

**304.7-453 Asset and reserve requirements -- Reconciliation and summary --  
Commissioner's actions if insurer is not in compliance.**

- (1) Subject to all other limitations and requirements of this subtitle, a property and casualty, financial guaranty, mortgage guaranty, or accident and health insurer shall maintain an amount at least equal to one hundred percent (100%) of adjusted loss reserves and loss adjustment expense reserves, one hundred percent (100%) of adjusted unearned premium reserves, and one hundred percent (100%) of statutorily required policy and contract reserves in:
  - (a) Cash and cash equivalents;
  - (b) High and medium grade investments that qualify under KRS 304.7-457 or 304.7-459;
  - (c) Equity interests that qualify under KRS 304.7-461 and that are traded on a qualified exchange;
  - (d) Investments of the type set forth in KRS 304.7-469, if the investments are rated in the highest generic rating category by a nationally recognized statistical rating organization recognized by the SVO for rating foreign jurisdictions and if any foreign currency exposure is effectively hedged through the maturity date of the investments;
  - (e) Qualifying investments of the type set forth in paragraph (b), (c), or (d) of this subsection that are acquired under KRS 304.7-473;
  - (f) Interest and dividends receivable on qualifying investments of the type set forth in paragraphs (a) to (e) of this subsection; or
  - (g) Reinsurance recoverable on paid losses.
- (2) Determination of the reserve requirement amount shall be as follows:
  - (a) For purposes of determining the amount of assets to be maintained under this subsection, the calculation of adjusted loss reserves and loss adjustment expense reserves, adjusted unearned premium reserves, and statutorily required policy and contract reserves shall be based on the amounts reported as of the most recent annual or quarterly statement date;
  - (b) Adjusted loss reserves and loss adjustment expense reserves shall be equal to the sum of the amounts derived from the following calculations:
    1. The result of each amount reported by the insurer as losses and loss adjustment expenses unpaid for each accident year for each individual line of business; multiplied by
    2. The discount factor that is applicable to the line of business and accident year published by the Internal Revenue Service under Internal Revenue Code Section 846 (26 U.S.C. sec. 846), as amended, for the calendar year that corresponds to the most recent annual statement of the insurer; minus
    3. Accrued retrospective premiums discounted by an average discount factor. The discount factor shall be calculated by dividing the losses and loss adjustment expenses unpaid after discounting (the product of

subparagraphs 1. and 2. of this paragraph) by loss and loss adjustment expense reserves before discounting subparagraph 1. of this paragraph; and

4. For purposes of these calculations, the losses and loss adjustment expenses unpaid shall be determined net of anticipated salvage and subrogation, and gross of any discount for the time value of money or tabular discount;
- (c) Adjusted unearned premium reserves shall be equal to the result of the following calculation:
1. The amount reported by the insurer as unearned premium reserves; minus
  2. The admitted asset amounts reported by the insurer as:
    - a. Premiums in and agents' balances in the course of collection, accident and health premiums due and unpaid, and uncollected premiums for accident and health premiums;
    - b. Premiums, agents' balances, and installments booked but deferred and not yet due; and
    - c. Bills receivable, taken for premium; and
- (d) Statutorily required policy and contract reserves also shall include, in the case of a title insurer, the amounts required by KRS 304.6-080 and, in the case of a mortgage guaranty insurer, the amounts required by KRS 304.6-090 and, in the case of an accident and health insurer, the amounts required by KRS 304.6-070.
- (3) A property and casualty, financial guaranty, mortgage guaranty, or accident and health insurer shall supplement its annual statement with a reconciliation and summary of its assets and reserve requirements as required in subsection (1) of this section. A reconciliation and summary showing that an insurer's assets as required in subsection (1) of this section are greater than or equal to its undiscounted reserves referred to in subsection (1) of this section shall be sufficient to satisfy this requirement. Upon prior notification, the commissioner may require an insurer to submit a reconciliation and summary with any quarterly statement filed during the calendar year.
- (4) If a property and casualty, financial guaranty, mortgage guaranty, or accident and health insurer's assets and reserves do not comply with subsection (1) of this section, the insurer shall notify the commissioner immediately of the amount by which the reserve requirements exceed the annual statement value of the qualifying assets, explain why the deficiency exists, and within thirty (30) days of the date of the notice propose a plan of action to remedy the deficiency.
- (5) If the commissioner determines that an insurer is not in compliance with subsection (1) of this section, the commissioner shall require the insurer to eliminate the condition causing the noncompliance within a specified time from the date the notice of the commissioner's requirement is mailed or delivered to the insurer.

- (6) If an insurer fails to comply with the commissioner's requirement under subsection (5) of this section, the insurer is deemed to be in hazardous financial condition, and the commissioner shall take one (1) or more of the actions authorized by Subtitle 33 of KRS Chapter 304, and KRS 304.3-200.

**Effective:** July 15, 2010

**History:** Amended 2010 Ky. Acts ch. 24, sec. 1021, effective July 15, 2010. -- Created 2000 Ky. Acts ch. 388, sec. 20, effective July 14, 2000.