

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Regulation: 806 KAR 12:095

Contact Person: Abigail Gall

Phone: +1 (502) 564-6026

Email: abigail.gall@ky.gov

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes unfair property and casualty insurance claims settlement practices, effectuating KRS 304.3-200(1)(e), 304.12-010, and 304.12-230.

(b) The necessity of this administrative regulation: The necessity of this regulation is to establish the unfair claims settlement practice regarding property and casualty insurance claims settlement practices.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 304.2-110 authorizes that the Commission shall promulgate necessary administrative regulations or as an aid to the effectuation of any provision of the Kentucky Insurance Code.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: The responsibility of the Department is to protect consumers. This administrative regulation establishes what claims practices are unfair regarding property and casualty insurance settlement claims.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: The amendments change the existing regulation by including vehicle size in the listing of replacement requirement determination; this amendment is based on comments made during an ARRS meeting on December 12th, 2017. The industry has recommended that labor and goods cost may be included in depreciation cost, this amendments is based on the Advisory Opinion (20-01) adopted by the Department relating to the Hicks v. State Farm case. In addition, the amendments to this administrative regulation are to conform to the statutory draft requirements set forth in Chapter 13A.

(b) The necessity of the amendment to this administrative regulation: The primary amendments are necessary to ensure practices are fair and that the regulation is updated to meet recent recommendations from industry and DOI experience with these practices.

(c) How the amendment conforms to the content of the authorizing statutes: KRS 304.2-110 authorizes that the Commissioner shall promulgate regulations and thus, amend said regulations if necessary to aid in the effectuation of the Insurance Code. KRS 304.3-200(1)(e) states that the Commissioner may refuse, suspend or revoke and insurers certificate of authority, this administrative regulation and the amendments set the parameters that the commissioner may more specifically act upon property & casualty insurance claims settlements practices.

(d) How the amendment will assist in the effective administration of the statutes: KRS 304.2-110 authorizes that the Commissioner shall promulgate regulations and thus, amend said regulations if necessary to aid in the effectuation of the Insurance Code.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Property and Casualty insurers writing business and handling settlement claims.

(4) Provide an analysis of how the entities identified in the previous question will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including: The entities must include size in the replacement match processes and depreciation may include the costs of goods, materials, labor, and services necessary to replace, repair, or rebuild the damaged property

(a) List the actions each of the regulated entities have to take to comply with this regulation or amendment: Entities must retain files electronically if not hard copy, include size in consideration for replacement matches, and may now include cost of goods, materials, labor/services to replace property.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities: There is no associated cost in complying with this administrative regulations.

(c) As a result of compliance, what benefits will accrue to the entities: Entities will be meeting the requirements to ensure they are following fair claims settlement practices and avoid consequences determined by the commissioner.

(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:

(a) Initially: Implementation of this amendment is not anticipated to have an initial cost on the Department of Insurance.

(b) On a continuing basis: Implementation of this amendment is not anticipated to have an on-going cost on the Department of Insurance.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The Department will use funds from its current operational budget to perform the tasks necessary.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment:

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: No this administrative regulation does not establish fees.

(9) TIERING: Is tiering applied? Explain why or why not. Tiering is not applied because this administrative regulation applies to all property and casualty insurers writing business and processing settlement claims.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

Regulation: 806 KAR 12:095

Contact Person: Abigail Gall

Phone: +1 (502) 564-6026

Email: abigail.gall@ky.gov

(1) What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The department as the implementer.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 304.2-110, 304.3-200(1)(e), 304.12-010, and 304.12-230

(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect. If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? No revenue is expected to be generated.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? No revenue is expected to be generated.

(c) How much will it cost to administer this program for the first year? No cost is expected.

(d) How much will it cost to administer this program for subsequent years? No cost is expected.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

(4) Revenues (+/-): Neutral

(5) Expenditures (+/-): Neutral

(6) Other Explanation: