

**Kentucky Department of Insurance  
Review Requirements Checklist**

**Workers' Compensation**

| <b>REVIEW REQUIREMENTS</b>                                  | <b>REFERENCE</b>                                      | <b>COMMENTS</b>   |
|---|---|---|
| <b>FORMS</b>  |   |   |
| <b>Advisory Organization or Forms Provider (AO or FP)</b>   |   |   |
| Adopting by reference                                       | 806 KAR 14:006  | When an insurer chooses to adopt one or more specific filings of an AO or FP, it shall do so in accordance with usual filing procedures and shall clearly identify which filing(s) it is adopting. References to items must always be made using the AO or FP filing reference number, not the circular or form number. Adoptions of items released more than 2 years prior must include copies of the items being adopted for review for current compliance.   |
| Blanket reference or Filing Authorization                   | 806 KAR 14:006  | 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 the DOI, <u>or</u> the insurer must file written notice of "blanket reference adoption" with the Commissioner that it is adopting by reference all the current and future policy forms filed by the AO or FP.   |
| Delay adoption or Non-adoption                              | 806 KAR 14:006  | When an insurer has previously adopted all an AO or FP 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 date. 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 without making similar independent changes bringing their forms into compliance.   |
| <b>Applications</b>   |   |   |
| Fraud notice required                                       | KRS 304.47-030  | "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 insurance act, which is a crime."   |
| Need not be filed unless part of the policy                 | KRS 304.14-120(1)<br>KRS 304.14-020                   | All policy forms must be filed for prior approval. This does not include applications unless application is required and is to be made a part of the policy or contract   |
| Warranties in applications                                  | KRS 304.14-110  | Statements in applications are representations not warranties. They shall not prevent recovery under the contract unless they are fraudulent or material to the acceptance of the risk.   |
| <b>Arbitration</b>  |   |   |
| Mandatory binding arbitration                               | Ky. Const. Sec. 14<br>KRS 304.14-370<br>KRS 417.050   | No conditions, stipulations, or agreements in a contract of insurance shall deprive Kentucky courts of jurisdiction of a dispute, which has not yet arisen. The parties may agree to binding arbitration after the dispute arises.  |
| <b>Cancellation, Renewal &amp; Non-renewal, Declination</b> |   |   |
| Form requirements   | KRS 304.20-300 through 350                            | The specific provisions must be set forth in the policy. A general conformity clause will not be accepted.  |
| Cancellation and Non-Renewal                                | KRS 304.20-320 through 350                            | Notice of cancellation including the specific reason(s) must be mailed to the named insured at the last known address at least fourteen (14) days prior to the effective date of cancellation if the reason is non-payment of premium or if it occurs within the first sixty (60) days of the policy. Seventy-five (75) days notice is required if the policy has been in effect greater than sixty (60) days. Non-renewal notices including the reason must be mailed at least seventy-five (75) days prior to the renewal date. Mid-term cancellations can only occur for one of seven (7) reasons: <ul style="list-style-type: none"> <li>• Non-payment of premium</li> <li>• Discovery of fraud or material misrepresentation made by or with the knowledge of the named insured</li> <li>• Discovery of willful or reckless acts or omissions on the part of the named insured that increase any hazard insured against</li> <li>• Occurrence of a change in the risk that substantially increases any hazard insured against</li> <li>• Violation of local fire, health, safety, building or construction regulation or ordinance with respect to any insured property</li> <li>• The insurer is unable to reinsure the risk</li> <li>• Determination by the Commissioner that the continuation of the policy would place the insurer in violation of the KY insurance code.</li> </ul> |
| Declination or termination                                  | KRS 304.20-340<br>KRS 304.20-310(3)<br>KRS 304 12-085 | Declination or termination of a policy by an insurer or agent is prohibited if the decision is based solely upon the: <ul style="list-style-type: none"> <li>• race, religion, nationality, ethnic group, age, sex, or marital status of the applicant or named insured</li> <li>• lawful occupation or profession of the applicant or named insured unless an insurer limits its market to one or more lawful occupations or professions.</li> </ul>   |

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|   |   | <ul style="list-style-type: none"> <li>• age or location of the residence or property of the applicant or named insured, unless such decision is for business purpose which is not mere pretext for unfair discrimination</li> <li>• fact that another insurer previously declined to insure the applicant or terminated an existing policy in which the applicant was the named insured</li> <li>• fact that the applicant or named insured previously obtained insurance through a residual market mechanism.</li> <li>• fact that the insured has previously obtained property or casualty insurance from a carrier providing nonstandard coverage or</li> <li>• fact that the insured has sustained one (1) or more losses that immediately result from a natural cause without the intervention of any person and that could not have been prevented by the exercise of prudence, diligence, and care.</li> </ul>  |
| Notice of renewal   | KRS 304.20-035  | Must give insured 30 day notice of renewal or 7 days for a policy period of less than 30 days. Renewal notice must contain the renewal premium amount and payment due date. Copy must be sent to agent.   |
| <ul style="list-style-type: none"> <li>• Premium increase</li> </ul>  | KRS 304.20-320(4)   |   |
| Notice and confirmation of policy expiration  | KRS 304.20-320(3)(c)<br>KRS 304.20-035  | Must give 30 day notice of renewal. Insurer may extend expiring policy term at the expiring premium in order to give the 75 day notice. When a policy terminates because the renewal premium was not received on or before the due date, the insurer shall mail a notice within 15 days stating that the policy was not renewed. The notice shall include the date on which the coverage ceased to exist.   |
| Reinstatement   | KRS 304.20-037  | If an insurer has made an offer to renew, but the renewal premium was not paid when due, the insurer may, in the absence of an increase in risk, reinstate the expired policy upon written request of the insured within 30 days, if the insured has not purchased replacement coverage. The insurer shall not require an increase in coverage or premium above that stated in the renewal offer.   |
| Non payment of small deductible reimbursement requests  | KRS 304.13-400-(3)(b)   | Can be treated as non-payment of premium on workers' compensation policies. This does not apply to large deductibles.   |
| Movement between companies  | KRS 304.20-310  | Movement between companies is a termination and must be given 75 days notice.   |
| Policy Period defined   | KRS 304.20-310  | Period less than six (6) months will be considered six (6) months and policies without an expiration date will be considered to be one (1) year.  |
| <b>Form Filing Standards</b>  |   |   |
| Prior approval  | KRS 304.14-120<br>KRS 342.380<br>KRS 304.14-020<br>KRS 304.14-100<br>806 KAR 14:060<br>806 KAR 14:006 | Policy forms, including declaration pages, applications (if to be a part of the policy), riders, endorsements, and certificates must be approved prior to use.  |
| Certificate of Authority to write WC required   | KRS 304.3-150<br>KRS 304.3-160  | Insurer must designate its lines of business on the application and Certificate of Authority.   |
| English language  | KRS 304.14-435  | All forms filed with DOI and any other insurance policy or claim related information shall be in English.   |
| Document sets required  | 806 KAR 14:006<br>806 KAR 4:010(2)  | 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 on 8 ½ 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"> <li>• Property &amp; Casualty Transmittal Document, if a group filing is being made, all companies included must be listed.</li> <li>• Form Filing Schedule</li> <li>• If the filing is being made by a third party, a signed letter of authorization from the company shall be submitted</li> <li>• The company's documents that are being revised/submitted</li> <li>• \$5.00 filing fee per company per line of insurance, subject to retaliatory provision</li> <li>• Self-addressed stamped envelope</li> </ul> |
| 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   | 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"> <li>• Change of effective date</li> <li>• Final printed pages</li> </ul> |   | <ul style="list-style-type: none"> <li>• Except that changes of effective date may be accomplished with a letter stating the revised effective date.</li> <li>• Final printed pages need not be filed</li> </ul>  |

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| Disapproved or withdrawn forms  | KRS 304.14-120<br>KRS 304.14-320(2)                | Not use any form after disapproval or withdrawal of approval   |
| <b>Deductibles</b>  |  |  |
| Insurer must pay first dollar of WC benefits                                      | KRS 304.13-400                                     | Insurer must pay deductible amount, and employer shall be liable to insurer for reimbursement. Failure to reimburse small deductibles shall be treated as nonpayment of premium. That is not true for large deductibles.   |
| Disclosure of premium reduction   | KRS 304.13-410                                     | Must be fully disclosed to policyholder in writing.  |
| No co-pay nor deductible charged to employee                                      | KRS 342.020(2)<br>KRS 342.420.                     | Nor can any part of the WC premium be charged to the employee.   |
| Liability deductible may not erode limit of liability                             | KRS 304.14-130(1)(b)                               | Provisions whereby the limit of liability on Employers' Liability Coverage is reduced by the deductible amount is not allowed as misleading and deceptively affecting the risk purported to be assumed in the general coverage of the contract.  |
| <b>Dividends</b>  |  |  |
| Dividend plan filings   | KRS 304.14-290<br>806 KAR 14:110                   | <ul style="list-style-type: none"> <li>• Insurer must identify and group policyholders contributing to such savings into specific classifications.</li> <li>• Plans must be filed.</li> <li>• Insurer cannot propose both participating and non-participating policies for the same class of risk.</li> <li>• Plan must be made available to all insureds meeting the eligibility requirements.</li> <li>• Agents licensed by 1 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 policies.</li> <li>• Initial filings must contain either satisfactory evidence of proper specific charger (defined in KRS 304.3-050) authority to issue participating policies or satisfactory evidence that the laws of its domicile provided that it may issue policies entitled to participate in the earnings of the insurer through dividends.</li> <li>• Filing must also contain proposed policy provisions or proposed policy endorsement form for payment of dividends, which must also provide that all such dividend must be paid directly the insured.</li> <li>• Dividends must be paid only out of that part of the surplus funds derived from any realized net profits from insurer's business.</li> <li>• Brochures, and advertising materials must affirmatively and clearly set forth that dividend 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.</li> </ul> |
| Payable to individual members. Dividends not guaranteed                           | KRS 304.14-290<br>806 KAR 14:030<br>806 KAR 14:110 | Every insurer issuing participating policies shall pay dividends, unused premium refunds or savings distributions on account of any such policy only to the real party in interested entitled. Dividends cannot be assigned to someone other than the insured. Dividends shall not be guaranteed. Eligibility may not be determined by membership in any organization  |
| <b>General Forms Requirements</b>   |  |  |
| 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.   |
| Ambiguous misleading or inconsistent language prohibited, and legibility required | KRS 304.14-130(1)(b and c)                         | Forms shall not <ul style="list-style-type: none"> <li>• 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</li> <li>• contain any title, heading, or indication which is misleading</li> <li>• be printed in a size of type or manner of reproduction so as to be substantially illegible.</li> </ul>   |
| Benefit increase due to Safety Violations   | KRS 342.165(1)                                     | A WC insurer is liable for any increase in benefits if an accident is caused in any degree by the employer's intentional safety violation. See <u>AIGS/AIU Ins. Co. v. South Akers Mining Co. LLC</u> , 192 S. W.3d 687, Ky. 2006.   |
| Blank endorsements prohibited   | KRS 304.14-120<br>806 KAR 14:006<br>Memo 12-15-95  | Endorsements containing blanks where the policy may be amended are not permitted because all policy language, terms, and conditions must be submitted for prior approval. We will accept a form with the following stipulations: <ul style="list-style-type: none"> <li>• Underwriting rule pages showing the use of the endorsement must accompany the endorsement form filing</li> <li>• 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, exclusion, conditions or other terms of the policy to which it is attached, or (b) as a renewal certificate," <b>AND</b></li> <li>• The endorsement must include a signature and date line for the insured's acknowledgement</li> </ul> The only other way the form will be accepted is if the numbered form lists all possible changes for which it will be used and is approved by DOI. The form may be computer generated and only print out the change(s) necessary for a particular insured;  |

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|  |  | however, all changes that may at any time be used must be filed and approved before use of the form.   |
| Claim payment may not be off set by premium due              | KRS 304.12-230 (5, 6,8)  | Any attempt to offset amounts owed on claims by amounts owed by policyholder for premium could be unfair denial of a claim. Policyholders have reasonable expectations if a claim is covered by the policy, coverage will be provided up to the policy limits.   |
| Certificates issued to third parties                         | 806 KAR 14:100<br>KRS 304.14-120   | 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 ___." Each insurer must receive approval of the form prior to its use.   |
| 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 code. The presence of a conformity clause will not bring about approve of otherwise non-compliant policy provisions.   |
| Direct promise to employee                                   | KRS 342.365  | All policies shall contain the agreement of the insurer that it will promptly pay to the person entitled all compensation that may be awarded or agreed upon, and such obligation shall not be affected by any default in the giving of any notice. This shall be construed to be a direct promise by the insurer to the person entitled to compensation, enforceable in his name.   |
| Group certificates   | KRS 304.14-120<br>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.   |
| 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.   |
| HIV and other communicable diseases.                         | KRS 304.14-130(d)<br>KRS 342.0011(1) and (2)   | HIV shall not be excluded or treated differently than other sickness or medical condition.   |
| Jurisdiction of Kentucky courts                              | KRS 304.14-320   | No policy terms or conditions may limit the jurisdiction of Kentucky courts  |
| Liberalization Clause  | KRS 304.14-180<br>806 KAR 14:050   | If additional benefits are afforded to property and casualty insurance policyholders, 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.  |
| Limitations of suits against insurer                         | KRS 304.14-370   | No conditions may limit the time for commencing actions against insures for a period of less than 1 year.  |
| Managed Care, PPO's, and fee schedules                       | KRS 342.035(6)<br>803 KAR 25:110<br>KRS 342.020(1)<br>KRS 342.035(1)<br>803 KAR 25:089 | All WC managed care health system networks must be approved by the Commissioner of the Department of Workers' Claims. If the employer has not designated an approved managed care health system, the employee may select his own treating provider. The WC code makes no provision for PPO's. Therefore, outside an approved managed care health system network, services may not deviate from the fee schedules.  |
| No subrogation waivers                                       | KRS 342.700(3)<br>Advisory Opinion 99-13   | Per the Dept of Workers Claims, as KRS 342.700(3) states it is contrary to public policy and unlawful for any owner or employer to require another employer to waive its subrogation rights as a condition of receiving a contract or purchase order, such language is not to be approved by DOI.  |
| Notice clause in policy                                      | KRS 342.360  | All WC policies shall contain a clause to the effect that as between the employer and the insurer the notice to or knowledge of the occurrence of the injury on the part of the insured shall be considered notice of knowledge on the part of the insurer; that jurisdiction of the insured shall be jurisdiction of the insurer; and the insurer shall in all things be bound by and subject to the awards, judgments or decrees rendered against the insured. |
| Plainly show true insurer                                    | KRS 304.14-200   | When two (2) or more insurers jointly issue a policy, it must plainly show the true name of the insurer.   |
| Policy must contain  | KRS 304.14-150   | Every policy shall specify the names of the parties to the contract, the subject of the insurance, the risks insured against, the time when the insurance thereunder takes effect and the period during which the insurance is to continue, the premium, the conditions pertaining to the insurance and benefits payable.  |
| Policies may be assignable or not                            | KRS 304.14-250   | A policy may be assignable or not as provided by its terms   |
| Premium surcharge  | KRS 136.392<br>806 KAR 2:00  | Must appear on declarations issued for the first time  |
| Privacy Notices  | 806 KAR 3:210  | Not required but if filed must conform to 806 KAR 3:210  |
| Time limit for filing suit                                   | KRS 304.14-370   | No conditions may limit time for commencing actions against insurers for less than one (1) year.   |
| Venue of suits against insurer                               | KRS 304.14-380   | Suit upon a cause of action arising in Kentucky 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.   |
| WC Appeals Board Notice                                      | 806 KAR 13:140   | Text is too long to reproduce here, but notice must be included with every policy issued or renewed.   |
| <b>RATES AND RULES</b>                                       |  |  |
| <b>Advisory Organization or Statistical Agent (AO or SA)</b> |  |  |

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| NCCI designated uniform classification system and experience rating system             | KRS 304.13-061<br>KRS 304.13-167<br>Order dated 6-10-2000      | NCCI has been designated as the uniform classification system and experience rating system. Every insurer must report its experience in accordance with NCCI's statistical plans and must utilize NCCI 's classification system.  |
| Adopting by Reference  | 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 usual filing procedures and shall clearly identify which filing(s) it is adopting. References to items must always be made using the AO or SA filing Reference number, not the circular number. Adoptions of items released more than 2 years prior must include copies of the items being adopted for review for current compliance.   |
| Blanket reference or Filing Authorization  | 806 KAR 13:150   | When an insurer chooses to adopt ALL of the products of an AO or SA it may either provide written authorization to AO or FP, who must in turn file the authorization with the DOI, <u>or</u> the insurer must file written notice of "blanket reference adoption" with DOI that it is adopting by reference all the current and future products filed by the AO or FP.  |
| Delay adoption or Non-adoption   | 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 date. 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 products into compliance without making similar independent changes bringing their products into compliance.   |
| <b>Cancellation, Renewal &amp; Non-renewal, Declination</b>                            |  |   |
| Cancellation and Non-Renewal   | KRS 304.20-320 through 350                                     | Notice of cancellation including the specific reason(s) must be mailed to the named insured at the last known address at least fourteen (14) days prior to the effective date of cancellation if the reason is non-payment of premium or if it occurs within the first sixty (60) days of the policy. Seventy-five (75) days notice is required if the policy has been in effect greater than sixty (60) days. Non-renewal notices including the reason must be mailed at least seventy-five (75) days prior to the non-renewal date. Mid-term cancellations can only occur for one of seven (7) reasons: <ul style="list-style-type: none"> <li>• Non-payment of premium</li> <li>• Discovery of fraud or material misrepresentation made by or with the knowledge of the named insured</li> <li>• Discovery of willful or reckless acts or omissions on the part of the named insured that increase any hazard insured against</li> <li>• Occurrence of a change in the risk that substantially increases any hazard insured against</li> <li>• Violation of local fire, health, safety, building or construction regulation or ordinance with respect to any insured property</li> <li>• The insurer is unable to reinsure the risk</li> <li>• Determination by the Commissioner that the continuation of the policy would place the insurer in violation of the KY insurance code.</li> </ul> |
| Declination or termination prohibited  | KRS 304.20-310(3) and (4)<br>KRS 304.20-340,<br>KRS 304.12-085 | Termination includes both nonrenewal and cancellation. The declination or termination by an insurer or agent is prohibited if the declination or termination is based solely upon the: <ul style="list-style-type: none"> <li>• Race, religion, nationality, ethnic group, age, sex or marital status of the applicant or named insured</li> <li>• Age or location of the residence or property</li> <li>• Lawful occupation or profession of the applicant or named insured unless an insurer limits its market to one or more lawful occupations or professions.</li> <li>• Fact that another insurer previously declined to insure the applicant or terminated an existing policy in which the applicant was the named insured</li> <li>• Fact that the applicant or named insured previously obtained insurance through a residual market mechanism.</li> <li>• Fact that the insured has previously obtained property or casualty insurance from a carrier providing nonstandard coverage or</li> <li>• Fact that the insured has sustained one (1) or more losses that immediately result from a natural cause without the intervention of any person and that could not have been prevented by the exercise of prudence, diligence, and care.</li> </ul>   |
| Notice of renewal <ul style="list-style-type: none"> <li>• Premium increase</li> </ul> | KRS 304.20-035<br><br>KRS 304.20-320(4)                        | Must give insured 30 day notice of renewal or 7 days for a policy period of less than 30 days. Renewal notice must contain the renewal premium amount and payment due date. Copy must be sent to agent. <ul style="list-style-type: none"> <li>• If the renewal premium increases more than 25% of the premium for the preceding policy term for like coverage and like risks, 75 days notice must be given.</li> </ul>   |
| Movement between companies   | KRS 304.20-310   | Movement between companies is a termination and must be given 75 days notice.   |
| Policy Period defined  | KRS 304.20-310   | Period less than six (6) months will be considered six (6) months and policies without an expiration date will be considered to be one (1) year.  |

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| Renewal Notice and confirmation of policy expiration  | KRS 304.20-320(3)(b and c)<br>KRS 304.20-035  | Must give 30 day notice of renewal. Insurer may extend expiring policy term at the expiring premium in order to give the 75 day notice of premium increase. When a policy terminates because the renewal premium was not received on or before the due date, the insurer shall mail a notice within 15 days stating that the policy was not renewed. The notice shall include the date on which the coverage ceased to exist.  |
| Reinstatement   | KRS 304.20-037  | If an insurer has made an offer to renew, but the renewal premium was not paid when due, the insurer may, in the absence of an increase in risk, reinstate the expired policy upon written request of the insured within 30 days, if the insured has not purchased replacement coverage. The insurer shall not require an increase in coverage or premium above that stated in the renewal offer.  |
| Proof of Coverage   | KRS 342.340<br>803 KAR 25:175   | Proof of coverage must be filed with the Department of Workers Claims upon inception and termination.  |
| Non payment of small deductible reimbursement requests  | KRS 304.13-400-(3)(b)   | Can be treated as non-payment of premium.  |
| <b>Rate/Rule Filing Standards</b>   |   |  |
| Company must be admitted for WC   | KRS 304.3-150<br>KRS 304.3-160  | Insurer must designate its lines of business on the application and Certificate of Authority.  |
| Rating Manuals & Underwriting Rules   | KRS 304.13-051  | All rating manuals and underwriting rules must be filed. To the extent underwriting guidelines regarding the bases on which risk are acceptable are considered proprietary and confidential, it must be clearly marked on the filing and an explanation of the reasons (s) the information is proprietary and confidential must be included. Information relative to premium determination is never proprietary. Filings disapproved may not be used until a new filing is submitted with all appropriate fees and forms.  |
| Rates and rate information Use & File   | KRS 304.13-053<br>KRS 304.13-051<br>KRS 304.13-058<br>KRS 304.13-061<br>806 KAR 13:150<br>Bulletin 92-6<br>Order 1-7-2003 | Every insurer shall file rates and supplementary rate information to be used in Kentucky not later than 15 days after the first use of the rates. No insurer shall place into effect any rates, manuals, or underwriting rules which it proposes if it results in an increase or decrease of more than 15% from its existing rates for any classification of risks in any of its rating territories within a 12 month period of time. Any insurer that proposes such a large increase or decrease shall file under the "prior Approval" category.  |
| Rates & rate information Prior Approval   | KRS 304.13-053<br>KRS 304.13-051<br>KRS 304.13-058<br>KRS 304.13-061<br>806 KAR 13:150<br>Bulletin 92-6<br>Order 1-7-2003 | Every insurer shall file rates and supplementary rate information to be used in Kentucky. Any insurer that proposes an increase or decrease of more than 15% from its existing rates for any classification of risks within a 12-month period of time shall file all its rates and supplementary rating information which shall not become effective until approved by DOI. The waiting period for filings is thirty days before it becomes effective, which may be extended for an additional period not to exceed 30 days if written notice is given within the waiting period to the insurer which made the filing that additional time is needed for consideration of the filing.  |
| Document sets required  | 806 KAR 13:150<br>806 KAR 4:010(21)   | 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 ½ 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"> <li>• Property &amp; Casualty Transmittal Document, if a group filing is being made, all companies included must be listed.</li> <li>• Rate/Rule Filing Schedule</li> <li>• LC-1 [and LC-2 if applicable] must be completed for each company.</li> <li>• If the filing is being made by a third party, a signed letter of authorization from the company shall be submitted</li> <li>• The company's documents that are being revised/submitted</li> <li>• \$5.00 filing fee for Use &amp; File filings, \$100.00 filing fee for prior approval filings, per company per line of insurance, subject to retaliatory provision</li> <li>• Self-addressed stamped envelope</li> </ul> |
| 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 domiciliary amount applies.   |
| 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 <ul style="list-style-type: none"> <li>• Change of effective date</li> <li>• Final printed pages</li> </ul> | 806 KAR 13:150  | 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"> <li>• Exception for changes of effective date which can be accomplished by a letter stating the revised effective date.</li> <li>• Final printed pages need not be filed.</li> </ul>  |

**Kentucky Department of Insurance  
Review Requirements Checklist**

**Workers' Compensation**

| <b>General Rate/Rule Requirements</b>                               |   |   |
|---|---|---|
| Policies may be assignable or not                                   | KRS 304.14-250  | A policy may be assignable or not as provided by its terms  |
| Binders permitted and limited                                       | KRS 304.14-220<br>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.  |
| Claim payment may not be off set by premium due                     | KRS 304.12-230 (5, 6,8)   | Any attempt to offset amounts owed on claims by amounts owed by policyholder for premium could be unfair denial of a claim. Policyholders have reasonable expectations if a claim is covered by the policy, coverage will be provided up to the policy limits.  |
| Coal Mine Drug Free Workplace Discount                              | KRS 304.13-412<br>KRS 351.186<br>805 KAR 11:001<br>805 KAR 11:010<br>805 KAR 11:020   | Rating plans shall include a credit of at least 5% to coal mines that are certified drug free workplaces. The credit shall not be available to employers who do not maintain their drug free workplace program for the entire policy period. The credit shall not be applicable to minimum limit policies. The credit may be applied at final audit. The credit shall be at least 5% unless the KOI determines 5% is actuarially unsound.   |
| Drug Free Workplace Discount  | KRS 304.13-167<br>803 KAR 25:280  | Rating plans shall include a credit of at least 5% to employers that are certified drug free workplaces. The credit shall not be available to employers who do not maintain their drug free workplace program for the entire policy period. The credit shall not be applicable to minimum limit policies. The credit may be applied at final audit. The credit shall be at least 5% unless the DOI determines 5% is actuarially unsound. This credit shall not be available to coal mines who receive a credit under KRS 351 OR KRS 304.13-412. |
| Entire liability of employer, separate policy for specific location | KRS 342.375   | Every policy shall cover the entire liability of employer to each employee. However, if specific authority is given by the Commissioner of DWC, a separate policy may be issued for a specific particular location if coverage is otherwise secured and no employee transferred from one to another shall lose any right to benefits under the average weekly wage concept.   |
| Experience modification   | KRS 304.13-415<br>806 KAR 13:130  | NCCI is the designated statistical agent.   |
| Flexible commissions prohibited                                     | KRS 304.12-080<br>KRS 304.12-090<br>Advisory Opinion 03-01  |   |
| Grouping for preferential treatment prohibited                      | 806 KAR 14:090  | Grouping of persons or risks for preferred treatment in insurance rates or forms is prohibited unless filed and approved.   |
| Illegal dealing in premiums prohibited, refunds required            | KRS 304.12-190  | Refunds of unearned premium shall be made upon insureds request even when nominal. Non refundable fees permitted only if remaining premium is refunded purely pro rata or with other actuarial support.   |
| Illegal inducements prohibited                                      | KRS 304.12-110  | Some discounts may be illegal inducements   |
| Large Deductible Plans  | Not specifically addressed in the insurance code<br>KRS 304.13-400<br>KRS 342.375   | The insurer must retain liability for 1 <sup>st</sup> dollar benefits to the employee. Non-reimbursement of the large deductible is NOT grounds for cancellation on the basis of nonpayment of premium.   |
| Liability deductible may not erode limit of liability               | KRS 304.14-130(1)(b)  | Provisions whereby the limit of liability on Employers' Liability Coverage is reduced by the deductible amount is not allowed as misleading and deceptively affecting the risk purported to be assumed in the general coverage of the contract.   |
| Managed Care, PPO's, and fee schedules                              | KRS 342.035(6)<br>803 KAR 25:110<br>KRS 342.020(1)<br>KRS 342.035(1)<br>803 KAR 25:089<br>Advisory Opinion 99-09 DWC<br>Memo May 1999 | All managed care health system networks must be approved by the Commissioner of DWC. If the employer has not designated an approved managed care health system, the employee may select his own treating provider. The WC code makes no provision for PPO's. Therefore, outside an approved managed care health system network, services may not deviate from the fee schedules.  |
| No premium, co pay nor deductible charged to employee               | KRS 342.020(2)<br>KRS 342.420   | No part of the WC premium, co-pay or deductible can be charged to the employee.   |
| Premium defined, includes fees                                      | KRS 304.14-030<br>Bulletin 94-3   | Premium is 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,  |

**Kentucky Department of Insurance  
Review Requirements Checklist**

**Workers' Compensation**

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| Rates based on Kentucky experience                     | KRS 304.13-057   | Insurer shall provide information to demonstrate to what extent rates are based on Kentucky experience.   |
| Rate increases apply prospectively                     | KRS 304.13-058   | No WC rate increases shall be applied retroactively, but rather only to policies with inception or renewal dates on or after the effective date of the rate increase.   |
| Rebates prohibited                                     | KRS 304.12-090<br>KRS 304.12-100<br>Advisory Opinion 04-05                             |   |
| Safety Violations                                      | KRS 342.165(1)   | A WC insurer is liable for any increase in benefits if an accident is caused in any degree by the employer's intentional safety violation. See <i>AIGS/AIU Ins. Co. v. South Akers Mining Co. LLC</i> , 192 S.W.3d 687, Ky. 2006.   |
| Scheduled Rating Plan allowed                          | KRS 304.13-053   | Must be filed. Maximum credits/debits allowable +/- 50%. Higher deviations are subject to review of documentation and justification.  |
| SIC codes required                                     | KRS 342.122(5)   | To remit the Special Fund Assessment, SIC codes must be reported for each employer.   |
| Small deductible plans                                 | KRS 304.13-400<br>KRS 304.13-410<br>KRS 304.13-420<br>806 KAR 13:120                   | <ul style="list-style-type: none"> <li>• Each insurer shall offer optional deductibles of \$100 to \$10,000 per compensable occurrence. Plans must be fully disclosed to insured. The amount of premium reduction must be fully disclosed to the policyholder in writing.</li> <li>• No insurer shall be required to offer a deductible if the prospective policyholder is not financially able to comply with the terms and conditions of a deductible policy.</li> <li>• Discount must be calculated in manner specified in 806 KAR 13:120, and shall be applied prior to the application of E-mod, surcharges or other discounts.</li> <li>• Insurer must pay deductible amount initially and employer policyholder shall be liable to insurer for reimbursement per policy terms.</li> <li>• Non-payment of small deductible reimbursement requests shall be treated as non-payment of premiums.</li> </ul> |
| Subrogation waivers prohibited                         | KRS 342.700(3)<br>Advisory Opinion 99-13   | Per DWC, as KRS 342.700(3) states it is contrary to public policy and unlawful for any owner or employer to require another employer to waive its subrogation rights as a condition of receiving a contract or purchase order, such language is not to be approved by DOI.  |
| Terrorism  | KRS 342.375  | No terrorism exclusions are permitted.  |
| Tie-in Sales   | KRS 304.12-130   | Prohibited as a method of competition that is unfair and not in public interest   |
| Unfair Discrimination                                  | KRS 304.12-080<br>KRS 14:090   | Unfair to allow any particular entity to have a different rate than others of the same class without justification.   |
| WC experience  | KRS 342.382  | Report of WC experience is required   |
| <b>Fees, Assessments and Taxes</b>                     |  |   |
| Fully earned MGA policy fees for underwriting expenses | KRS 304.13-071   | The fee shall only be collected if coverage is provided and shall be deemed fully earned. The fee shall be submitted to the commissioner for prior approval.  |
| Coal Workers Pneumoconiosis Fund                       | KRS 342.1241<br>KRS 342.1242   | 3% on premium from employers engaged in severance and processing of coal  |
| Reinstatement fees                                     | KRS 304.20-037   | Reinstatement fees not allowed at renewal.  |
| Late fees on unpaid premium                            | KRS 304.14-0030  | Max of 18% per annum if premium late 30 days or more. Charges clearly indicated on all bills and statements of account.   |
| Special Fund Assessment                                | KRS 342.122<br><a href="http://www.kwcfk.ky.gov">www.kwcfk.ky.gov</a>                  | The KY WC Funding Commission sets this assessment annually. Assessment on policy with deductible collected on premium equal to that which would have applied without a deductible.  |
| No other premium taxes applicable                      | KRS 342.122(1e)  | Special Fund assessments shall be in lieu of all other assessments or taxes on WC premiums.   |
| Installment fees, delinquent installment fees          | KRS 304.13-051<br>806 KAR 13:090<br>KRS 304.30-090<br>KRS 304.30-100<br>806 KAR 30:050 | No less favorable than those permitted by premium finance company. Maximum fee \$15 plus 12% per annum installment fees. Delinquent fees of \$1 to max of 5% of the amount of the delinquent installment late 5 days or more.   |