

**Kentucky Department of Insurance
Review Requirements Checklist**

03/2019

**Surety
(Fidelity, Suretyship and Financial Institution Bonds)**

REVIEW REQUIREMENTS	REFERENCE	COMMENTS
FORMS		
Advisory Organizations and Forms Providers		
Adopting by reference, Blanket reference or Filing authorization	KRS 304.14-120 806 KAR 14:006	<p>When an insurer chooses to adopt one or more specific filings of an AO or FP, it shall do so in accordance with the usual filing procedures and shall clearly identify which filing(s) it is adopting. Reference to items must always be made using the AO or FP filing reference number, not the circular or form number. Adoption of items more than 2 years old must include copies of the items being adopted for review for current compliance.</p> <p>When an insurer chooses to adopt ALL of the policy forms of an AO or FP, it may either provide written authorization to AO or FP, who must in turn file the authorization with DOI, or the insurer must file written notice of "blanket reference adoption" with DOI that it is adopting by reference all of the current and future policy filed by the AO or FP.</p>
Delaying adoption or non-adoption	KRS 304.14-120 806 KAR 14:006	When an insurer has previously adopted all an AO or FP's forms and chooses to delay the effective date of a new release, the insurer may submit a letter and specify an adoption date within 6 months of the advisory effective dates. A second letter may be submitted with a new date within one year from the original advisory effective date. If the insurer will not adopt within one year, a complete filing with forms and fees is required to non-adopt. Insurers will not be permitted to delay adoption or non-adopt releases bringing forms into compliance with the law without making similar independent changes bringing their forms into compliance.
Applications		
Need not be filed unless part of policy	KRS 304.14-020 KRS 304.14-120	Applications filed will be approved or disapproved as the law requires. Those forming a part of the policy must comply with all of the laws related to forms.
Fraud notice	KRS 304.47-030	All applications and claim forms shall contain a statement that clearly states in substance the following: "Any person who knowingly and with intent to defraud any insurance company or other person files an application for insurance containing any materially false information or conceals, for the purpose of misleading, information concerning any fact material thereto commits a fraudulent act, which is a crime."
Warranties prohibited	KRS 304.14-110	Statements in applications are representations, not warranties. They shall not prevent recovery under the contract unless they are fraudulent, material to the acceptance of the risk, or the insurer would not have issued at the same premium rate or policy limits.
Cancellation & Nonrenewal		
Notification of intention to cancel, terminate or nonrenew blanket bond	KRS 304.21-090	Whenever a surety intends to cancel, terminate or nonrenew a blanket bond written for any bank or credit union, it shall notify the Department of Financial Institutions of its intention not less than 30 days prior to the effective date of such action.
Contents of Policies and other forms		
Ambiguous, inconsistent, misleading language prohibited, and substantial legibility required	KRS 304.14-130 (1)(b)(c)	Forms shall not: (1) contain 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 contract or (2) contain any title, heading, or indication which is misleading, or be printed in a size of type or manner of reproduction so as to be substantially illegible.
English language requirement	KRS 304.14-435	All policy forms filed with DOI and any other insurance policy or claim-related information shall be written in the English language.
Agreements part of the contract	KRS 304.14-180	Agreements in conflict with, modifying, or extending the contract must be made part of the policy.
Blank endorsements are prohibited	KRS 304.14-120 806 KAR 14:006 Memo 12-15-95	<p>Endorsements containing blanks where the policy may be amended are not permitted, because all policy language, terms and conditions, etc. must be submitted for prior approval. We will, however, accept a form with the following stipulations:</p> <ul style="list-style-type: none"> • Underwriting rule pages showing the use of the endorsement must accompany the endorsement filing; • A disclaimer must be in a prominent position on the endorsement indicating, "This endorsement will not be used (a) to impede, restrict, amend or otherwise revise any provisions, exclusions, conditions or other terms of the policy to which it is attached or (b) as a renewal certificate;" AND • The endorsement must include a signature and date line for the insured's acknowledgement. <p>The only other way the form will be accepted is where the numbered form lists all possible changes for which it will be used and is approved. The form may be computer generated and only print out the change(s) necessary for a particular insured; however, all changes that may at any time be used must be filed and approved before use of the form.</p>

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Conformity clauses	KRS 304.14-130 (1)(a)	Forms shall not be approved if they are in any respect in violation of or do not comply with KY law. The presence of a conformity clause will not bring about approval of otherwise non-compliant policy provisions.
Grouping for preferential treatment	806 KAR 14:090	The grouping of persons or risks for preferential treatment in insurance rates or forms is prohibited unless filed and approved.
Group certificates	806 KAR 14:060	Group certificates issued for delivery to Kentucky residents under any group policy issued to an association outside Kentucky where premiums are payable by individual members must be filed and approved.
Certificates issued to third parties	806 KAR 14:100	Certificate forms must be filed for prior approval by each insurer. Shall include the following or similar statement: "This certificate or memorandum of insurance neither affirmatively nor negatively amends, extends, or alters the coverage afforded by policy number ____ issued by ____."
Policies may be assignable or not	KRS 304.14-250	A policy may be assignable or not assignable as provided by its terms.
Jurisdiction of courts	KRS 304.14-370	No conditions in policies may limit the jurisdiction of Kentucky courts.
Venue of suit against insurers	KRS 304.14-380	Suit upon causes of action arising within this state against an insurer upon an insurance contract shall be brought in the county where the cause of action arose or in the county where the policyholder instituting the action resides.
Limitation of suits against insurer not less than one year	KRS 304.14-370	No conditions in policies may limit the time for commencing actions against insurers for a period of less than one year.
Privacy Notices	806 KAR 3:210	Not required but if filed must conform to 806 KAR 3:210
Dividend Plans		
Dividends payable to individual members, Dividends not guaranteed	KRS 304.14-290 806 KAR 14:030	Every insurer, issuing participating policies, shall pay dividends, unused premium refunds or savings distribution on account of any such policy only to the real party in interest entitled. Dividends shall not be guaranteed.
Dividend plans filings, participation	806 KAR 14:110	<ul style="list-style-type: none"> • Insurer must identify and group policyholders contributing to such savings into specific classifications. • Insurer must file dividend plans in "same manner as a rate filing" • Cannot propose both participating and nonparticipating policies for the same class of risk. • Plan must be made available to all insureds meeting the eligibility requirements. • Agents licensed by one or more companies of a group must also be licensed by the company within such group authorized to write dividend plans, if such agent does not write such participating policies. • Initial filing must contain either satisfactory evidence of proper specific charter (defined in KRS 304.3-050), authority to issue participating policies, or satisfactory evidence that the laws of its domicile provide that it may issue policies entitled to participate in the earnings of the insurer through dividends. • Filing must also contain proposed policy provisions or proposed policy endorsement form for payment of dividends, which must also provide that all such dividends must be paid directly to the insured. • Dividends must be paid only out of that part of the surplus funds derived from any realized net profits from insurer's business. • Brochures and advertising materials must 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.
Filing Standards		
Certificate of Authority	KRS 304.5-060 KRS 304.21-020	Surety must appear on the Company's Certificate of Authority.
Prior approval	KRS 304.14-120	No policy form, application made a part of the policy, rider, endorsement, certificate, etc. shall be delivered until approved.
Forms disapproved or withdrawn	KRS 304.14-120 KRS 304.14-130(2)	Disapproved filings require a new filing submitted with appropriate fees and forms. The insurer shall not use in this state any form after disapproval or withdrawal of approval.

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Filing document set	806 KAR 14:006	A filing may include any number of documents, filed together on a particular date, pertaining to a single type of insurance (TOI) from the Uniform Property & Casualty Product Coding Matrix. Forms shall be filed separately from rates and rules. Paper filings must be submitted with two (2) full document sets 8 1/2 x 11 white paper and three (3) transmittal documents. Each document set must contain the following properly completed forms and information: <ul style="list-style-type: none"> • Property & Casualty Transmittal Document, if a group filing is being made, all companies included must be listed. • Form Filing Schedule • If the filing is being made by a third party, a signed letter of authorization from the company shall be submitted • The company's documents that are being revised/submitted • \$5.00 filing fee for Use & File filings, \$100.00 filing fee for prior approval filings, per company per line of insurance, subject to retaliatory provisions
Retaliatory Fees	KRS 304.3-270	When fees, taxes, fines, etc. charged by the state of domicile are in excess of Kentucky fees, then the domicile state's fees apply.
Fees collected in advance	KRS 304.4-010	Fees shall be collected in advance or within 15 days of electronic submission.
Amendments to completed filings <ul style="list-style-type: none"> • Change of effective date • Final printed pages 	806 KAR 14:006	Once a filing is acted upon by DOI, it may be amended only by submitting a complete new filing. <ul style="list-style-type: none"> • An exception is permitted for changes of effective date. These may be accomplished with a letter stating the revised effective date. • Final printed pages need not be filed
Liberalization Clause		
Liberalization	KRS 304.14-180	If additional benefits are afforded to policyholders of an insurer which do not require increases in premium rates or reductions of coverage, such benefits shall also be afforded to all prior policyholders paying the same rates.
Loss Settlement		
Proof of Loss forms	KRS 304.14-270	Insurers shall furnish proof of loss forms upon written request of any person.
Claim payment offset by premium due prohibited	KRS 304.12-230(5), (6), (8)	Any attempt by a carrier to offset the amount it owes on a claim by the amount of premium an insured owes could be an unfair denial of a claim. The insured has a reasonable expectation that if the claim is covered, coverage will be provided up to the limits of the policy.
HIV Exclusion , Limits, or Different Terms or Conditions	KRS 304.14-130 (1)(e)	HIV shall not be excluded or treated differently than other sicknesses or medical conditions.
Time for payment of claims	KRS 304.12-235	Claims to be paid in 30 days or interest owed.
RATES and RULES		
Advisory Organizations and Statistical Agents		
Adopting by reference, Blanket reference or Filing authorization	KRS 304.13-051 KRS 304.13-061 KRS 304.13-121 806 KAR 13:150	When an insurer chooses to adopt one or more specific filings of an AO or SA, it shall do so in accordance with the usual filing procedures and shall clearly identify which filing(s) it is adopting. Reference to items must always be made using the AO or SA filing reference number, not the circular number. Adoption of rules more than 2 years old shall include copies of the rules for review for current compliance. When an insurer chooses to adopt ALL of the loss costs and/or rules of an AO or SA, it may either provide written authorization to AO or SA, who must in turn file the authorization with DOI, or the insurer must file written notice of "blanket reference adoption" with DOI that it is adopting by reference all of the current and future filings by the AO or SA. Duplication of loss costs expenses is not permitted if already included in AO or SA loss cost filings.
Delaying adoption or non-adoption	KRS 304.13-051 KRS 304.13-061 KRS 304.13-121 806 KAR 13:150	When an insurer has previously adopted all loss costs and rules of an AO or SA and chooses to delay the effective date of a new release, the insurer may submit a letter and specify an adoption date within 6 months of the advisory effective dates. A second letter may be submitted with a new date within one year from the original advisory effective date. If the insurer will not adopt within one year, a complete filing with forms and fees is required to non-adopt. Insurers will not be permitted to delay adoption or non-adopt releases bringing rules into compliance with the law without making similar independent changes bringing their rules into compliance.
Dividend Plans		
Dividends payable to individual members, Dividends not guaranteed	KRS 304.14-290 806 KAR 14:030	Every insurer, issuing participating policies, shall pay dividends, unused premium refunds or savings distribution on account of any such policy only to the real party in interest entitled. Dividends shall not be guaranteed.

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Dividend plans filings, participation	806 KAR 14:110	<ul style="list-style-type: none"> Insurer must identify and group policyholders contributing to such savings into specific classifications. Insurer must file dividend plans in “same manner as a rate filing” Cannot propose both participating and nonparticipating policies for the same class of risk. Plan must be made available to all insureds meeting the eligibility requirements. Agents licensed by one or more companies of a group must also be licensed by the company within such group authorized to write dividend plans, if such agent does not write such participating policies. Initial filing must contain either satisfactory evidence of proper specific charter (defined in KRS 304.3-050), authority to issue participating policies, or satisfactory evidence that the laws of its domicile provide that it may issue policies entitled to participate in the earnings of the insurer through dividends. Filing must also contain proposed policy provisions or proposed policy endorsement form for payment of dividends, which must also provide that all such dividends must be paid directly to the insured. Dividends must be paid only out of that part of the surplus funds derived from any realized net profits from insurer’s business. Brochures and advertising materials must 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.
Filing Standards		
Rates & rate information	KRS 304.13-051 KRS 304.13-057 KRS 304.13-041	No rate filing is required; however, periodic requests for rate information may be made by DOI.
Rating Manuals & Underwriting Rules	KRS 304.13-051	All manuals and underwriting rules must be filed within 15 days of the effective date. Manuals, rules, and guidelines must be adhered to until amended. To the extent underwriting guidelines regarding the bases on which risks are acceptable are considered proprietary and confidential, it must be clearly marked on the filing and an explanation of the reason(s) the information is proprietary and confidential must be included. Information relative to premium determination is never propriety. Filings disapproved may not be used until a new filing is submitted with all appropriate fees and forms.
Filing document set	806 KAR 13:150	<p>A filing may include any number of documents, filed together on a particular date, pertaining to a single type of insurance (TOI) from the Uniform Property & Casualty Product Coding Matrix. Forms shall be filed separately from rates and rules. Paper filings must be submitted with two (2) full document sets 8 1/2 x 11 white paper and three (3) transmittal documents. Each document set must contain the following properly completed forms and information:</p> <ul style="list-style-type: none"> Property & Casualty Transmittal Document, if a group filing is being made, all companies included must be listed. Rate/Rule Filing Schedule LC-1 [and LC-2 if applicable] must be completed for each company. If the filing is being made by a third party, a signed letter of authorization from the company shall be submitted The company’s documents that are being revised/submitted \$5.00 filing fee for Use & File filings, \$100.00 filing fee for prior approval filings, per company per line of insurance, subject to retaliatory provisions Self-addressed stamped envelope
Retaliatory Fees	KRS 304.3-270	When fees, taxes, fines, etc. charged by the state of domicile are in excess of Kentucky fees, then the domicile state’s fees apply.
Fees Collected in Advance	KRS 304.4-010	Fees shall be collected in advance or within 15 days if the filing is submitted electronically.
Amendments to completed filings	806 KAR 13:150	<p>Once a filing is acted upon by DOI, it may be amended only by submitting a complete new filing.</p> <ul style="list-style-type: none"> An exception is permitted for changes of effective date. These may be accomplished with a letter stating the revised effective date. Final printed pages need not be filed.
General Rates and Rules		
Premium defined; fees are included	KRS 304.14-030 Bulletin 94-3	Premium is the consideration for insurance, by whatever name called. Any assessment or any membership, policy, survey, inspection, service, reinstatement, cancellation or similar fee or other charge in consideration for an insurance contract is deemed part of the premium.
Illegal dealing in premium	KRS 304.12-190	No person shall charge for insurance not provided nor charge any amount in excess of that expended for insurance nor knowingly fail to refund any charge for insurance in excess of the amount actually expended for insurance. Unearned premium shall be refunded upon the request of the insured, even if nominal. Minimum earned premiums and fully earned fees such as policy, membership, reinstatement, cancellation, etc. may be used only when the remaining premium is refunded prorata or under other circumstances with support.
Grouping for preferential treatment	806 KAR 14:090	Grouping of persons or risks for preferential treatment in insurance rates or forms is prohibited unless filed and approved.

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Unfair discrimination prohibited • Association discounts • Pricing based on education	KRS 304.12-080 806 KAR 14:090	Actuarial evidence of difference in risk or expenses must be provided.
HIV Exclusion , Limits, or Different Terms or Conditions	KRS 304.14-130 (1)(e)	HIV shall not be excluded or treated differently than other sicknesses or medical conditions.
Rebates prohibited	KRS 304.12-090 KRS 304.12-100 Advisory Opinion 04-05	
Flexible commissions prohibited	KRS 304.12-080 KRS 304.12-090 Advisory Opinion 03-01	
Illegal inducements to buy insurance prohibited	KRS 304.12-110	Some discounts may be illegal inducements.
Binders permitted and limited	KRS 304.14-220 806 KAR 14:020	Not valid beyond 90 days of effective date unless subsequently approved, premium must be charged pro-rata and can not be cancelled flat unless cancelled within 15 days of effective date.
Renewal, Nonrenewal, Cancellation, Declination		
Notification of intention to cancel, terminate or nonrenew blanket bond	KRS 304.21-090	Whenever a surety intends to cancel, terminate or nonrenew a blanket bond written for any bank or credit union, it shall notify the Department of Financial Institutions of its intention not less than 30 days prior to the effective date of such action.
Declination and nonrenewal prohibited	KRS 304.12-085	No person shall, whether acting for himself or another in connection with an insurance transaction, fail or refuse to issue or renew insurance to any person because of race, color, religion, national origin, or sex.
Taxes and Fees		
Installment fees and delinquent installment fees	KRS 304.13-051 KRS 304.30-090 KRS 304.30-100 806 KAR 30:050	Shall be no less favorable than those permitted by premium finance companies. Maximum of \$15 fee plus 12% per annum installment fees. Delinquent fee of \$1 to maximum of 5% of the amount of the delinquent installment late 5 days or more.
Late fees on entire premium	KRS 304.14-030	Maximum of 18% per annum if premium late 30 days or more. Such charges shall be clearly indicated on all bills and statements of account.
Fully earned MGA policy fees for underwriting expenses	KRS 304.13-171	The fee shall only be collected if coverage is provided and shall be deemed fully earned. The fee shall be submitted for prior approval.
Local government premium tax	KRS 91A.080 806 KAR 2:096 806 KAR 2:097 Annual DOI Bulletin	If filed, they must be current and accurate. Must be disclosed on title page of policy issued for the first time when the tax is charged.
Premium surcharge	KRS 136.392 806 KAR 2:100	Must be disclosed on declarations page of policy issued for the first time when the surcharge is charged.