermediate operator's license to apply for a motorcycle instruction permit and makes the permit good for one (1) year, with the ability for one (1) renewal. A person whose permit has expired is permitted to apply for a motorcycle operator's license if the person can present proof of successful completion of a motorcycle safety education course.

**House Bill 341 – Business Organizations**

This bill creates KRS Chapter 386A to adopt the Kentucky Uniform Statutory Trust Act to permit a business trust to be used as an allowable form of business organization in Kentucky. The bill also addresses other requirements for the formation, operation and dissolution of businesses in Kentucky.

**House Bill 421 – Insurance Claims for Residential Roof Repairs**

This bill creates a new statute in KRS Chapter 367 to permit a person to cancel a contract with a roofing contractor related to residential roof repairs within five (5) business days after the person has received written notice from the insurer that all or part of the claim is not covered under the person’s property and casualty insurance policy.

The bill sets forth terms for cancellation, notice requirements, refund of payments made, payment for services necessary to prevent further damage, and activities of a roofing contractor.

/s/ Sharon P. Clark  
Sharon P. Clark  
Commissioner  
Kentucky Department of Insurance

June 4, 2012  
Date