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**LEGISLATIVE RESEARCH COMMISSION**

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**MEMORANDUM**

TO: Abigail Gall, Executive Assistant to Commissioner. Office of the Commissioner, Department of Insurance

FROM: Emily Caudill, Regulations Compiler

RE: Proposed Amendment or New Regulation – 806 KAR 002:060

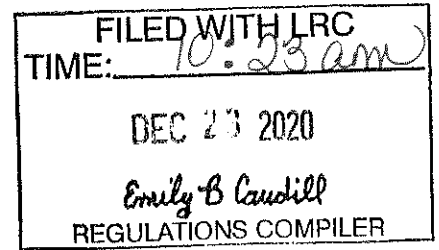
DATE: December 23, 2020

A copy of the administrative regulation listed above is enclosed for your files. This regulation is **tentatively** scheduled for review by the Administrative Regulation Review Subcommittee at its **APRIL 2021** meeting. We will notify you of the date and time of this meeting once it has been scheduled.

Pursuant to KRS 13A.280, **if** comments are received during the public comment period, a Statement of Consideration or a one-month extension request for this regulation is due **by noon on April 15, 2021**. Please reference KRS 13A.270 and 13A.280 for other requirements relating to the public hearing and public comment period and Statements of Consideration.

If you have questions, please contact us at RegsCompiler@LRC.ky.gov or (502) 564-8100.

Enclosures



1 Public Protection Cabinet  
2 Department of Insurance  
3 Division of Consumer Protection  
4 (New Administrative Regulation)  
5 806 KAR 2:060. Complaints.

6 RELATES TO: KRS 304.2-160

7 STATUTORY AUTHORITY: KRS 304.2-110

8 NECESSITY, FUNCTION, AND CONFORMITY: KRS 304.2-110 authorizes the  
9 Commissioner of Insurance to promulgate administrative regulations necessary for or as an aid to  
10 the effectuation of any provision of the Kentucky Insurance Code as defined in KRS 304.1-010.  
11 The function of this administrative regulation is to set forth the classification of complaints made  
12 to the Department of Insurance.

13 Section 1. When a written and signed complaint is received by the Department of  
14 Insurance, the commissioner, within the jurisdiction under the laws of this Commonwealth, shall  
15 make a determination, as to the merits, of any received complaint.

16 Section 2. (1) The department shall not have the authority to usurp or infringe upon the  
17 jurisdiction, prerogative, or authority of the various courts of competent jurisdiction in this  
18 Commonwealth. The ultimate decision upon questions of law and fact shall rest with the

1 court.

2 (2) Upon final disposition of each complaint, the commissioner shall have the duty, to  
3 make a finding as to if the complaint is justifiable, unjustifiable, indeterminate, or a request for  
4 information, and to record the findings in its record. In making this finding, the department shall  
5 be guided by the common and accepted practice in the insurance industry and a fair and  
6 reasonable application of the duties, responsibilities, and obligations of the respective parties.

806 KAR 2:060  
READ AND APPROVED:

*Sharon P. Clark*

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Sharon P. Clark  
Commissioner, Department of Insurance

12/18/2020

Date

*Kerry B. Harvey*

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Kerry B. Harvey  
Secretary, Public Protection Cabinet

12/21/2020

Date

## PUBLIC HEARING AND PUBLIC COMMENT PERIOD

A public hearing on this administrative regulation shall be held at 9:00 AM on March 22nd, 2021 at 500 Mero Street, Frankfort, KY 40602. Individuals interested in being heard at this hearing shall notify this agency in writing by five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through 11:59 PM on March 31st, 2021. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person below.

Contact Person: Abigail Gall  
Title: Executive Administrative Secretary  
Address: 500 Mero Street, Frankfort, KY 40601  
Phone: +1 (502) 564-6026  
Fax: +1 (502) 564-1453  
Email: [abigail.gall@ky.gov](mailto:abigail.gall@ky.gov)

## REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Regulation: 806 KAR 2:060  
Contact Person: Abigail Gall  
Phone: +1 (502) 564-6026  
Email: abigail.gall@ky.gov

(1) Provide a brief summary of: This administrative regulation clarifies the Commissioner's authority to classify complaints that are received by the Department of Insurance.

(a) What this administrative regulation does: The function of this administrative regulation is to set forth the classification of complaints made to the Department of Insurance.

(b) The necessity of this administrative regulation: The necessity of this administrative regulation is to ensure all received complaints are classified by the commissioner and within the jurisdiction of the department. This is necessary in order to aide in the effectuation of the Insurance Code.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 304.2-110 authorizes the Commissioner to promulgate administrative regulations that aide in the effectuation of Insurance Code.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: The classification of the complaints received by the Department determine the fate of the complaint and the following steps necessary to carry out the complaint.

(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: This is a new administrative regulation.

(b) The necessity of the amendment to this administrative regulation: This is a new administrative regulation.

(c) How the amendment conforms to the content of the authorizing statutes: This is a new administrative regulation.

(d) How the amendment will assist in the effective administration of the statutes: This is a new administrative regulation.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: The entities that are listed in each complaint will be affected by this administrative regulation.

(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:

(a) List the actions each of the regulated entities have to take to comply with this regulation or amendment: The commissioner and the appointing department staff authorized to receive and process complaints will need to utilize any supporting documents provided to the department to determine the classification of the complaint.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities: There are no expected costs to implement this administrative regulation.

(c) As a result of compliance, what benefits will accrue to the entities: Complaints will be classified appropriately and the mission of the Department of Insurance will be met.

(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: An increase of fees will not be necessary because additional personnel is likely unnecessary.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: This administrative regulation does not establish any fees.

(9) TIERING: Is tiering applied? Explain why or why not.

## FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

Regulation: 806 KAR 2:060  
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 and the entities involved in the received complaint.

(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.

(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.

(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.

(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: There should be no fiscal impact of this administrative regulation.