

Understanding Your Privacy Rights as a Kentucky Insurance Consumer or Customer

The Kentucky Department of Insurance has prepared this fact sheet to help you understand privacy protections relating to how insurance business is transacted using your financial or health information.

Kentucky's protections implement a federal law, called Gramm-Leach-Bliley for the names of the key sponsors. This law, effective July 1, 2002, recognizes that insurance companies, banks, credit card companies and other financial institutions are merging into larger global companies and are increasingly sharing information.

Previously there were only limited guidelines regarding privacy. Insurance companies were allowed to share information about you with affiliates and non-affiliates alike. Under federal law and the Kentucky Department of Insurance regulations, these insurance companies, agents or other licensed representatives must disclose their privacy policy and how they share information about you.

As the state agency regulating insurance companies, agents and other insurance licensees, the Department of Insurance wants you to know that all insurance licensees in Kentucky (agents, companies or others acting on their behalf) must:

- Inform you of their privacy policies.
- Give you an opportunity to prohibit the sharing of protected financial information with unrelated or non-affiliated third parties.
- Obtain your express written permission before sharing health information about you with any affiliated or non-affiliated businesses.



Do I need to be worried that my own personal information is being shared or sold without my knowledge or permission by my insurance company or insurance agent?

Insurers are required to provide privacy notices to you prior to disclosing any of your personal financial information. Insurers are required to give you the opportunity to prohibit the sharing of certain financial information with unrelated companies, called “non-affiliated third parties,” but you may not prohibit the sharing of such information with your insurer’s affiliates. In addition, you may not prohibit the disclosure of your personal information to third parties for things like claims processing, fraud investigations, and certain marketing efforts.

Your health information is now more closely guarded under Kentucky’s new regulations and federal law. When it comes to health information, insurance companies and agents must get your express, written consent before sharing health information with any other entity.

Do these new protections apply to all my insurance policies – life, health, auto, home?

Generally, these protections apply to all types of insurance policies where the ultimate benefit goes to an individual (as opposed to insurance related to businesses). The following information is covered by these new protections:

- Information held by your car insurer.
- Information held by your homeowners insurer.
- Information held by your employer’s group health plan.
- Information held by your life insurer.
- Information collected in a claim related to a car accident.
- Information held by the life insurer for a life policy that names you as a beneficiary.
- Information related to a workers’ compensation claim.

What type of financial information are we talking about?

- Name, address, income, credit history and other information requested to obtain an insurance product or service.
- Your premium payment history, how much your life insurance policy is worth, and the value of personal property insured and any other information about you that the insurance company has as a result of a transaction with you involving an insurance product or service.

What type of health information are we talking about?

- Your medical records, which would have information regarding your general health (if you have a heart condition, asthma, cancer, HIV, etc.).
- Information regarding your mental health.
- Payment records, which could tell a great deal about your health by indicating, for example, the types of doctors you see, the types of medications you take and the types of treatments you receive.



What are the rules governing my financial information?

If you are a consumer shopping or applying for insurance, you will receive the notices if the insurer wishes to disclose your personal financial information to a third party. If you are already a policyholder or customer, you will get a notice every year you continue as a customer. The insurer, agent or other insurance licensee must give consumers and customers 30 days to respond to an “opt-out” notice allowing you to prohibit the sharing of information with third parties.

What are the rules governing my health information?

Insurers must get your permission prior to disclosing your personal health information to any other party. As with the financial information rules, there are exceptions that permit disclosure for business reasons (such as claims management and underwriting), and for legal reasons (like complying with regulations and fighting fraud).

Why do the rules governing health information differ from the financial information rules?

The health rules differ from the financial rules because the Kentucky Department of Insurance believes your health information is more sensitive than financial information and needs greater protections. That’s why insurance licensees must have your express, written permission before health information can be shared with any party – including business affiliates and unrelated companies or third parties.

Do these new rules mean that I have to be given notice about an insurance company’s privacy policy before they can sell me an insurance product?

Generally, insurers will have to provide you with their privacy and opt-out notices prior to sharing your personal financial information. However, the exact timing of the delivery of the privacy and opt-out notices may differ depending upon your relationship with the company. For example, when you are in the application process, you are entitled to receive the privacy and opt-out notices only if the company wishes to share your information. In contrast, once you purchase the policy and it is delivered to you, the company must give you the notices.

I have my life insurance policy with one company, and my auto and homeowners policies with another company. Will I receive a separate privacy notice for each policy? Will all privacy notices look the same? What should I be looking for when I receive the notice?

You will receive separate notices from each of the different insurance companies with which you do business, unless the companies are affiliated with each other in a large corporation. In that case, you might only receive one notice for all the policies held by those affiliated companies. The notice must clearly state to which companies and policies it applies.

Privacy notices will differ from company to company. However, there will be similar elements. First, they must be written so that they are noticeable and so you can read them clearly. Second, they must contain similar information, including:

- The types of information the insurer collects about you.
- The types of information that the insurer discloses.
- The types of entities to which the insurer intends to give your information (including affiliates and third parties).
- The types of information and the entities to which the insurer intends to give your information for joint marketing purposes.
- How the insurer protects the confidentiality and security of your information.
- An explanation of your right to opt-out, including how you go about telling the insurer that you do not want your information shared with third parties.

I just received a privacy notice from my insurance company that said they won't disclose any information about me except as permitted by law. This sounds good, but I've got no idea what's permitted by law. Does the law allow them to disclose my information?

Insurers are permitted by law to disclose your information without your permission in a number of situations:

- They can share personal financial information with affiliated companies without restriction.
- They can share protected financial and health information for certain business reasons, including underwriting, settling claims, and investigating fraud.
- They could be required by law to disclose your personal financial or health information to an insurance regulator, court, or law enforcement official.
- They are permitted to disclose protected financial information without your permission pursuant to joint marketing or servicing agreements. This means that they can enter into agreements with third parties to share your financial information for (1) marketing certain products or services; or (2) hiring the third party to provide services for the insurer, like accounting and claims management.



What happens if I forget to send the opt-out form to my insurer within the 30-day time period?

You may opt-out at any time. However, if you fail to return an opt-out form to your insurer within the initial 30-day time period, your insurer is permitted to share information with third parties. For example, if you send your insurer an opt-out form six months after receiving the opt-out notice, the insurer must stop disclosing your protected financial information to third parties as soon as the notice is received. But by that time, some of your protected information has probably been disclosed because the insurer has already had five months to share your information with third parties.

I am fearful of what might happen if I don't want my information shared. Can my insurance company raise my rates or drop my coverage if I opt-out and stop the sharing of my financial information? Or if I don't allow the sharing of my health information by refusing to opt-in?

Your insurer cannot discriminate against you for prohibiting the disclosure of your protected personal financial and health information by raising your rates or dropping your coverage. However, you might miss out on some of the benefits that other consumers receive as a result of allowing their personal information to be shared, such as special offers for various products and services.

What should I do if I think my information has been shared inappropriately? Who can help me find out what has happened?

Please report such complaints by contacting the Consumer Protection Division of the Kentucky Department of Insurance at 800-595-6053 (in KY) or 502-564-3630 (out of state) or if you are deaf/hard-of-hearing call 800-648-6056. You can also file a formal complaint online at our website -- <http://insurance.ky.gov/>.

I never deal directly with an insurance company. I always go through my agent. Can I still do this?

Yes. These new privacy protections have no impact on your ability to work through your agent to obtain insurance coverage.

Do insurance agents have to follow the same rules as companies with respect to my information?

Yes, agents are required to comply with the law, just like insurance companies. Either the company or the agent must notify you of privacy policies. If your agent wishes to share your personal financial information with a third party (other than the insurance companies to which you are applying for coverage), the agent must give you a notice and the opportunity to opt-out. If the agent wishes to share your health information with other parties (again, excluding insurance companies to which you are applying for coverage), the agent must obtain your consent.

Note that agents are not required to provide privacy and opt-out notices for financial information, or obtain your consent for health information, if they are simply sharing information with insurance companies as part of the process of obtaining insurance coverage for you.



**Kentucky Public Protection Cabinet
Department of Insurance**

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