

### **304.11-020 Unauthorized Insurer's Law -- Exemptions.**

- (1) Other than KRS 304.11-050, the provisions of KRS 304.11-020 to 304.11-050, shall not apply to any insurance company or underwriter issuing contracts of insurance to industrial insureds, government entity insureds, and exempt commercial policyholders, nor to any contract of insurance issued to any one (1) or more industrial insureds.
- (2) For the purpose of this section:
  - (a) An "industrial insured" is:
    1. An insured who procures the insurance of any risk or risks other than life and annuity contracts by use of the services of a full-time employee acting as an insurance manager or buyer or the services of a regularly and continuously retained qualified insurance consultant; and
    2. An insured whose aggregate annual premiums for insurance on all risks total at least twenty-five thousand dollars (\$25,000); and
    3. An insured having at least twenty-five (25) full-time employees; and
    4. All entities that have qualified as industrial insureds as of July 1, 1999;
  - (b) A "government entity insured" is an insured:
    1. That is a government entity, municipal corporation, or public agency located in a city or county having a population of less than fifty thousand (50,000); and
    2. That procures the insurance of any risk or risks, other than life and annuity contracts, by use of the services of a full-time employee acting as an insurance manager or buyer, or by the use of the services of a regularly and continuously retained qualified insurance consultant; and
    3. Whose aggregate annual premiums for insurance on all risks total at least one hundred thousand dollars (\$100,000), exclusive of life, health, medical, or annuity premiums; and
    4. That has at least fifty (50) full-time employees; and
    5. That satisfies the criteria the commissioner promulgates by administrative regulation; and
  - (c)
    1. An "exempt commercial policyholder" means an insured that employs the services of an insurance agent or broker, procures commercial insurance with the services of a full-time risk manager, or a licensed insurance consultant, pursuant to Subtitle 9 of this chapter and:
      - a. Is a city, county, or urban-county with a population of at least fifty thousand (50,000) persons, or the Commonwealth, or a not-for-profit organization or a public entity with an annual budget of at least twenty-five million dollars (\$25,000,000) or assets of at least twenty-five million dollars (\$25,000,000) in the preceding fiscal year; or
      - b. Certifies that it meets all four (4) of the following criteria:

- i. Possesses a net worth of more than twenty-five million dollars (\$25,000,000) at the time the policy of insurance is issued;
    - ii. Generated net revenue or sales of more than fifty million dollars (\$50,000,000) in the preceding fiscal year;
    - iii. Employs more than one hundred (100) employees per individual company or two hundred (200) employees per holding company aggregate at the time the policy of insurance is issued; and
    - iv. Paid annual aggregate insurance premiums of more than five hundred thousand dollars (\$500,000) in the preceding fiscal year.
  2. As used in this subsection, "risk manager" means a person qualified to assess an exempt commercial policyholder's insurance needs and analyze and negotiate a policy of insurance on behalf of an exempt commercial policyholder. A risk manager shall be:
    - a. A full-time employee of an exempt commercial policyholder who holds a professional designation relevant to the type of insurance to be purchased by the exempt commercial policyholder; or
    - b. A person retained by an exempt commercial policyholder who holds a professional designation relevant to the type of insurance to be purchased by the exempt commercial policyholder.
- (3)
  - (a) Policies issued to industrial insureds, government entity insureds, and exempt commercial policyholders are exempt from the rate and policy form requirements of this chapter.
  - (b) Policies issued to industrial insureds, government entity insureds, and exempt commercial policyholders shall contain a disclaimer in language similar to the following: "The rate provided for in this policy is exempt from the filing and approval requirements of Subtitle 13 of KRS Chapter 304. The forms which make up this policy contract are exempt from the filing and approval requirements of Subtitle 14 of KRS Chapter 304."
  - (c) The exemption of commercial policyholders under this section shall not apply to Subtitle 39 of this chapter, KRS Chapter 342, sections in Subtitle 13 of this chapter that pertain to workers' compensation insurance, and KRS 304.12-230.
- (4) All industrial insureds, government entity insureds, and exempt commercial policyholders shall reapply to the commissioner for their respective insured status every three (3) years, on a form the commissioner shall promulgate by administrative regulation.
- (5) KRS 304.11-020 to 304.11-050, inclusive, shall not apply to any life insurance company organized and operated, without profit to any private shareholder or individual, exclusively for the purpose of aiding educational or scientific institutions organized and operated without profit to any private shareholder or individual by issuing insurance and annuity contracts directly from the home office of the company and without agents or representatives in this state only to or for the

benefit of such institutions and to individuals engaged in the services of such institutions, nor to any policy or contract which it issues; but this exemption shall be conditioned upon any such company complying with the following requirements:

- (a) Payment of an annual registration fee;
- (b) Filing a copy of any policy or contract issued to Kentucky residents with the commissioner;
- (c) Filing a copy of its annual statement prepared pursuant to the laws of its state of domicile, as well as such other financial material as may be requested, with the commissioner; and
- (d) Providing, in such form as may be acceptable for the appointment of the Secretary of State as its true and lawful attorney upon whom may be served all lawful process in any action or proceeding against such company arising out of any policy or contract it has issued to, or which is currently held by, a Kentucky citizen and process so served against such company shall have the same force and validity as if served upon the company.

**Effective:** July 15, 2010

**History:** Amended 2010 Ky. Acts ch. 24, sec. 1101, effective July 15, 2010; and ch. 166, sec. 1, effective July 15, 2010. -- Amended 2000 Ky. Acts ch. 145, sec. 1, effective July 14, 2000. -- Amended 1982 Ky. Acts ch. 319, sec. 6, effective July 15, 1982; and ch. 320, sec. 16, effective July 15, 1982. -- Created 1970 Ky. Acts ch. 301, subtit. 11, sec. 2, effective June 18, 1970.

**Legislative Research Commission Note (7/15/2010).** This section was amended by 2010 Ky. Acts chs. 24 and 166, which do not appear to be in conflict and have been codified together.