

1 AN ACT relating to the regulation of travel-related commerce.

2 *Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

3 ➔SECTION 1. SUBTITLE 52 OF KRS CHAPTER 304 IS ESTABLISHED,
4 AND A NEW SECTION THEREOF IS CREATED TO READ AS FOLLOWS:

5 *As used in this subtitle:*

6 *(1) "Blanket travel insurance" means a policy of travel insurance issued to any*
7 *eligible group providing coverage for specific classes of persons defined in the*
8 *policy, with coverage provided to all members of the eligible group without a*
9 *separate charge to individual members of the eligible group;*

10 *(2) "Cancellation fee waiver" means a contractual agreement between a supplier of*
11 *travel services and its customer to waive some or all of the non-refundable*
12 *cancellation fee provisions of the supplier's underlying travel contract with or*
13 *without regard to the reason for the cancellation or form of reimbursement;*

14 *(3) "Eligible group" means two (2) or more persons who are engaged in a common*
15 *enterprise, or have an economic, educational, or social affinity or relationship,*
16 *including but not limited to the following:*

17 *(a) 1. Any entity engaged in the business of providing travel or travel*
18 *services, including but not limited to tour operators, lodging providers,*
19 *vacation property owners, hotels and resorts, travel clubs, travel*
20 *agencies, property managers, cultural exchange programs, and*
21 *common carriers; or*

22 *2. The operator, owner, or lessor of a means of transportation of*
23 *passengers, including but not limited to airlines, cruise lines,*
24 *railroads, steamship companies, and public bus carriers;*

25 *wherein, with regard to any particular travel or type of travel or travelers,*
26 *all members or customers of the group have a common exposure to risk*
27 *attendant to the travel;*

- 1 (b) Any college, school, or other institution of learning covering students,
2 teachers, employees, or volunteers;
- 3 (c) Any employer covering any group of employees, volunteers, contractors,
4 board of directors, dependents, or guests;
- 5 (d) Any sports team, camp, or sponsor of a sports team or camp, covering
6 participants, members, campers, employees, officials, supervisors, or
7 volunteers;
- 8 (e) Any religious, charitable, recreational, educational, or civic organization,
9 or branch thereof, covering any group of members, participants, or
10 volunteers;
- 11 (f) Any financial institution or financial institution vendor, or parent holding
12 company, trustee, or agent of or designated by one (1) or more financial
13 institutions or financial institution vendors, including account holders,
14 credit card holders, debtors, guarantors, or purchasers;
- 15 (g) Any incorporated or unincorporated association, including a labor union,
16 that:
- 17 1. Has a common interest, constitution, and bylaws; and
18 2. Is organized and maintained in good faith for purposes other than
19 obtaining insurance to cover members or participants of the
20 association;
- 21 (h) Any trust or the trustees of a fund established, created, or maintained for
22 the benefit of and covering members, employees, or customers, of one (1) or
23 more associations meeting the requirements of paragraph (g) of this
24 subsection, if the commissioner permits the use of a trust;
- 25 (i) Any entertainment production company covering any group of participants,
26 volunteers, audience members, contestants, or workers;
- 27 (j) Any:

- 1 1. Volunteer fire department, ambulance, rescue, police, or court; or
2 2. First aid, civil defense, or other such volunteer group;
3 (k) Any preschool, daycare institution for children or adults, or senior citizen
4 club;
5 (l) Any automobile, truck rental, or leasing company covering a group of
6 individuals who may become renters, lessees, or passengers as defined by
7 their travel status on the rented or leased vehicles, if the common carrier,
8 operator, owner, or lessor of a means of transportation, or the automobile,
9 truck rental, or leasing company, is the certificate holder under a policy to
10 which this subtitle applies; or
11 (m) Any other group for which the commissioner has determined that:
12 1. The members are engaged in a common enterprise, or have an
13 economic, educational, or social affinity or relationship; and
14 2. Issuance of travel insurance to the group would not be contrary to the
15 public interest;
16 (4) "Fulfillment materials" means documentation sent to the purchaser of a travel
17 protection plan confirming the purchase and providing the travel protection
18 plan's travel insurance coverage and travel assistance services details;
19 (5) "Group travel insurance" means travel insurance issued to any eligible group;
20 (6) "Negotiate" or "negotiated" has the same meaning as "negotiate" in Section 9
21 of this Act;
22 (7) "Certificate holder" means an individual person who elects and purchases group
23 travel insurance;
24 (8) "Policyholder" means an individual person who elects and purchases individual
25 travel insurance;
26 (9) "Sold" or "selling" has the same meaning as "sell" in Section 9 of this Act;
27 (10) "Solicit" or "solicited" has the same meaning as "solicit" in Section 9 of this

1 Act;

2 (11) "Travel assistance services":

3 (a) Means non-insurance services:

4 1. For which the consumer is not indemnified based on a fortuitous
5 event; and

6 2. Where providing the service does not result in a transfer or shifting of
7 risk that would constitute the business of insurance; and

8 (b) Includes but is not limited to security advisories, destination information,
9 vaccination and immunization information services, travel reservation
10 services, entertainment, activity and event planning, translation assistance,
11 emergency messaging, international legal and medical referrals, medical
12 case monitoring, coordination of transportation arrangements, emergency
13 cash transfer assistance, medical prescription replacement assistance,
14 passport and travel document replacement assistance, lost luggage
15 assistance, concierge services, and any other non-insurance service that is
16 furnished in connection with planned travel;

17 (12) "Travel insurance":

18 (a) Means insurance coverage for personal risks incident to planned travel,
19 including but not limited to:

20 1. Interruption or cancellation of a trip or event;

21 2. Loss of baggage or personal effects;

22 3. Damages to accommodations or rental vehicles;

23 4. Sickness, accident, disability, or death occurring during travel;

24 5. Emergency evacuation;

25 6. Repatriation of remains; or

26 7. Any other contractual obligations to indemnify or pay a specified
27 amount to the traveler upon determinable contingencies related to

1 travel as approved by the commissioner; and
 2 (b) Does not include insurance coverage that provides comprehensive medical
 3 protection for travelers with trips lasting longer than six (6) months,
 4 including but not limited to those working or residing overseas as an
 5 expatriate or any other product that requires a specific insurance producer
 6 license; and

7 (13) "Travel protection plan" means a plan that provides one (1) or more of the
 8 following:
 9 (a) Travel insurance;
 10 (b) Travel assistance services; or
 11 (c) A cancellation fee waiver.

12 ➔SECTION 2. A NEW SECTION OF SUBTITLE 52 OF KRS CHAPTER 304
 13 IS CREATED TO READ AS FOLLOWS:

14 (1) The provisions of this subtitle shall:
 15 (a) Apply to travel insurance that covers any resident of this state, and is sold,
 16 solicited, negotiated, or offered in this state, and policies and certificates are
 17 delivered or issued for delivery in this state; and
 18 (b) Not apply to cancellation fee waivers or travel assistance services, except as
 19 expressly provided.
 20 (2) All other provisions of this chapter shall apply to travel insurance, to the extent
 21 applicable and not in conflict with the express provisions of this subtitle.
 22 (3) (a) A cancellation fee waiver shall not be considered a contract of, or for,
 23 insurance.
 24 (b) Travel assistance services shall not be considered insurance, or related to
 25 insurance.

26 ➔SECTION 3. A NEW SECTION OF SUBTITLE 52 OF KRS CHAPTER 304
 27 IS CREATED TO READ AS FOLLOWS:

1 (1) For purposes of this section:

2 (a) "Health insurance":

3 1. Has the same meaning as in KRS 304.5-040; and

4 2. Shall include limited benefit expense policies providing benefits for
5 losses incurred while traveling generally outside a one hundred (100)
6 mile radius of the United States border that:

7 a. May:

8 i. Extend to domestic or foreign travel;

9 ii. Include both sickness and injury benefits;

10 iii. Include loss of baggage benefits; and

11 iv. Include air transportation services for emergencies; and

12 b. Shall not exceed a stated dollar amount per day, per month, or
13 for the trip duration; and

14 (b) "Inland marine insurance" may include coverage for:

15 1. Property and personal effects in transit or held by a bailee, not owned,
16 controlled, or operated by the bailor, including repatriation; and

17 2. Financial loss due to:

18 a. Cancellation or postponement of a specific event due to weather
19 or other unexpected causes beyond the control of the insured;
20 and

21 b. Trip cancellation or interruption, lost or damaged baggage, trip
22 or baggage delays, missed connections, changes in itinerary, or
23 casualty losses due to rental vehicle damage.

24 (2) Notwithstanding any other provision of this chapter:

25 (a) Except as provided in paragraph (b) of this subsection, travel insurance
26 shall be classified and filed, for purposes of rates and forms, as inland
27 marine insurance; and

1 **(b) Travel insurance that provides coverage for sickness, accident, disability, or**
 2 **death occurring during travel, either exclusively or in conjunction with**
 3 **related coverages of emergency evacuation, repatriation of remains, or**
 4 **incidental limited property and casualty benefits, including but not limited**
 5 **to baggage or trip cancellation, may be classified and filed by an authorized**
 6 **insurer as either health insurance or inland marine insurance.**

7 **(3) Travel insurance may be in the form of an individual, group, or blanket policy or**
 8 **certificate.**

9 **(4) Eligibility and underwriting standards for travel insurance may be developed and**
 10 **provided based on travel protection plans designed for individual or identified**
 11 **marketing or distribution channels if those standards also meet the state's**
 12 **statutory standards for inland marine insurance.**

13 ➔SECTION 4. A NEW SECTION OF SUBTITLE 52 OF KRS CHAPTER 304
 14 IS CREATED TO READ AS FOLLOWS:

15 **(1) As used in this section:**

16 **(a) "Aggregator site" means a Web site that provides access to information for**
 17 **use in comparison shopping regarding insurance products from more than**
 18 **one (1) insurer, including product and insurer information;**

19 **(b) "Limited lines travel insurance agent" means a person authorized to act as**
 20 **a limited lines travel insurance agent under Section 7 of this Act; and**

21 **(c) "Travel retailer" has the same meaning as in Section 7 of this Act.**

22 **(2) No person shall engage in the following in this state, which shall constitute an**
 23 **unfair trade practice:**

24 **(a) Offering or selling travel insurance that could never result in payment of**
 25 **any claims for any insured under the policy; or**

26 **(b) Marketing blanket travel insurance as free.**

27 **(3) The following shall not constitute an unfair trade practice or other violation of**

1 law:

2 (a) Providing an accurate summary or short description of coverage on an
 3 insurer's Web site, or through an aggregator site, that markets travel
 4 insurance directly to the consumer, so long as the consumer has access to
 5 the full provisions of the travel insurance policy through electronic means;
 6 and

7 (b) When a consumer's destination jurisdiction requires insurance coverage,
 8 requiring the consumer to choose between the following options as a
 9 condition of purchasing a trip or travel package:

10 1. Purchasing the coverage required by the destination jurisdiction
 11 through the travel retailer, or limited lines travel insurance agent,
 12 supplying the trip or travel package; or

13 2. Agreeing to obtain, and provide proof of, coverage that meets the
 14 destination jurisdiction's requirements prior to departure.

15 ➔SECTION 5. A NEW SECTION OF SUBTITLE 52 OF KRS CHAPTER 304
 16 IS CREATED TO READ AS FOLLOWS:

17 (1) As used in this section:

18 (a) "Delivery" means:

19 1. Handing fulfillment materials to the policyholder or certificate holder;
 20 or

21 2. Sending fulfillment materials, by postal mail or electronic means, to
 22 the policyholder or certificate holder; and

23 (b) "Travel administrator" has the same meaning as in Section 7 of this Act.

24 (2) An insurer shall be responsible for:

25 (a) The acts of a travel administrator administering travel insurance
 26 underwritten by the insurer; and

27 (b) Ensuring that the travel administrator maintains all books and records

1 relevant to the insurer, which shall be made available by the travel
2 administrator to the commissioner upon request.

3 (3) (a) Unless a policyholder or certificate holder has either started a covered trip
4 or filed a claim under the travel insurance coverage, the policyholder or
5 certificate holder shall be allowed to cancel a travel insurance policy or
6 certificate for a full refund of the travel protection plan price from the date
7 of purchase of the travel protection plan until at least:

8 1. Fifteen (15) days following the date of delivery of the travel protection
9 plan's fulfillment materials by postal mail; or

10 2. Ten (10) days following the date of delivery of the travel protection
11 plan's fulfillment materials by means other than postal mail.

12 (b) This subsection shall apply to travel insurance coverage issued or renewed
13 on or after the effective date of this Act.

14 (4) An insurer shall disclose in the policy documentation and fulfillment materials
15 whether the travel insurance is primary or secondary to other applicable
16 coverage.

17 (5) (a) All documents provided to consumers prior to the purchase of travel
18 insurance, including but not limited to sales materials, advertising
19 materials, and marketing materials, shall be consistent with the travel
20 insurance policy or certificate itself, including but not limited to forms,
21 endorsements, policies, rate filings, and certificates of insurance.

22 (b) For travel insurance policies or certificates containing pre-existing
23 condition exclusions, information, and an opportunity to learn more, about
24 the pre-existing condition exclusions, shall be provided to the consumer
25 prior to the time of purchase and in the fulfillment materials;

26 (c) The fulfillment materials and the information described in subsection (5)(a)
27 of Section 7 of this Act shall be provided to a policyholder or certificate

1 holder as soon as practicable following the purchase of a travel protection
2 plan; and

3 (d) No person offering, soliciting, or negotiating travel insurance, on an
4 individual or group basis, shall do so through the use of a negative option
5 or opt-out, which would require a consumer to take an affirmative action to
6 deselect coverage, including unchecking a box on an electronic form, when
7 the consumer purchases a trip.

8 ➔SECTION 6. A NEW SECTION OF SUBTITLE 52 OF KRS CHAPTER 304
9 IS CREATED TO READ AS FOLLOWS:

10 Sections 1 to 6 of this Act may be cited as the Travel Insurance Act.

11 ➔Section 7. KRS 304.9-475 is amended to read as follows:

12 (1) For the purposes of this section and KRS 304.9-080:

13 (a) ~~["Limited lines travel insurance producer" means a:~~

14 1. ~~Licensed managing general agent as defined by KRS 304.9-085(1);~~

15 2. ~~Licensed agent as defined by KRS 304.9-020(1); or~~

16 3. ~~Limited lines travel insurance agent licensed pursuant to KRS 304.9-~~
17 ~~230(1);~~

18 ~~—designated by the insurer as the travel insurance supervising entity;~~

19 ~~(b)—~~ "Offer~~[Offering]~~ and disseminate~~[disseminating]~~" or "offers and
20 disseminates" means to :

21 1. Provide~~[providing]~~ general information relating to the travel insurance
22 offered, including a description of the coverage and price;

23 2. Receive~~[Receiving]~~ applications and premiums; and

24 3. Perform~~[Performing]~~ other activities permitted by the
25 commissioner~~[department]~~ that~~[which]~~ do not require a license;~~[and]~~

26 ~~(b){(e)}~~ "Travel administrator":

27 1. Means a person who directly or indirectly, in connection with travel

- 1 insurance:
- 2 a. Underwrites coverage in this state on behalf of an insurer;
- 3 b. Collects charges, collateral, or premiums from residents of this
- 4 state; or
- 5 c. Adjusts or settles claims on residents of this state; and
- 6 2. Shall not include any of the following persons if that person's only
- 7 actions that would otherwise cause the person to be a travel
- 8 administrator are:
- 9 a. A person that works for a travel administrator to the extent that
- 10 the person's activities are subject to the supervision and control
- 11 of the travel administrator;
- 12 b. An insurance producer that sells insurance or is engaged in
- 13 administrative and claims-related activities within the scope of
- 14 the producer's license;
- 15 c. A travel retailer that offers and disseminates travel insurance
- 16 and is registered under the license of a limited lines travel
- 17 insurance agent in accordance with this section;
- 18 d. An individual that adjusts or settles claims in the normal course
- 19 of that individual's practice or employment as an attorney-at-law
- 20 and who does not collect charges or premiums in connection
- 21 with insurance coverage; or
- 22 e. A business entity that is affiliated with an authorized insurer
- 23 while acting as a travel administrator for the direct and assumed
- 24 insurance business of an affiliated insurer; and

25 (c) "Travel retailer" means an entity that makes, arranges, or offers travel services

26 and may offer and disseminate travel insurance as a service to its customers on

27 behalf of and under the direction of a limited lines travel insurance agent that

1 has been designated in accordance with subsection (3)(d) of this
 2 section~~[producer]~~.

3 (2) (a) Notwithstanding any other provisions of this chapter, no person shall be,
 4 act as, or represent that the person is, a travel administrator in this state,
 5 unless that person is:

6 1. A managing general agent, as defined in KRS 304.9-085, licensed in
 7 this state;

8 2. An administrator, as defined in KRS 304.9-051, licensed in this state;

9 or

10 3. An insurance agent licensed in this state with property and casualty
 11 lines of authority for activities permitted under that license.

12 (b) A person acting as a travel administrator in accordance with this
 13 subsection, and that person's employees, shall be exempt from the licensing
 14 requirements of Section 13 of this Act for travel insurance it administers.

15 (3) (a) No person shall act as a limited lines travel insurance agent in this state
 16 unless the person:

17 1. Except as provided in subsection (4) of this section, is properly
 18 licensed pursuant to KRS 304.9-230(1); and

19 2. Complies with this section.

20 (b) The commissioner may issue a limited lines travel insurance agent license
 21 pursuant to KRS 304.9-230(1) to an individual or business entity that
 22 either:

23 1. Has filed a request with the commissioner to act as a limited lines
 24 travel insurance agent and is:

25 a. A licensed managing general agent, as defined in KRS 304.9-
 26 085;

27 b. A licensed agent, as defined in KRS 304.9-020;

1 c. An administrator, as defined in KRS 304.9-051; or

2 d. A travel administrator; or

3 2. Has filed an application with the commissioner for a limited lines
 4 travel insurance agent license and meets all requirements of this
 5 subtitle for obtaining that license.

6 (c) A limited lines travel insurance agent may sell, solicit, or negotiate travel
 7 insurance through an authorized insurer.

8 (d) 1. A limited lines travel insurance agent business entity licensee may be
 9 designated by an insurer as the travel insurance supervising entity
 10 responsible for the acts of a travel retailer.

11 2. As the insurer's designee, the limited lines travel insurance agent
 12 business entity licensee is responsible for the acts of the travel retailer
 13 and shall use reasonable means to ensure compliance by the travel
 14 retailer with this section and Sections 4 and 5 of this Act.

15 (4) Any person licensed as an insurance agent for a major line of authority under
 16 this subtitle or Subtitle 10 of this chapter may sell, solicit, or negotiate travel
 17 insurance through an authorized insurer, except a person licensed under this
 18 subtitle or Subtitle 10 of this chapter as an insurance agent with property and
 19 casualty lines of authority shall not be required to hold an appointment with an
 20 insurer in order to sell, solicit, or negotiate travel insurance.

21 (5) A travel retailer may offer and disseminate travel insurance on behalf of and under
 22 the control of a limited lines travel insurance ~~agent~~^{producer} business entity
 23 licensee only if ~~the limited lines travel insurance producer complies with~~ the
 24 following conditions are met:

25 (a) The limited lines travel insurance agent, or travel retailer, provides to
 26 purchasers of travel insurance:

27 1. Either:

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- a. A description of the material terms of the insurance coverage; or
- b. The actual material terms of the insurance coverage;
- 2. A description of the process for filing a claim;
- 3. A description of the review or cancellation process for the travel insurance; and
- 4. The identity and contact information of the insurer and limited lines travel insurance agent;~~[The limited lines travel insurance producer is clearly identified, including the entity's name and contact information, on marketing materials and fulfillment packages distributed by travel retailers to customers;]~~

(b) 1. At the time of licensure, the limited lines travel insurance agent~~[producer]~~ establishes~~[shall establish]~~ and maintains~~[maintain]~~ a register on a form prescribed by the commissioner of each travel retailer that offers travel insurance on the limited lines travel insurance agent's~~[producer's]~~ behalf.

2. The register shall be maintained and updated annually by the limited lines travel insurance agent~~[producer]~~ and shall include the name, address, contact information, and Federal Employment Identification Number of the travel retailer and the name, address, and contact information of any officer or person employed by the travel retailer who directs or controls the travel retailer's operations. The limited lines travel insurance agent~~[producer]~~ shall submit the register upon request from the commissioner;~~[-]~~

(c) The limited lines travel insurance agent~~[producer]~~ certifies~~[shall also certify]~~ that it complies with 18 U.S.C. sec. 1033;

(d)~~(e)~~ The limited lines travel insurance agent~~[producer]~~ designates~~[has designated]~~ one (1) of its employees, who shall be a licensed individual

1 **agent**, as **the person** ~~[a licensed individual]~~ responsible for the business
 2 entity's compliance with the travel insurance laws, rules, and regulations of the
 3 state **that are applicable to the limited lines travel insurance agent and its**
 4 **registrants;** ~~and]~~

5 ~~(e)(d)]~~ **The following persons comply with the fingerprinting requirements**
 6 **applicable to insurance agents in the home state of the limited lines travel**
 7 **insurance agent:**

8 **1. The individual designated under paragraph (d) of this subsection; and**
 9 **2. The president, secretary, treasurer, or any other officer or person who**
 10 **directs the limited lines travel insurance agent's insurance operations;**

11 ~~(f)~~ **The limited lines travel insurance agent has paid all applicable licensing**
 12 **fees as set forth in state law; and**

13 ~~(g)~~ The limited lines travel insurance **agent**~~[producer]~~ requires each employee
 14 **and authorized representative** of the travel retailer, **who will offer and**
 15 **disseminate**~~[whose duties include offering and disseminating]~~ travel
 16 insurance, to receive a program of instruction or training, which may be
 17 subject to review **and approval** by the commissioner. The training material
 18 shall, at a minimum, contain instructions on the types of insurance offered,
 19 ethical sales practices, and required disclosures to prospective customers.

20 ~~(6)(3)]~~ Notwithstanding KRS 304.9-421 and 304.9-425, a travel retailer, including its
 21 employees **and authorized representatives**, whose **only activity**~~[activities]~~ relating
 22 to insurance ~~is~~~~[are limited]~~ to **offer and disseminate**~~[offering and disseminating]~~
 23 travel insurance on behalf of and under the direction of a limited lines travel
 24 insurance **agent**~~[producer]~~ **business entity licensee, shall be authorized to receive**
 25 **related compensation upon registration by the limited lines travel insurance**
 26 **agent as described in subsection (5)(b) of this section, if the limited lines travel**
 27 **insurance agent meets**~~[meeting]~~ the conditions~~[as]~~ set forth in this section **and the**

1 applicable requirements of Sections 4 and 5 of this Act~~[may offer and disseminate~~
2 ~~travel insurance]~~.

3 ~~[(4) As the insurer's designee, the limited lines travel insurance producer is responsible~~
4 ~~for the acts of the travel retailer.]~~

5 (7) A travel retailer that offers and disseminates travel insurance shall make
6 available to prospective purchasers of travel insurance brochures or other written
7 materials that:

8 (a) Have been approved by the insurer providing the travel insurance; and

9 (b) Contain the following:

10 1. The identity and contact information of the insurer and the limited
11 lines travel insurance agent;

12 2. An explanation that the purchase of travel insurance is not required
13 in order to purchase any other product or service from the travel
14 retailer; and

15 3. An explanation that a travel retailer that is not licensed as a an
16 insurance agent is permitted to provide only general information
17 about the travel insurance offered by the travel retailer, including a
18 description of the coverage and price, but is not qualified or
19 authorized to answer technical questions about the terms and
20 conditions of the travel insurance or to evaluate the adequacy of the
21 customer's existing insurance coverage.

22 (8) An employee or authorized representative of a travel retailer, who is not licensed
23 as an insurance agent, shall not:

24 (a) Evaluate or interpret the technical terms, benefits, and conditions of the
25 travel insurance coverage;

26 (b) Evaluate or provide advice concerning a prospective purchaser's existing
27 insurance coverage; or

1 (c) Hold himself or herself out as a licensed insurer, licensed insurance agent,
 2 or insurance expert.

3 ➔SECTION 8. A NEW SECTION OF KRS CHAPTER 365 IS CREATED TO
 4 READ AS FOLLOWS:

5 (1) As used in this section, the following have the same meaning as in Section 1 of
 6 this Act:

7 (a) "Cancellation fee waiver";

8 (b) "Fulfillment materials";

9 (c) "Travel assistance services";

10 (d) "Travel insurance"; and

11 (e) "Travel protection plan".

12 (2) A travel protection plan may be offered for one (1) price if:

13 (a) The plan clearly discloses to the consumer, at or prior to the time of
 14 purchase, that:

15 1. It includes travel insurance, travel assistance services, and
 16 cancellation fee waivers, as applicable; and

17 2. The consumer has the opportunity to obtain additional information
 18 regarding the features and pricing of the travel insurance, travel
 19 assistance services, and cancellation fee waivers, as applicable; and

20 (b) The fulfillment materials:

21 1. Describe any travel insurance, travel assistance services, and
 22 cancellation fee waivers in the travel protection plan; and

23 2. Include:

24 a. Travel insurance disclosures required by this section and
 25 Sections 5 and 7 of this Act; and

26 b. Contact information for persons providing any travel assistance
 27 services or cancellation fee waivers.

1 **(3) The prohibition of negative options or opt outs as provided in subsection (5)(d) of**
2 **Section 5 of this Act shall apply to the offer, solicitation, or negotiation of a travel**
3 **protection plan.**

4 ➔Section 9. KRS 304.9-020 is amended to read as follows:

5 As used in this subtitle:

6 (1) "Agent" means a person who sells, solicits, or negotiates insurance or annuity
7 contracts;

8 (2) "Appointment" means a notification filed with the insurance department that an
9 insurer has established an agency relationship with a producer;

10 (3) "Appointment renewal" means continuation of an insurer's existing appointment
11 based on payment of the required fee without submission of an appointment form;

12 (4) "Apprentice adjuster" means an individual who meets the qualification requirements
13 to hold a license as an independent, staff, or public adjuster, except for the
14 experience, education, and training requirements;

15 (5) "Business entity" means a corporation, association, partnership, limited liability
16 company, limited liability partnership, employer group, professional employer
17 organization, or other legal entity;

18 (6) "Catastrophe" means an event that results in a declaration of emergency by the
19 Governor pursuant to KRS 39A.100 and:

20 (a) A large number of deaths or injuries;

21 (b) Extensive damage or destruction of facilities that provide and sustain human
22 needs;

23 (c) An overwhelming demand on state and local response resources and
24 mechanisms;

25 (d) A severe long-term effect on general economic activity; or

26 (e) A severe effect on state, local, and private sector capabilities to begin and
27 sustain response activities;

- 1 (7) "Crop insurance" means insurance providing protection against damage to crops
2 from unfavorable weather conditions, fire or lightning, flood, hail, insect
3 infestation, disease, or other yield-reducing conditions or perils provided by the
4 private insurance market or that is subsidized by the Federal Crop Insurance
5 Corporation, including multi-peril crop insurance;
- 6 (8) "Home state" means the District of Columbia and any state or territory of the United
7 States in which a licensee maintains his or her principal place of residence or
8 principal place of business and is licensed by that state;
- 9 (9) "Independent adjuster" means a person who:
- 10 (a) Is an independent contractor, an employee of an independent contractor, or for
11 tax purposes is treated as an independent contractor under Subtitle C of the
12 Internal Revenue Code, 26 U.S.C. secs. 3101 et seq.;
- 13 (b) Is compensated by an insurer or self-insurer; and
- 14 (c) Investigates, negotiates, or settles property, casualty, or workers'
15 compensation claims for insurers or self-insurers;
- 16 (10) "Insurance producer" means an individual or business entity required to be licensed
17 under the laws of Kentucky to sell, solicit, or negotiate insurance or annuity
18 contracts. "Insurance producer" includes agent, managing general agent, surplus
19 lines broker, reinsurance intermediary broker and manager, rental vehicle agent and
20 rental vehicle agent managing employee, and consultant;
- 21 (11) "Limited line credit insurance" includes credit life, credit disability, credit property,
22 credit unemployment, involuntary unemployment, mortgage life, mortgage
23 guaranty, mortgage disability, guaranteed automobile protection insurance, and any
24 other form of insurance offered in connection with an extension of credit that is
25 limited to partially or wholly extinguishing that credit obligation that the
26 commissioner determines should be designated a form of limited line credit
27 insurance;

- 1 (12) "Limited line credit insurance agent" means an individual or business entity who
2 sells, solicits, or negotiates one (1) or more forms of limited line credit insurance
3 coverage to individuals through a master, corporate, group, or individual policy;
- 4 (13) "Limited lines insurance" means the lines of insurance defined in subsections (7),
5 (11), (22), (27), and (29) of this section and any other line of insurance that the
6 commissioner identifies in accordance with KRS 304.9-230(1)(g) or recognizes for
7 the purpose of complying with KRS 304.9-140(5);
- 8 (14) "Negotiate" means the act of conferring directly with, or offering advice directly to,
9 a purchaser or prospective purchaser of a particular contract of insurance
10 concerning any of the substantive benefits, terms, or conditions of the contract,
11 provided that the person engaged in that act either sells insurance or obtains
12 insurance from insurers for purchasers. "Negotiate" does not include negotiating a
13 claims settlement;
- 14 (15) "Pharmacy benefit manager" means an entity that, on behalf of a health benefit plan,
15 state agency, insurer, managed care organization providing services under KRS
16 Chapter 205, or other third-party payor:
- 17 (a) Contracts directly or indirectly with pharmacies to provide prescription drugs
18 to individuals;
 - 19 (b) Administers a prescription drug benefit;
 - 20 (c) Processes or pays pharmacy claims;
 - 21 (d) Creates or updates prescription drug formularies;
 - 22 (e) Makes or assists in making prior authorization determinations on prescription
23 drugs;
 - 24 (f) Administers rebates on prescription drugs; or
 - 25 (g) Establishes a pharmacy network;
- 26 (16) "Portable electronics" means electronic devices that are portable and the accessories
27 and services related to the use of the device;

- 1 (17) (a) "Portable electronics insurance" means insurance providing coverage for the
2 repair or replacement of portable electronics for any one (1) or more of the
3 following:
- 4 1. Loss;
 - 5 2. Theft;
 - 6 3. Inoperability due to mechanical failure;
 - 7 4. Malfunction;
 - 8 5. Damage; or
 - 9 6. Other similar causes of loss.
- 10 (b) "Portable electronics insurance" does not mean:
- 11 1. A service contract governed by KRS 304.5-070;
 - 12 2. A policy of insurance covering a seller's or manufacturer's obligations
13 under a warranty; or
 - 14 3. A homeowner's, renter's, private passenger automobile, commercial
15 multi-peril, or similar policy;
- 16 (18) "Portable electronics insurance supervising entity" means a business entity that is a
17 licensed insurer or insurance agent that is appointed by an insurer to supervise the
18 administration of a portable electronics insurance program;
- 19 (19) "Portable electronics retailer" means a licensed business entity that offers and sells
20 portable electronic devices and offers and disseminates portable electronics
21 insurance on behalf and under the direction of a portable electronics insurance
22 supervising entity;
- 23 (20) "Public adjuster" means any person who, for compensation or anything of value:
- 24 (a) Acts on behalf of an insured or aids an insured, solely in relation to first-party
25 claims arising under insurance contracts that insure the real or personal
26 property of the insured, in negotiating for, or effecting the settlement of, a
27 claim for loss or damage covered by an insurance contract;

- 1 (b) Advertises for employment as a public adjuster of insurance claims, solicits
2 business or represents himself, herself, or itself to the public as a public
3 adjuster of first-party insurance claims for losses or damages arising out of
4 policies of insurance that insure real or personal property; or
- 5 (c) Directly or indirectly solicits business, investigates or adjusts losses, advises
6 an insured about first-party claims for losses or damages arising out of
7 policies of insurance that insure real or personal property for another person,
8 or engages in the business of adjusting losses or damages covered by an
9 insurance policy for the insured;
- 10 (21) "Rental vehicle agent" means a business entity with a rental vehicle agent managing
11 employee that is licensed to sell, solicit, or negotiate insurance offered, sold, or
12 solicited in connection with, and incidental to, the rental of rental vehicles, whether
13 at the rental office or by preselection of coverage in master, corporate, or group
14 agreements that:
- 15 (a) Are nontransferable;
- 16 (b) Apply only to the rental vehicle that is the subject of the rental agreement; and
- 17 (c) Are limited to the following kinds of insurance:
- 18 1. Personal accident insurance for renters and other rental vehicle
19 occupants for accidental death or dismemberment and for medical
20 expenses resulting from an accident that occurs with the rental vehicle
21 during the rental period;
- 22 2. Liability insurance that provides protection to the renters and other
23 authorized drivers of a rental vehicle for liability arising from the
24 operation or use of the rental vehicle during the rental period;
- 25 3. Personal effects insurance that provides coverage to renters and other
26 vehicle occupants for loss of or damage to personal effects in the rental
27 vehicle during the rental period;

- 1 4. Roadside assistance insurance;
- 2 5. Emergency sickness protection insurance; or
- 3 6. Any other coverage designated by the commissioner;
- 4 (22) "Rental vehicle insurance" means insurance underwritten by an insurer authorized
- 5 to transact business in Kentucky that is sold in connection with, and incidental to, a
- 6 rental vehicle agreement;
- 7 (23) "Rental vehicle agent managing employee" means an individual who:
- 8 (a) Is a salaried full-time employee of a licensed rental vehicle agent business
- 9 entity that holds a license under KRS 304.9-505; and
- 10 (b) Is responsible for the supervision of the other employees engaged in the
- 11 placement of insurance;
- 12 (24) "Sell" means to exchange a contract of insurance by any means, for money or other
- 13 valuable consideration, on behalf of an insurer;
- 14 (25) "Solicit" means attempting to sell insurance or asking or urging a person to apply
- 15 for a particular kind of insurance from a particular insurer;
- 16 (26) "Staff adjuster" means an individual who is an employee of an insurer who
- 17 investigates, negotiates, or settles property, casualty, or workers' compensation
- 18 claims on behalf of his or her employer;
- 19 (27) "Surety" means insurance or bond that covers obligation to pay the debts of, or
- 20 answer for the default of another, including faithlessness in a position of public or
- 21 private trust. Surety also includes surety insurance as defined in KRS 304.5-060;
- 22 (28) "Terminate" means the cancellation of the relationship between an insurance
- 23 producer and the insurer or the termination of an insurance producer's authority to
- 24 transact insurance;
- 25 (29) ~~{(a)-}~~"Travel insurance" ***has the same meaning as in Section 1 of this Act***~~{means~~
- 26 ~~insurance coverage for personal risks incident to planned travel, including but not~~
- 27 ~~limited to:~~

- 1 1. ~~Interruption or cancellation of a trip or event;~~
- 2 2. ~~Loss of baggage or personal effects;~~
- 3 3. ~~Damages to accommodations or rental vehicles; and~~
- 4 4. ~~Sickness, accident, disability, or death occurring during travel.~~

5 ~~(b) "Travel insurance" does not include insurance coverage that provides~~
 6 ~~comprehensive medical protection for travelers with trips lasting six (6)~~
 7 ~~months or longer, including those working overseas as an expatriate or~~
 8 ~~military personnel being deployed];~~

9 (30) "Uniform business entity application" means the current version of the uniform
 10 business entity application for resident and nonresident business entities; and

11 (31) "Uniform individual application" means the current version of the uniform
 12 individual application for resident and nonresident individuals.

13 ➔Section 10. KRS 304.9-080 is amended to read as follows:

14 (1) **Except as provided in subsection (4) of Section 7 of this Act,** an individual or
 15 business entity shall not sell, solicit, or negotiate insurance in this state unless duly
 16 licensed as the appropriate insurance producer for that line of authority in
 17 accordance with this subtitle or Subtitle 10 of this chapter.

18 (2) Except as provided in KRS 304.9-430, no individual or business entity shall in this
 19 state be, act as, or hold himself, herself, or itself out as an adjuster unless then
 20 licensed as an adjuster.

21 (3) No individual or business entity shall in this state be, act as, or hold himself, herself,
 22 or itself out as a consultant unless then licensed as a consultant. No consultant shall
 23 act as a consultant with respect to any kind of insurance unless duly licensed as a
 24 consultant for that line of authority.

25 (4) Except as provided in KRS 304.9-410, ~~and~~ 304.9-270(4), **and subsection (4) of**
 26 **Section 7 of this Act,** no agent shall place, and no insurer shall accept, any
 27 insurance with any insurer as to which the agent does not then hold a license and

1 appointment as agent under this subtitle.

2 (5) A rental vehicle agent or rental vehicle managing employee shall not place, and an
3 insurer shall not accept, any insurance with any insurer as to which the licensee
4 does not then hold a license and appointment under this subtitle.

5 (6) A travel retailer, its employee, or its representative shall not offer and disseminate
6 travel insurance ***on behalf of and under the direction of***, and an insurer shall not
7 accept any travel insurance ***from, a*** ~~[for which the]~~ limited lines travel insurance
8 ***agent***~~[producer]~~ ***that*** does not then hold a license and appointment pursuant to KRS
9 304.9-475.

10 (7) ***No person shall act as a travel retailer that offers and disseminates travel***
11 ***insurance unless that person is registered in accordance with subsection (5)(b) of***
12 ***Section 7 of this Act.***

13 **(8)** The commissioner shall prescribe and furnish all forms required under this subtitle
14 as to licenses and appointments.

15 ➔Section 11. KRS 304.9-230 is amended to read as follows:

16 (1) The commissioner may issue, in accordance with KRS 304.9-080 ***and Section 7 of***
17 ***this Act***, an agent's license with the limited line of authority as follows:

18 (a) Surety;

19 (b) Travel;

20 (c) Limited line credit;

21 (d) Crop;

22 (e) Rental vehicle;

23 (f) Self-service storage space; or

24 (g) Other limited lines, as specified by the commissioner through the
25 promulgation of administrative regulations.

26 (2) The commissioner shall promulgate administrative regulations to establish the
27 requirements, if any, for prelicensing courses of instruction and examination for

1 each limited line of authority.

2 (3) On and after July 15, 2002, the commissioner shall not issue an agent license with a
3 limited line of authority for motor vehicle physical damage or for mechanical
4 breakdown insurance. However, an agent license with a limited line of authority for
5 motor vehicle physical damage or for mechanical breakdown insurance in effect on
6 July 15, 2002, shall continue in effect until surrendered or otherwise terminated in
7 accordance with this subtitle.

8 ➔Section 12. KRS 304.9-421 is amended to read as follows:

9 **Except as otherwise provided in Section 7 of this Act,** no agent, consultant, adjuster, or
10 surplus lines broker shall directly or indirectly share his or her commission or other
11 compensation received or to be received on account of a transaction under his or her
12 license with any individual or business entity not also licensed as agent, consultant,
13 adjuster, or surplus lines broker under this subtitle as to the kinds of insurance involved in
14 the transaction. This provision shall not affect personal use of the commissions or
15 compensation, override commission, payment of the regular salaries due employees of the
16 agent, consultant, adjuster, or surplus lines broker, or distribution in the regular course of
17 business of compensation and profits among members, employees, or stockholders of
18 licensee business entities.

19 ➔Section 13. KRS 304.9-430 is amended to read as follows:

20 (1) Except as provided in this section **and in subsection (2) of Section 7 of this Act,** no
21 person shall in this state act as or hold himself, herself, or itself out to be an
22 independent, staff, or public adjuster unless then licensed by the department as an
23 independent, staff, or public adjuster.

24 (2) An individual applying for a resident independent, staff, or public adjuster license
25 shall make application to the commissioner on the appropriate uniform individual
26 application and in a format prescribed by the commissioner. The applicant shall
27 declare under penalty of suspension, revocation, or refusal of the license that the

1 statements made in the application are true, correct, and complete to the best of the
2 individual's knowledge and belief. Before approving the application, the
3 commissioner shall find that the individual to be licensed:

- 4 (a) Is at least eighteen (18) years of age;
- 5 (b) Is eligible to designate Kentucky as his or her home state;
- 6 (c) Is trustworthy, reliable, and of good reputation, evidence of which shall be
7 determined through an investigation by the commissioner;
- 8 (d) Has not committed any act that is a ground for probation or suspension,
9 revocation, or refusal of a license as set forth in KRS 304.9-440;
- 10 (e) Has successfully passed the examination for the adjuster license and the
11 applicable line of authority for which the individual has applied;
- 12 (f) Has paid the fees established by the commissioner pursuant to KRS 304.4-
13 010; and
- 14 (g) Is financially responsible to exercise the license.
- 15 (3) (a) To demonstrate financial responsibility, a person applying for a public
16 adjuster license shall obtain a bond or irrevocable letter of credit prior to
17 issuance of a license and shall maintain the bond or letter of credit for the
18 duration of the license with the following limits:
- 19 1. A surety bond executed and issued by an insurer authorized to issue
20 surety bonds in Kentucky, which bond shall:
- 21 a. Be in the minimum amount of twenty thousand dollars (\$20,000);
- 22 b. Be in favor of the state of Kentucky and shall specifically
23 authorize recovery of any person in Kentucky who sustained
24 damages as the result of erroneous acts, failure to act, conviction
25 of fraud, or conviction for unfair trade practices in his or her
26 capacity as a public adjuster; and
- 27 c. Not be terminated unless written notice is given to the licensee at

- 1 least thirty (30) days prior to the termination; or
- 2 2. An irrevocable letter of credit issued by a qualified financial institution,
- 3 which letter of credit shall:
- 4 a. Be in the minimum amount of twenty thousand dollars (\$20,000);
- 5 b. Be subject to lawful levy of execution on behalf of any person to
- 6 whom the public adjuster has been found to be legally liable as the
- 7 result of erroneous acts, failure to act, conviction of fraud, or
- 8 conviction for unfair practices in his or her capacity as a public
- 9 adjuster; and
- 10 c. Not be terminated unless written notice is given to the licensee at
- 11 least thirty (30) days prior to the termination.
- 12 (b) The commissioner may ask for evidence of financial responsibility at any time
- 13 he or she deems relevant.
- 14 (c) The public adjuster license shall automatically terminate if the evidence of
- 15 financial responsibility terminates or becomes impaired and shall be promptly
- 16 surrendered to the commissioner without demand.
- 17 (4) A business entity applying for a resident independent or public adjuster license shall
- 18 make application to the commissioner on the appropriate uniform business entity
- 19 application and in a format prescribed by the commissioner. The applicant shall
- 20 declare under penalty of suspension, revocation, or refusal of the license that the
- 21 statements made in the application are true, correct, and complete to the best of the
- 22 business entity's knowledge and belief. Before approving the application, the
- 23 commissioner shall find that the business entity:
- 24 (a) Is eligible to designate Kentucky as its home state;
- 25 (b) Has designated a licensed independent or public adjuster responsible for the
- 26 business entity's compliance with the insurance laws and regulations of
- 27 Kentucky;

- 1 (c) Has not committed an act that is a ground for probation or suspension,
2 revocation, or refusal of an independent or public adjuster's license as set forth
3 in KRS 304.9-440; and
- 4 (d) Has paid the fees established by the commissioner pursuant to KRS 304.4-
5 010.
- 6 (5) The commissioner may require additional information or submissions from
7 applicants and may obtain any documents or information reasonably necessary to
8 verify the information contained in an application.
- 9 (6) Unless denied licensure pursuant to KRS 304.9-440, a person or business entity
10 who has met the requirements of subsections (2) to (5) of this section shall be issued
11 an independent, staff, or public adjuster license.
- 12 (7) An independent or staff adjuster may qualify for a license in one (1) or more of the
13 following lines of authority:
- 14 (a) Property and casualty;
15 (b) Workers' compensation; or
16 (c) Crop.
- 17 (8) Notwithstanding any other provision of this subtitle, an individual who is employed
18 by an insurer to investigate suspected fraudulent insurance claims, but who does not
19 adjust losses or determine claims payments, shall not be required to be licensed as a
20 staff adjuster.
- 21 (9) A public adjuster may qualify for a license in one (1) or more of the following lines
22 of authority:
- 23 (a) Property and casualty; or
24 (b) Crop.
- 25 (10) Notwithstanding any other provision of this subtitle, a license as an independent
26 adjuster shall not be required of the following:
- 27 (a) An individual who is sent into Kentucky on behalf of an insurer for the sole

- 1 purpose of investigating or making adjustment of a particular loss resulting
2 from a catastrophe, or for the adjustment of a series of losses resulting from a
3 catastrophe common to all losses;
- 4 (b) An attorney licensed to practice law in Kentucky, when acting in his or her
5 professional capacity as an attorney;
- 6 (c) A person employed solely to obtain facts surrounding a claim or to furnish
7 technical assistance to a licensed independent adjuster;
- 8 (d) An individual who is employed to investigate suspected fraudulent insurance
9 claims, but who does not adjust losses or determine claims payments;
- 10 (e) A person who solely performs executive, administrative, managerial, or
11 clerical duties, or any combination thereof, and who does not investigate,
12 negotiate, or settle claims with policyholders, claimants, or their legal
13 representatives;
- 14 (f) A licensed health care provider or its employee who provides managed care
15 services as long as the services do not include the determination of
16 compensability;
- 17 (g) A health maintenance organization or any of its employees or an employee of
18 any organization providing managed care services as long as the services do
19 not include the determination of compensability;
- 20 (h) A person who settles only reinsurance or subrogation claims;
- 21 (i) An officer, director, manager, or employee of an authorized insurer, surplus
22 lines insurer, or risk retention group, or an attorney-in-fact of a reciprocal
23 insurer;
- 24 (j) A United States manager of the United States branch of an alien insurer;
- 25 (k) A person who investigates, negotiates, or settles claims arising under a life,
26 accident and health, or disability insurance policy or annuity contract;
- 27 (l) An individual employee, under a self-insured arrangement, who adjusts claims

1 on behalf of his or her employer;

2 (m) A licensed agent, attorney-in-fact of a reciprocal insurer, or managing general
3 agent of the insurer, to whom claim authority has been granted by the insurer;
4 or

5 (n) A person who:

- 6 1. Is an employee of a licensed independent adjuster or an employee of an
7 affiliate that is a licensed independent adjuster or is supervised by a
8 licensed independent adjuster, if there are no more than twenty-five (25)
9 persons under the supervision of one (1) licensed individual independent
10 adjuster or licensed agent who is exempt from licensure pursuant to
11 paragraph (m) of this subsection;
- 12 2. Collects claim information from insureds or claimants;
- 13 3. Enters data into an automated claims adjudication system; and
- 14 4. Furnishes claim information to insureds or claimants from the results of
15 the automated claims adjudication system.

16 For purposes of this paragraph, "automated claims adjudication system"
17 means a preprogrammed computer system designed for the collection, data
18 entry, calculation, and system-generated final resolution of consumer
19 electronic products insurance claims that complies with claim settlement
20 practices pursuant to Subtitle 12 of KRS Chapter 304.

21 (11) Notwithstanding any other provision of this subtitle, a license as a public adjuster
22 shall not be required of the following:

- 23 (a) An attorney licensed to practice law in Kentucky, when acting in his or her
24 professional capacity as an attorney;
- 25 (b) A person who negotiates or settles claims arising under a life or health
26 insurance policy or an annuity contract;
- 27 (c) A person employed only for the purpose of obtaining facts surrounding a loss

1 or furnishing technical assistance to a licensed public adjuster, including
2 photographers, estimators, private investigators, engineers, and handwriting
3 experts;

4 (d) A licensed health care provider or its employee who prepares or files a health
5 claim form on behalf of a patient; or

6 (e) An employee or agent of an insurer adjusting claims relating to food spoilage
7 with respect to residential property insurance in which the amount of coverage
8 for the applicable type of loss is contractually limited to one thousand dollars
9 (\$1,000) or less.

10 (12) Notwithstanding any other provision of this subtitle, a license as a staff adjuster
11 shall not be required of an employee or agent of an insurer adjusting claims relating
12 to food spoilage with respect to residential property insurance in which the amount
13 of coverage for the applicable type of loss is contractually limited to one thousand
14 dollars (\$1,000) or less.

15 (13) For purposes of this section, "home state" means any state or territory of the United
16 States or the District of Columbia in which an independent, staff, or public adjuster
17 maintains his, her, or its principal place of residence or business and is licensed to
18 act as a resident independent, staff, or public adjuster. If the state of the principal
19 place of residence does not license an independent, staff, or public adjuster for the
20 line of authority sought, the independent, staff, or public adjuster shall designate as
21 his, her, or its home state, any state in which the independent or public adjuster is
22 licensed and in good standing.

23 (14) Temporary registration for emergency independent or staff adjusters shall be issued
24 by the commissioner in the event of a catastrophe declared in Kentucky in the
25 following manner:

26 (a) An insurer shall notify the commissioner by submitting an application for
27 temporary emergency registration of each individual not already licensed in

1 the state where the catastrophe has been declared, who will act as an
2 emergency independent adjuster on behalf of the insurer;

3 (b) A person who is otherwise qualified to adjust claims, but who is not already
4 licensed in the state, may act as an emergency independent or staff adjuster
5 and adjust claims if, within five (5) days of deployment to adjust claims
6 arising from the catastrophe, the insurer notifies the commissioner by
7 providing the following information, in a format prescribed by the
8 commissioner:

- 9 1. The name of the individual;
- 10 2. The Social Security number of the individual;
- 11 3. The name of the insurer that the independent or staff adjuster will
12 represent;
- 13 4. The catastrophe or loss control number;
- 14 5. The catastrophe event name and date; and
- 15 6. Any other information the commissioner deems necessary; and

16 (c) An emergency independent or staff adjuster's registration shall remain in force
17 for a period not to exceed ninety (90) days, unless extended by the
18 commissioner.

19 (15) (a) Unless refused licensure in accordance with KRS 304.9-440, a nonresident
20 person shall receive a nonresident independent, staff, or public adjuster license
21 if:

- 22 1. The person is currently licensed in good standing as an independent,
23 staff, or public adjuster in his, her, or its home state;
- 24 2. The person has submitted the proper request for licensure, and has paid
25 the fees required by KRS 304.4-010;
- 26 3. The person has submitted, in a form or format prescribed by the
27 commissioner, the uniform individual application; and

1 4. The person's designated home state issues nonresident independent,
2 staff, or public adjuster licenses to persons of Kentucky on the same
3 basis.

4 (b) The commissioner may verify the independent, staff, or public adjuster's
5 licensing status through any appropriate database or may request certification
6 of good standing.

7 (c) As a condition to the continuation of a nonresident adjuster license, the
8 licensee shall maintain a resident adjuster license in his, her, or its home state.

9 (d) The nonresident adjuster license issued under this section shall terminate and
10 be surrendered immediately to the commissioner if the resident adjuster
11 license terminates for any reason, unless the termination is due to the adjuster
12 being issued a new resident independent or public adjuster license in his, her,
13 or its new home state. If the new resident state does not have reciprocity with
14 Kentucky, the nonresident adjuster license shall terminate.

15 ➔Section 14. KRS 304.9-440 is amended to read as follows:

16 (1) The commissioner may place on probation, suspend, or may impose conditions
17 upon the continuance of a license for not more than twenty-four (24) months,
18 revoke, or refuse to issue or renew, any license issued under this subtitle or any
19 surplus lines broker, life settlement broker, or life settlement provider license, or
20 may levy a civil penalty in accordance with KRS 304.99-020, or any combination of
21 actions for any one (1) or more of the following causes:

22 (a) Providing incorrect, misleading, incomplete, or materially untrue information
23 in the license application;

24 (b) Violating any insurance laws, or violating any administrative regulations,
25 subpoena, or order of the commissioner or of another state's insurance
26 commissioner;

27 (c) Obtaining or attempting to obtain a license through misrepresentation or

- 1 fraud;
- 2 (d) Improperly withholding, misappropriating, or converting any moneys or
3 properties received in the course of doing insurance or the business of life
4 settlements;
- 5 (e) Intentionally misrepresenting the terms of an actual or proposed insurance
6 contract, life settlement contract, or application for insurance;
- 7 (f) Having been convicted of or having pled guilty or nolo contendere to any
8 felony;
- 9 (g) Having admitted or been found to have committed any unfair insurance trade
10 practice, insurance fraud, or fraudulent life settlement act;
- 11 (h) Using fraudulent, coercive, or dishonest practices; or demonstrating
12 incompetence, untrustworthiness, or financial irresponsibility; or being a
13 source of injury or loss to the public in the conduct of business in this state or
14 elsewhere;
- 15 (i) Having an insurance license, life settlement license, or its equivalent, denied,
16 suspended, or revoked in any other state, province, district, or territory;
- 17 (j) Surrendering or otherwise terminating any license issued by this state or by
18 any other jurisdiction, under threat of disciplinary action, denial, or refusal of
19 the issuance of or renewal of any other license issued by this state or by any
20 other jurisdiction; or revocation or suspension of any other license held by the
21 licensee issued by this state or by any other jurisdiction;
- 22 (k) Forging another's name to an application for insurance, to any other document
23 related to an insurance transaction, or to any document related to the business
24 of life settlements;
- 25 (l) Cheating, including improperly using notes or any other reference material to
26 complete an examination for license;
- 27 (m) Knowingly accepting insurance or life settlement business from an individual

- 1 or business entity who is not licensed, but who is required to be licensed under
2 this subtitle;
- 3 (n) Failing to comply with an administrative or court order imposing a child
4 support obligation;
- 5 (o) Failing to pay state income tax or to comply with any administrative or court
6 order directing payment of state income tax;
- 7 (p) Having been convicted of a misdemeanor for which restitution is ordered in
8 excess of three hundred dollars (\$300), or of any misdemeanor involving
9 dishonesty, breach of trust, or moral turpitude;
- 10 (q) Failing to no longer meet the requirements for initial licensure;
- 11 (r) If a life settlement provider, demonstrating a pattern of unreasonable
12 payments to owners or failing to honor contractual obligations set out in a life
13 settlement contract;
- 14 (s) Entering into any life settlement contract or using any form that has not been
15 approved pursuant to Subtitle 15 of this chapter;
- 16 (t) If a licensee, having assigned, transferred, or pledged a policy subject to a life
17 settlement contract to a person other than a life settlement provider licensed in
18 this state, an accredited investor or qualified institutional buyer as defined,
19 respectively, in Regulation D, Rule 501 or Rule 144a of the Federal Securities
20 Act of 1933, as amended, a financing entity, a special purpose entity, or a
21 related provider trust; or
- 22 (u) Any other cause for which issuance of the license could have been refused,
23 had it then existed and been known to the commissioner.
- 24 (2) The license of a business entity may be suspended, revoked, or refused for any
25 cause relating to an individual designated in or registered under the license if the
26 commissioner finds that an individual licensee's violation was known or should
27 have been known by one (1) or more of the partners, officers, or managers acting on

1 behalf of the business entity and the violation was not reported to the Department of
2 Insurance nor corrective action taken.

3 (3) The license of a pharmacy benefit manager may, in the discretion of the
4 commissioner, be suspended, revoked, or refused for any cause enumerated in
5 subsection (1) of this section, and for violations of KRS 205.647, 304.9-053, 304.9-
6 054, 304.9-055, and 304.17A-162. The pharmacy benefit manager shall also be
7 subject to the same civil penalties under KRS 304.99-020 as an insurer.

8 (4) The applicant or licensee may make written request for a hearing in accordance with
9 KRS 304.2-310.

10 (5) The commissioner shall retain the authority to enforce the provisions and penalties
11 of this chapter against any individual or business entity who is under investigation
12 for or charged with a violation of this chapter, even if the individual's or business
13 entity's license has been surrendered or has lapsed by operation of law.

14 (6) The commissioner may suspend, revoke, or refuse to renew the license of a licensed
15 insurance agent operating as a life settlement broker, pursuant to KRS 304.15-700,
16 if the commissioner finds that such insurance agent has violated the provisions of
17 KRS 304.15-700 to 304.15-725.

18 (7) If the commissioner denies a license application or suspends, revokes, or refuses to
19 renew the license of a life settlement provider or life settlement broker, or suspends,
20 revokes, or refuses to renew the license of a licensed life insurance agent operating
21 as a life settlement broker pursuant to KRS 304.15-700, the commissioner shall
22 comply with the provisions of this section and KRS Chapter 13B.

23 **(8) The sanctions and penalties applicable to licenses and licensees under subsection**
24 **(1) of this section shall also be applicable to registrations and registrants under**
25 **subsection (5)(b) of Section 7 of this Act.**