

1 Public Protection Cabinet

2 Department of Insurance

3 Division of Property and Casualty

4 (Amendment)

5 806 KAR 14:090. Grouping for preferential treatment prohibited.

6 RELATES TO: KRS 304.12-080 [~~KRS 304.14~~], 304.13-051, 304.14-120

7 STATUTORY AUTHORITY: KRS 304.2-110

8 NECESSITY, FUNCTION, AND CONFORMITY: 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 [~~KRS 304.2-110 provides that the Executive Director of Insurance may make reasonable rules~~
12 ~~and administrative regulations necessary for or as an aid to the effectuation of any provision of~~

13 ~~the Kentucky Insurance Code]. The function of this [This] administrative regulation is to prohibit~~
14 [~~prohibits~~] the grouping of risk[~~risks~~] for the preferential treatment in insurance rates or forms.

15 Section 1. A [~~No~~] form, plan, or policy of insurance covering any group or combination
16 of person[~~persons~~] or risk[~~risks~~], other than life or health insurance, shall not be written or

17 delivered within or outside the Commonwealth of Kentucky to cover a Kentucky person

18 [~~persons~~] or risk [~~risks~~] at any preferred rate or form other than that offered to [~~persons not in~~
19 ~~such group, and~~]the public generally, unless the [~~such~~] form, plan, or policy and the rate[~~rates~~]

- 1 or premium~~[premiums]~~ to be charged ~~[therefor]~~ have been submitted ~~[to]~~ and approved by the
- 2 Commissioner ~~[Executive Director]~~ of Insurance.

806 KAR 14:090
READ AND APPROVED:

Sharon P. Clark

12/18/2020

Sharon P. Clark
Commissioner, Department of Insurance

Date

Kerry B. Harvey

12/21/2020

Kerry B. Harvey
Secretary, Public Protection Cabinet

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
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REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Regulation: 806 KAR 14:090

Contact Person: Abigail Gall

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(1) Provide a brief summary of:

(a) What this administrative regulation does: The function of this administrative regulation is to prohibit risk grouping for preferential treatment in insurance rates or forms, unless the rates and forms have been submitted and approved by the Commissioner prior.

(b) The necessity of this administrative regulation: The necessity of this administrative regulation is to ensure fair treatment in insurance rates and forms, in turn, aiding in the effectuation of the Insurance Code provisions.

(c) How this administrative regulation conforms to the content of the authorizing statutes: 304.2-110 authorizes the Commissioner of Insurance to promulgate administrative regulations necessary for or as an aid to the effectuation of any provision of the Kentucky Insurance Code as defined in KRS 304.1-010

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation is being promulgated by the Commissioner to aide in the effectuation of the provisions established in the Insurance Code. This administrative regulation ensures fair and non-preferential treatment in all insurance rates and forms.

(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 conform to the requirements in Chapter 13A

(b) The necessity of the amendment to this administrative regulation: The amendments are necessary to meet the requirements of Chapter 13A.222 drafting rules.

(c) How the amendment conforms to the content of the authorizing statutes: The amendments made remove and replace outdated language that does not conform to Chapter 13A. The administrative regulation works to ensure that the grouping of persons for the issuance of insurance policies and the rating of insurance policies is done in a fair manner.

(d) How the amendment will assist in the effective administration of the statutes: The amendments will assist in the effectuation of the administration of cited statutes by ensuring the language of the regulation is easier to read for those affected by the administrative regulation itself.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Insurers writing policies in Kentucky, except health and life policies.

(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: No insurer should group risks for preferential treatment unless the rate and forms are approved by the Commissioner.

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

(c) As a result of compliance, what benefits will accrue to the entities: As a result of compliance with this regulation, the forms and rates the insurer insurer is proposing to issue in Kentucky will meet requirements for approval by the Department.

(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation: There is no cost 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. There is no tiering applied because this administrative regulation applies in the same manner to all insurers in the Commonwealth.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

Regulation: 806 KAR 14:090

Contact Person: Abigail Gall

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(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

(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? There is no expected cost to administer this program for the first year.

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

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: