

**304.39-290 Kentucky Insurance Arbitration Association -- Creation -- Membership -- Powers -- Duties.**

- (1) There is created a nonprofit unincorporated legal entity to be known as the Kentucky Insurance Arbitration Association to provide a mechanism for the reimbursement, among reparation obligors of losses paid as basic or added reparation benefits, based solely on the law of torts without regard to subsections (1), (2), and (3) of KRS 304.39-060.
- (2) All basic reparation obligors shall be and remain members of the association as a condition of their authority to transact business in this Commonwealth.
- (3) The association shall perform its functions under a plan of operation established and approved under subsection (5) and shall exercise its powers through a board of directors established under subsection (4) hereof.
- (4) The board of directors of the association shall consist of not less than five (5) nor more than ten (10) persons serving terms as established in the plan of operation. They shall be selected by member obligors subject to the approval of the commissioner. If no members have been selected and approved prior to July 1, 1974, the commissioner shall appoint the initial members of the board. In approving selections to the board, the commissioner shall consider, among other things, whether all member obligors are fairly represented.

Each member of the board shall designate qualified experienced claimspersons from the member's company, who upon approval by the commissioner, may serve as his or her alternates for the purpose of claims arbitration.

- (5) The association shall submit to the commissioner a plan of operation and any amendments thereto necessary, or suitable to assure the fair, reasonable, and equitable administration of the association. The plan shall become effective upon approval in writing by the commissioner:
  - (a) All reparation obligors shall comply with the provisions of the plan of operation;
  - (b) The plan of operation shall:
    1. Establish procedures whereby all the powers and duties of the association will be performed;
    2. Establish minimum requirements for the initial submission of a case for reimbursement or arbitration;
    3. Establish minimum requirements beneath which reimbursements shall not be made in order that there be fair allocation of significant losses and the elimination of unnecessary costs in the reimbursement mechanism;
    4. Encourage voluntary reimbursement procedures between reparation obligors so that resort to arbitration shall be as infrequent as possible;
    5. Recognize that fair allocation of loss between commercial and noncommercial motor vehicles may require different minimum requirements than when the loss is between two (2) or more noncommercial vehicles;

6. Establish regular places and times for meetings;
  7. Establish procedures for records to be maintained on all cases presented for arbitration and dispositions thereof;
  8. Establish procedures for compensation to reparation obligors for travel related expense and the fair value of the time devoted by their employees as a director or alternate in performance of duties for the association;
  9. Establish procedures for adequately and equitably financing the cost of the association among members; and
  10. Contain additional provisions necessary or proper for execution of the powers and duties of the association.
- (6) The association shall be subject to examination and regulation by the commissioner:
- (a) The board of directors shall submit to the commissioner, not later than March 30 of each year, a report on its activities for the preceding calendar year;
  - (b) The board of directors shall promptly notify the commissioner whenever it appears that any member insurer has failed or refused to comply with an arbitration decision or has shown a protracted tendency to decline a significant number of meritorious claims presented to it prior to initiation of arbitration proceedings.
- (7) The association shall be exempt from payment of all fees, licenses, and taxes levied by this Commonwealth or any of its subdivisions except taxes on real or personal property.
- (8) There shall be no liability on the part of and no cause of action of any nature shall arise against any member insurer, the association or its agents or employees, the board of directors, or the commissioner or his or her representative for any action taken by them in the performance of their powers and duties under this section.

**Effective:** July 15, 2010

**History:** Amended 2010 Ky. Acts ch. 24, sec. 1531, effective July 15, 2010. -- Amended 1996 Ky. Acts ch. 326, sec. 2, effective July 15, 1996. -- Created 1974 Ky. Acts ch. 385, sec. 29, effective July 1, 1975.