

304.9-430 Independent, staff, or public adjuster's license -- Application by individual or business entity -- Qualifications -- Evidence of financial responsibility -- Exceptions to license requirement -- Temporary emergency registration following catastrophe -- Nonresident license.

- (1) No person shall in this state act as or hold himself, herself, or itself out to be an independent, staff, or public adjuster unless then licensed by the Kentucky Department of Insurance as an independent, staff, or public adjuster.
- (2) An individual applying for a resident independent, staff, or public adjuster license shall make application to the commissioner on the appropriate uniform individual application and in a format prescribed by the commissioner. The applicant shall declare under penalty of suspension, revocation, or refusal of the license that the statements made in the application are true, correct, and complete to the best of the individual's knowledge and belief. Before approving the application, the commissioner shall find that the individual to be licensed:
 - (a) Is at least eighteen (18) years of age;
 - (b) Is eligible to designate Kentucky as his or her home state;
 - (c) Is trustworthy, reliable, and of good reputation, evidence of which shall be determined through an investigation by the commissioner;
 - (d) Has not committed any act that is a ground for probation or suspension, revocation, or refusal of a license as set forth in KRS 304.9-440;
 - (e) Has successfully passed the examination for the adjuster license and the applicable line of authority for which the individual has applied;
 - (f) Has paid the fees established by the commissioner pursuant to KRS 304.4-010; and
 - (g) Is financially responsible to exercise the license.
- (3)
 - (a) To demonstrate financial responsibility, a person applying for a public adjuster license shall obtain a bond or irrevocable letter of credit prior to issuance of a license and shall maintain the bond or letter of credit for the duration of the license. The applicant shall provide evidence of financial responsibility in a format prescribed by the commissioner with the following limits:
 1. A surety bond executed and issued by an insurer authorized to issue surety bonds in Kentucky, which bond shall:
 - a. Be in the minimum amount of twenty thousand dollars (\$20,000);
 - b. Be in favor of the state of Kentucky and shall specifically authorize recovery by the commissioner on behalf of any person in Kentucky who sustained damages as the result of erroneous acts, failure to act, conviction of fraud, or conviction for unfair trade practices in his or her capacity as a public adjuster; and
 - c. Not be terminated unless written notice is filed with the commissioner and given to the licensee at least thirty (30) days prior to the termination; or

2. An irrevocable letter of credit issued by a qualified financial institution, which letter of credit shall:
 - a. Be in the minimum amount of twenty thousand dollars (\$20,000);
 - b. Be to an account of the commissioner and subject to lawful levy of execution on behalf of any person to whom the public adjuster has been found to be legally liable as the result of erroneous acts, failure to act, conviction of fraud, or conviction for unfair practices in his or her capacity as a public adjuster; and
 - c. Not be terminated unless written notice is filed with the commissioner and given to the licensee at least thirty (30) days prior to the termination.
- (b) The issuer of the evidence of financial responsibility shall notify the commissioner upon termination of the bond or letter of credit, unless otherwise directed by the commissioner.
- (c) The commissioner may ask for evidence of financial responsibility at any time he or she deems relevant.
- (d) The public adjuster license shall automatically terminate if the evidence of financial responsibility terminates or becomes impaired and shall be promptly surrendered to the commissioner without demand.
- (4) A business entity applying for a resident independent or public adjuster license shall make application to the commissioner on the appropriate uniform business entity application and in a format prescribed by the commissioner. The applicant shall declare under penalty of suspension, revocation, or refusal of the license that the statements made in the application are true, correct, and complete to the best of the business entity's knowledge and belief. Before approving the application, the commissioner shall find that the business entity:
 - (a) Is eligible to designate Kentucky as its home state;
 - (b) Has designated a licensed independent or public adjuster responsible for the business entity's compliance with the insurance laws and regulations of Kentucky;
 - (c) Has not committed an act that is a ground for probation or suspension, revocation, or refusal of an independent or public adjuster's license as set forth in KRS 304.9-440; and
 - (d) Has paid the fees established by the commissioner pursuant to KRS 304.4-010.
- (5) The commissioner may require additional information or submissions from applicants and may obtain any documents or information reasonably necessary to verify the information contained in an application.
- (6) Unless denied licensure pursuant to KRS 304.9-440, a person or business entity who has met the requirements of subsections (2) to (5) of this section shall be issued an independent, staff, or public adjuster license.

- (7) An independent or staff adjuster may qualify for a license in one (1) or more of the following lines of authority:
 - (a) Property and casualty;
 - (b) Workers' compensation; or
 - (c) Crop.
- (8) A public adjuster may qualify for a license in one (1) or more of the following lines of authority:
 - (a) Property and casualty; or
 - (b) Crop.
- (9) Notwithstanding any other provision of this subtitle, a license as an independent adjuster shall not be required of the following:
 - (a) An individual who is sent into Kentucky on behalf of an insurer for the sole purpose of investigating or making adjustment of a particular loss resulting from a catastrophe, or for the adjustment of a series of losses resulting from a catastrophe common to all losses;
 - (b) An attorney licensed to practice law in Kentucky, when acting in his or her professional capacity as an attorney;
 - (c) A person employed solely to obtain facts surrounding a claim or to furnish technical assistance to a licensed independent adjuster;
 - (d) An individual who is employed to investigate suspected fraudulent insurance claims, but who does not adjust losses or determine claims payments;
 - (e) A person who solely performs executive, administrative, managerial, or clerical duties, or any combination thereof, and who does not investigate, negotiate, or settle claims with policyholders, claimants, or their legal representatives;
 - (f) A licensed health care provider or its employee who provides managed care services as long as the services do not include the determination of compensability;
 - (g) A health maintenance organization or any of its employees or an employee of any organization providing managed care services as long as the services do not include the determination of compensability;
 - (h) A person who settles only reinsurance or subrogation claims;
 - (i) An officer, director, manager, or employee of an authorized insurer, surplus lines insurer, or risk retention group, or an attorney-in-fact of a reciprocal insurer;
 - (j) A United States manager of the United States branch of an alien insurer;
 - (k) A person who investigates, negotiates, or settles claims arising under a life, accident and health, or disability insurance policy or annuity contract;
 - (l) An individual employee, under a self-insured arrangement, who adjusts claims on behalf of his or her employer;

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

(n) A person who:

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

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

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

- (a) An attorney licensed to practice law in Kentucky, when acting in his or her professional capacity as an attorney;
- (b) A person who negotiates or settles claims arising under a life or health insurance policy or an annuity contract;
- (c) A person employed only for the purpose of obtaining facts surrounding a loss or furnishing technical assistance to a licensed public adjuster, including photographers, estimators, private investigators, engineers, and handwriting experts; or
- (d) A licensed health care provider or its employee who prepares or files a health claim form on behalf of a patient.

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

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

- (a) An insurer shall notify the commissioner by submitting an application for temporary emergency registration of each individual not already licensed in the state where the catastrophe has been declared, who will act as an emergency independent adjuster on behalf of the insurer;
 - (b) A person who is otherwise qualified to adjust claims, but who is not already licensed in the state, may act as an emergency independent or staff adjuster and adjust claims if, within five (5) days of deployment to adjust claims arising from the catastrophe, the insurer notifies the commissioner by providing the following information, in a format prescribed by the commissioner:
 - 1. The name of the individual;
 - 2. The Social Security number of the individual;
 - 3. The name of the insurer that the independent or staff adjuster will represent;
 - 4. The catastrophe or loss control number;
 - 5. The catastrophe event name and date; and
 - 6. Any other information the commissioner deems necessary; and
 - (c) An emergency independent or staff adjuster's registration shall remain in force for a period not to exceed ninety (90) days, unless extended by the commissioner.
- (13) (a) Unless refused licensure in accordance with KRS 304.9-440, a nonresident person shall receive a nonresident independent, staff, or public adjuster license if:
- 1. The person is currently licensed in good standing as an independent, staff, or public adjuster in his, her, or its home state;
 - 2. The person has submitted the proper request for licensure, and has paid the fees required by KRS 304.4-010;
 - 3. The person has submitted, in a form or format prescribed by the commissioner, the uniform individual application; and
 - 4. The person's designated home state issues nonresident independent, staff, or public adjuster licenses to persons of Kentucky on the same basis.
- (b) The commissioner may verify the independent, staff, or public adjuster's licensing status through any appropriate database or may request certification of good standing.
 - (c) As a condition to the continuation of a nonresident adjuster license, the licensee shall maintain a resident adjuster license in his, her, or its home state.
 - (d) The nonresident adjuster license issued under this section shall terminate and be surrendered immediately to the commissioner if the resident adjuster license terminates for any reason, unless the termination is due to the adjuster being issued a new resident independent or public adjuster license in his, her,

or its new home state. If the new resident state does not have reciprocity with Kentucky, the nonresident adjuster license shall terminate.

- (14) An individual applying for a nonresident independent, staff, or public adjuster license in Kentucky shall be allowed one hundred eighty (180) days from July 15, 2010, to establish a home state. This subsection shall expire two (2) years from July 15, 2010.

Effective: July 15, 2010

History: Amended 2010 Ky. Acts ch. 24, sec. 1073, effective July 15, 2010; and ch. 83, sec. 11, effective July 15, 2010. -- Amended 2002 Ky. Acts ch. 273, sec. 34, effective July 15, 2002. -- Amended 2000 Ky. Acts ch. 393, sec. 32, effective July 14, 2000. -- Amended 1984 Ky. Acts ch. 262, sec. 3, effective April 1, 1985. -- Created 1970 Ky. Acts ch. 301, subtit. 9, sec. 43, effective June 18, 1970.

Legislative Research Commission Note (7/15/2010). References to the "executive director" of insurance in this section, as amended by 2010 Ky. Acts ch. 83, sec. 11, have been changed in codification to the "commissioner" of insurance to reflect the reorganization of certain parts of the Executive Branch, as set forth in Executive Order 2009-535 and confirmed by the General Assembly in 2010 Ky. Acts ch. 24. These changes were made by the Reviser of Statutes pursuant to 2010 Ky. Acts ch. 24, sec. 1938.

Legislative Research Commission Note (7/15/2010). This section was amended by 2010 Ky. Acts chs. 24 and 83. Where these Acts are not in conflict, they have been codified together. where a conflict exists, Acts ch. 83, which was last enacted by the General Assembly, prevails under KRS 446.250.