

1 AN ACT relating to insurance.

2 ***Be it enacted by the General Assembly of the Commonwealth of Kentucky:***

3 ➔Section 1. KRS 304.12-230 is amended to read as follows:

4 **(1)** It is an unfair claims settlement practice for any insurer~~[person]~~ to commit or
5 perform any of the following acts or omissions:

6 **(a)**~~[(1)]~~ Misrepresenting pertinent facts or insurance policy provisions relating to
7 coverages at issue;

8 **(b)**~~[(2)]~~ Failing to acknowledge and act reasonably promptly upon
9 communications with respect to claims arising under insurance policies;

10 **(c)**~~[(3)]~~ Failing to adopt and implement reasonable standards for the prompt
11 investigation of claims arising under insurance policies;

12 **(d)**~~[(4)]~~ Refusing to pay claims without conducting a reasonable investigation
13 based upon all available information;

14 **(e)**~~[(5)]~~ Failing to affirm or deny coverage of claims within a reasonable time
15 after proof of loss statements have been completed;

16 **(f)**~~[(6)]~~ Not attempting in good faith to effectuate prompt, fair, and equitable
17 settlements of claims in which liability has become reasonably clear;

18 **(g)**~~[(7)]~~ Compelling insureds to institute litigation to recover amounts due under
19 an insurance policy by offering substantially less than the amounts ultimately
20 recovered in actions brought by such insureds;

21 **(h)**~~[(8)]~~ Attempting to settle a claim for less than the amount to which a
22 reasonable man would have believed he was entitled by reference to written or
23 printed advertising material accompanying or made part of an application;

24 **(i)**~~[(9)]~~ Attempting to settle claims on the basis of an application which was
25 altered without notice to, or knowledge or consent of, the insured;

26 **(j)**~~[(10)]~~ Making claims payments to insureds or beneficiaries not accompanied
27 by statement setting forth the coverage under which the payments are being

1 made;

2 ~~(k)(11)~~ Making known to insureds or claimants a policy of appealing from
3 arbitration awards in favor of insureds or claimants for the purpose of
4 compelling them to accept settlements or compromises less than the amount
5 awarded in arbitration;

6 ~~(l)(12)~~ Delaying the investigation or payment of claims by requiring an insured,
7 claimant, or the physician of either to submit a preliminary claim report and
8 then requiring the subsequent submission of formal proof of loss forms, both
9 of which submissions contain substantially the same information;

10 ~~(m)(13)~~ Failing to promptly settle claims, where liability has become reasonably
11 clear, under one (1) portion of the insurance policy coverage in order to
12 influence settlements under other portions of the insurance policy coverage;

13 ~~(n)(14)~~ Failing to promptly provide a reasonable explanation of the basis in the
14 insurance policy in relation to the facts or applicable law for denial of a claim
15 or for the offer of a compromise settlement;

16 ~~(o)(15)~~ Failing to comply with the decision of an independent review entity to
17 provide coverage for a covered person as a result of an external review in
18 accordance with KRS 304.17A-621, 304.17A-623, and 304.17A-625;

19 ~~(p)(16)~~ Knowingly and willfully failing to comply with the provisions of KRS
20 304.17A-714 when collecting claim overpayments from providers; or

21 ~~(q)(17)~~ Knowingly and willfully failing to comply with the provisions of KRS
22 304.17A-708 on resolution of payment errors and retroactive denial of claims.

23 **(2) No action shall be brought against a casualty insurer by a third-party claimant**
24 **for a violation of this section, and any assignment of a cause of action arising**
25 **from this section against a casualty insurer shall be void.**

26 ➔Section 2. KRS 304.45-110 is amended to read as follows:

27 (1) A risk retention group doing business in this state shall be subject to all applicable

1 unfair claims settlement practices laws and regulations as provided in KRS 304.3-
2 200~~], 304.12-220,~~] and 304.12-230.

3 (2) The commissioner is authorized to make use of any of the powers established under
4 the insurance statutes and regulations of this state to enforce the laws of this state so
5 long as those powers are not specifically preempted by the Product Liability Risk
6 Retention Act of 1981 (P.L. 97-45) and the Liability Risk Retention Act of 1986
7 (P.L. 99-563), 15 U.S.C. secs. 3901 et seq. This includes, but is not limited to, the
8 commissioner's administrative authority to investigate, issue subpoenas, conduct
9 depositions and hearings, issue orders, and impose penalties. Without regard to any
10 investigation, administrative proceedings, or litigation, the commissioner can rely
11 on the procedural law and regulations of the state. The injunctive authority of the
12 commissioner in regard to risk retention groups is restricted by the requirement that
13 any injunction be issued by a court of competent jurisdiction.

14 ➔Section 3. The following KRS section is repealed:

15 304.12-220 Definition.