

91A.0806 Verification of risk location systems and programs -- Administrative regulations.

- (1) Before January 1, 2009, the Department of Insurance shall by administrative regulation establish criteria for the verification of risk location systems and programs. The criteria for verification shall include but not be limited to a requirement that the municipal and county boundary information of a risk location system or program uses the municipal and county boundary data available from the Commonwealth Office of Technology that is based upon municipal and other filings with the Secretary of State.
- (2) Upon application of a vendor or insurance company for verification and payment of a two thousand five hundred dollar (\$2,500) application fee to the Department of Insurance, the department shall test the risk location system or program to determine whether the program shall be verified as meeting the criteria promulgated in the administrative regulation required by subsection (1) of this section. The Department of Insurance shall maintain a list of verified risk location systems or programs and shall make the list available to insurance companies and the public. The verification of a risk location system or program shall remain valid for a period of three (3) years unless revoked by the Department of Insurance.
- (3) The Department of Insurance shall, by administrative regulation, provide an option for an insurance company to apply for a written order by the commissioner of the Department of Insurance that the insurance company has a limited number of risk locations, not exceeding two hundred (200), in the Commonwealth that may be located by other means with an equivalent level of accuracy. Such an order shall remain valid for a period of three (3) years and as long as the insured risk of the insurance company does not exceed two hundred (200) in any calendar year.
- (4) An insurance company shall be deemed to perform due diligence in the location of risks if the insurance company employs a verified risk location system or program in its collection of a tax or fee imposed pursuant to KRS 91A.080 and:
 - (a) Expends reasonable resources to accurately and reliably implement such method to collect and to remit the proper tax or fee due to the local government that has imposed a tax or fee pursuant to KRS 91A.080;
 - (b) Maintains adequate internal controls to correctly include in its database of policyholders the location of the risk insured, in the proper address format, so that matching with the database is accurate;
 - (c) Corrects errors in the assignment of addresses to local taxing jurisdictions within the next renewal period after the insurance company discovers the errors, and, if applicable, reports such errors to the provider of the risk location system or program; and
 - (d) In the case of insurance companies that issue policies covering multiple locations, maintains adequate internal controls and employs an accurate and consistent methodology to correctly prorate multilocation policies to assign risks to appropriate addresses or, if a street address is unavailable, through another appropriate identifier of physical location, and tax jurisdictions.

- (5) Upon the presentation of proof that an insurance company has complied with the provisions of subsection (4) of this section or has received an order of the Department of Insurance under the administrative regulation promulgated pursuant to subsection (3) of this section, the insurance company:
- (a) Shall not be subject to penalties for failure to comply with KRS 91A.080 that may otherwise be imposed pursuant to KRS Chapter 304 or KRS 91A.080(7) for failure of a risk location system to properly locate risks;
 - (b) Shall be held harmless from any liability including but not limited to liability for penalties, except for the tax that is due and interest on the tax that an insurance company has failed to timely remit, that would otherwise be due solely as a result of a failure to properly collect and remit the tax or fee levied pursuant to KRS 91A.080 because of the failure of a risk location system to properly locate risks; and
 - (c) Shall not be subject to penalties under KRS 91A.0804(3)(c).
- (6) On and after January 1, 2010, an insurance company shall use a verified risk location system or program during the calendar year if the total policies issued and renewed by the insurance company in Kentucky in the preceding calendar year is more than two thousand (2,000).

Effective: July 15, 2010

History: Amended 2010 Ky. Acts ch. 24, sec. 78, effective July 15, 2010; and ch. 165, sec. 5, effective July 15, 2010. -- Created 2008 Ky. Acts ch. 94, sec. 3, effective July 15, 2008.

Legislative Research Commission Note (7/15/2010.) This section was amended by 2010 Ky. Acts chs. 24 and 165, which do not appear to be in conflict and have been codified together.

Legislative Research Commission Note (7/15/2008). 2008 Ky. Acts ch. 94, sec. 2 created a new section which was numbered as KRS 91A.0804. In reviewing the bill, subsection (2)(b) of this section was renumbered as subsection (2)(c). To conform, a reference to subsection (2)(b) of KRS 91A.0804 in Section 3 of the Act, KRS 91A.0806, has been changed to KRS 91A.0804(2)(c) by the Reviser of Statutes under the authority of KRS 7.136(1)(c) and (e).