



PUBLIC PROTECTION CABINET

Steven L. Beshear
Governor

Department of Insurance
P.O. Box 517
Frankfort, KY 40602-0517
800-595-6053
<http://insurance.ky.gov>

Robert D. Vance
Secretary

Sharon P. Clark
Commissioner

HB 524 Implementation Update **January 5, 2009**

The purpose of this document is to provide insurance companies and surplus lines brokers with guidance for implementing the HB 524, related to local government premium taxes, as codified in KRS 91A.080 – 91A.0812.

KRS 91A.0806 (HB 524 Section 3) – Risk Location Systems

Please note: The Department of Insurance filed administrative regulation, 806 KAR 2:088, on December 12, 2008, establishing the process to obtain and renew verification of risk location systems and the process for revocation of verification. This administrative regulation also establishes the process for an insurer with limited risks to request an order allowing an alternative form of risk location. The regulation is currently proceeding through the promulgation process.

1. What criteria must be met in order for a risk location system to be verified?

Pursuant to 806 KAR 2:088 Section 2(5), the Department of Insurance is proposing that a risk location system be verified if it:

1. Achieves an overall level of accuracy of at least ninety percent (90%) in identifying the city or county within which an address is located; and
2. Is updated at least quarterly with regard to changes in municipal and county boundary data, street addresses and ZIP codes.

Additionally, as required by KRS 91A.0806(1) and as proposed in 806 KAR 2:088 Section 2(1)(e), the risk location system must use the municipal and county

boundary data available from the Commonwealth Office of Technology that is based upon municipal and other filings with the Secretary of State as its sole source of boundary data.

2. What data will the Department of Insurance use to test the accuracy of risk location systems?

The Department of Insurance has developed a bank of test data to use in testing the accuracy of risk location systems. All risk location systems applying for verification will be tested using the same criteria.

3. Will each insurance company or surplus lines broker need to apply for verification?

The Department will be verifying the specific risk location system or program. If an insurance company or surplus lines broker purchases a verified risk location system from a vendor, the insurance company or surplus lines broker will not need to apply for verification separately. However, if an insurance company or surplus lines broker creates its own internal system, the insurance company or surplus lines broker will need to apply for verification of their in-house risk location system.

4. Other states have a process for verifying risk location software. Why did the Department of Insurance propose a process different from these states?

Prior to the enactment of HB 524, the Department of Insurance created a process to be used during market conduct examinations to determine the accuracy of risk location and compliance with KRS 91A.080. The Department has chosen to enhance its existing process to accommodate the new verification process.

Information has been received regarding other state verification programs, most notably the process used in Colorado in which test address data is sent to vendors who, in turn, identify for the regulator the taxing jurisdiction associated with each address. The Department has reviewed Colorado's process. However, unlike Colorado, the Department of Insurance does not have a complete source of the location of all street addresses within the Commonwealth. Additionally, it is important to note that the Department's purpose in verifying risk location systems is to determine the level of accuracy at which they properly identify the city or county within which a street address is located. Pursuant to KRS 91A.0806(4), insurance companies and surplus lines brokers must also accurately implement a method to collect and remit the proper tax due to each local government. While some risk location systems may provide a tool for insurance companies and surplus lines brokers to meet this statutory obligation, the

Department will not be verifying a risk location system's ability to perform this function. Rather, the Department will be ensuring compliance through market conduct examinations or other investigations of its licensees. Based on these reasons, the Department determined that its existing process would achieve the same results in a more efficient and cost effective manner.

5. How will the Department address privacy concerns that vendors may have in providing the address data required for verification?

First, it is important to note that the data being requested is a dataset of street addresses and their location, and not policyholder specific data. However, the Department understands that some vendors may consider this information to be proprietary, and it is willing to sign a confidentiality agreement to address these concerns.

6. When does the Department of Insurance anticipate posting a listing of verified risk location systems on its Web site?

The administrative regulation related to the verification of risk location systems is in the promulgation process, and will not be effective until, at the earliest, April 2009. Once the regulation is effective, the Department will begin accepting and reviewing applications. We are very mindful of the time constraints that insurance companies and surplus lines brokers are under to implement a verified risk location system by January 1, 2010, and we will review the applications in a diligent manner when they are received.

7. If the Department of Insurance takes action to revoke verification of a risk location system, how soon would an order of revocation take effect?

An order of revocation will take effect when it is executed. However, the verification regulation, 806 KAR 2:088, does propose that all insurance companies and surplus lines brokers utilizing the verified risk location system be notified when a notice of deficiency is sent to a verified entity. Additionally, the regulation proposes a process to allow the verified entity to cure any deficiency before its verification is revoked.

8. Will the Department of Insurance make quarterly boundary updates available to vendors, insurance companies and surplus lines brokers?

The Department of Insurance will not make quarterly boundary updates available to vendors. However, boundary information is available on the Secretary of State's Web site, <http://apps.sos.ky.gov/land/cities/>.

9. Are surplus lines brokers subject to KRS 91A.0806 and 806 KAR 2:088 regarding verified risk location systems?

Yes, pursuant to KRS 304.10-180(1)(c), surplus lines brokers are subject to KRS 91A.0806 and 806 KAR 2:088.

10. Will the Kentucky Department of Insurance consider master policies or certificates in determining whether an insurance company or surplus lines broker meets the "2,000 policies" threshold requiring use of a verified risk location system beginning January 1, 2010?

When determining whether an insurance company or surplus lines broker meets this threshold, the Department will consider the number of master policies issued or renewed in Kentucky in the preceding calendar year.