

304.10-180 Taxes on surplus lines.

- (1) For single state risks located solely within this state, each broker shall pay the following taxes:
 - (a) A tax at the rate of three percent (3%) on the premiums, assessments, fees, charges, or other consideration deemed part of the premium as defined in KRS 304.14-030, on surplus lines insurance subject to tax transacted by him or her with unauthorized insurers during the preceding calendar quarter as shown by his or her quarterly statement filed with the commissioner in accordance with KRS 304.10-170. The tax shall not be assessed on the premium surcharge tax, the local government premium tax, or any other state or federal tax. The tax shall be remitted to the commissioner within thirty (30) days of the end of each calendar quarter. When collected the tax shall be credited to the insurance regulatory trust fund, as established by KRS 304.2-400;
 - (b) The premium surcharge tax, to be remitted to the Kentucky Department of Revenue, in accordance with KRS 136.392; and
 - (c) The local government premium tax, to be remitted to the appropriate city, county, or urban-county government taxing authority, in accordance with KRS 91A.080. Each broker shall be subject to the provisions of this section and KRS 91A.080 and 91A.0802 to 91A.0810 as an insurance company.
- (2) For multistate risks, each broker shall pay a tax at the rate of eleven and eight-tenths percent (11.8%) on premiums in accordance with the uniform Allocation Formula and other rules adopted by the Surplus Lines Insurance Multi-State Compliance Compact Commission established in KRS 304.10-400. The tax collected on multistate risks shall be remitted to the Department of Insurance, which shall no less than semiannually divide and distribute the revenues as follows:
 - (a) Twenty-five percent (25%) of the tax collected shall be retained by the Department of Insurance and treated as if collected pursuant to subsection (1)(a) of this section;
 - (b) Fifteen percent (15%) of the tax collected shall be distributed to the Department of Revenue and treated as if it was collected pursuant to KRS 136.392 and shall be used for the purposes of funding:
 1. The Firefighters Foundation Program fund, as provided by KRS 95A.220 and 95A.262; and
 2. The Law Enforcement Foundation Program Fund as provided by KRS 15.430; and
 - (c) Sixty percent (60%) of the tax collected shall be distributed to the Department for Local Government. The Department for Local Government:
 1. Shall determine the share of the tax for each city and county government on a pro rata basis pursuant to a distribution formula that is based upon the percentage of each city's and county's historical local premium tax collections from surplus lines insurance in calendar years 2007, 2008, and 2009, as compared to the total of all local insurance premium taxes on surplus lines insurance collected in calendar years 2007, 2008, and

2009;

2. Shall exclude any city or county from the distribution that collected a total of less than five hundred dollars (\$500) in insurance premium taxes from surplus lines insurance for calendar years 2007, 2008, and 2009 and the total amount of these city or county collections of less than five hundred dollars (\$500) shall be excluded from the determination of the total local insurance premium tax collections required by this subsection;
3. Shall not less than semiannually distribute the proceeds to city and county governments for the purposes of funding public safety, including but not limited to:
 - a. Police;
 - b. Fire;
 - c. Emergency 911 services; and
 - d. Ambulance services; and
4. May charge a yearly administrative fee equal to one percent (1%) of the total local government portion provided under this subsection, not to exceed ten thousand dollars (\$10,000) per year statewide.

Effective: June 8, 2011

History: Amended 2011 Ky. Acts ch. 48, sec. 4, effective June 8, 2011. -- Amended 2010 Ky. Acts ch. 24, sec. 1099, effective July 15, 2010; and ch. 165, sec. 2, effective July 15, 2010. -- Amended 2008 Ky. Acts ch. 94, sec. 6, effective July 15, 2008. -- Amended 2005 Ky. Acts ch. 85, sec. 678, effective June 20, 2005. -- Amended 2002 Ky. Acts ch. 273, sec. 42, effective July 15, 2002. -- Amended 2000 Ky. Acts ch. 393, sec. 45, effective July 14, 2000. -- Amended 1982 Ky. Acts ch. 123, sec. 12, effective July 15, 1982. -- Created 1970 Ky. Acts ch. 301, subtit. 10, sec. 18, effective June 18, 1970.

Legislative Research Commission Note (6/8/2011). 2011 Ky. Acts ch. 48, sec. 5, provided that the provisions contained in Sections 2, 3, and 4 of that Act "shall take effect as provided in Article XIII of Section 1 of this Act, upon legislative enactment of the compact into law by two compacting states, provided the commission shall become effective for purposes of adopting rules, and creating the clearinghouse when there are a total of ten compacting states and contracting states or, alternatively, when there are compacting states and contracting states representing greater than 40 percent of the surplus lines insurance premium volume based on records of the percentage of surplus lines insurance." The Reviser of Statutes has determined that, as of April 8, 2011, two states had enacted the compact, thereby triggering the initial effective date of the compact. Since 2011 Ky. Acts ch. 48, did not contain an emergency clause, this section became effective June 8, 2011, the normal effective date for 2011 legislation.