

**304.11-042 Disclosure agreement for compensation received by an agent from an insurer or client for placement of insurance and service rendered to client.**

- (1) As used in this section, unless the context requires otherwise:
- (a)
    - 1. "Agent" means an agent as defined in KRS 304.9-020;
    - 2. "Agent" does not include the following:
      - a. A managing general agent;
      - b. A surplus lines broker;
      - c. A licensed insurance agent who is employed by an insurer; or
      - d. An exclusive agent under contract with one (1) insurer or a group of affiliated insurers who receives his sole compensation from the insurer;
  - (b) "Client" means a person that purchases insurance covering the business operations and exposures to loss of that person, and that has entered into an agreement with an agent pursuant to a written disclosure agreement as provided in subsection (2) of this section, and:
    - 1. For the purpose of health insurance as defined in KRS 304.5-040, life insurance as defined in KRS 304.5-020, but only as it relates to group life contracts, and ancillary employee benefits, the person meets or exceeds at least one (1) of the following measures from subdivisions a. and b. of this subparagraph and one (1) from subdivisions c. and d. of this subparagraph for the size of the business for the most recent fiscal year end closed:
      - a. Total assets of the business of at least twenty-five million dollars (\$25,000,000); or
      - b. Total sales or revenue of at least twenty-five million dollars (\$25,000,000) per year; and
      - c. Total number of eligible employees of at least one hundred (100); or
      - d. Annual health and employee benefits premiums of at least five hundred thousand dollars (\$500,000);
    - 2. A person whose health benefit plan is procured through an employer-organized association as defined in KRS 304.17A-005;
    - 3. For the purposes of property insurance as defined in KRS 304.5-050 and casualty insurance as defined in KRS 304.5-070, the person meets or exceeds at least one (1) of the following measures from subdivisions a. and b. of this subparagraph and one (1) from subdivisions c. and d. of this subparagraph for the size of the business for the most recent fiscal year end closed:
      - a. Total assets of the business of at least twenty-five million dollars (\$25,000,000); or
      - b. Total sales or revenue of at least twenty-five million dollars



the qualification criteria in subsection (1)(b) of this section.

- (4) An agent, when operating under a written disclosure agreement with a client under this section, may:
  - (a) Use an authorized property and casualty insurer;
  - (b) Use an unauthorized property and casualty insurer if the business is exported in accordance with Subtitle 10 of this chapter; and
  - (c) Use only an authorized life, health, or workers' compensation insurer.
- (5) (a) Any insurer writing business in accordance with this section shall comply with applicable rate and form filing requirements.
  - (b) Notwithstanding applicable rate and form filing requirements, an agent placing business for a client may provide for alternative compensation in a written disclosure agreement as provided in subsection (2) of this section.
- (6) This section shall not apply to personal lines of insurance issued for personal or family protection to a person.

**Effective:** July 15, 2008

**History:** Created 2008 Ky. Acts ch. 31, sec. 2, effective July 15, 2008.