

**PUBLIC PROTECTION CABINET**  
**Department of Insurance**  
**(Amendment)**

**806 KAR 47:010. Fraud prevention~~[Designation of a contact person]~~.**

RELATES TO: KRS 304.2-140, 304.47-010, 304.47-020, 304.47-040, 304.47-050, 304.47-080

STATUTORY AUTHORITY: KRS 304.2-110

NECESSITY, FUNCTION, AND CONFORMITY: KRS 304.2-110 authorizes the Commissioner of Insurance to promulgate administrative regulations necessary for or as an aid to the effectuation of any provision of the Kentucky Insurance Code~~[, as defined in KRS 304.1-010]~~. This administrative regulation establishes insurer requirements and a comprehensive process for reporting and investigating fraudulent insurance acts~~[for the designation of primary contact persons to communicate with the Division of Insurance Fraud Investigation]~~.

Section 1. Definitions. (1) "Division" is defined by KRS 304.47-010(6);

(2) "Special investigative unit" or "SIU" means a unit to investigate fraudulent insurance acts as required by KRS 304.47-080.

Section 2. Scope. This administrative regulation shall apply to all insurers admitted to do business in the Commonwealth that are not otherwise exempted by KRS 304.47-080(1).

Section 3. Primary Anti-fraud Contacts. To facilitate communication with the division, an~~[Every]~~ insurer shall designate~~[at least]~~ two (2) primary contact persons, one (1) of whom shall be the head of the SIU~~[but not more than four (4) primary contact persons]~~ who shall communicate with the division~~[of Insurance Fraud Investigation]~~ on matters relating to the reporting, investigation, and prosecution of suspected fraudulent insurance acts, as defined in KRS 304.47-020.

Section 4~~[2]~~. Special Investigative Units and Anti-fraud Plans.~~[Every insurer shall notify the Division of Insurance Fraud Investigation in writing of the names, addresses, and telephone numbers of:]~~

(1) An insurer shall maintain an SIU to fulfill the requirements of KRS 304.47-080~~[The insurer's primary contact persons; and]~~

(2) In conjunction with its SIU, an insurer shall:~~[The primary person responsible for the insurer's investigative unit.]~~

(a) Implement systematic and effective methods to detect and investigate suspected fraudulent insurance claims;

(b) Educate and train all claims handlers to identify possible insurance fraud;

(c) Develop policies for the SIU to cooperate, coordinate, and communicate with:

1. The insurer's claims handlers, legal personnel, technical support personnel, and database support personnel; and

2. The division and other relevant law enforcement agencies.

(d) Develop and submit to the division a written anti-fraud plan, which shall include:

1. Acknowledgment of duty to report to the division, including mandatory reporting of suspected fraud within fourteen (14) days;

2. SIU contact information;

3. SIU investigative ethics;

- 4. Procedures to detect and deter fraud; and
- 5. Continuing education plans for SIU staff.

Section 5. Compliance Report. (1) Within ninety (90) days of admission, and at least once every two (2) years, an insurer shall submit to the division a written report setting forth the manner in which the insurer is complying with Section 4 of this administrative regulation. The report shall also include:

(a) The total number of SIU investigative staff responsible for cases in Kentucky, and whether any such staff also investigate cases in other jurisdictions; and either

(b) If the insurer formed the SIU in house and solely governs it, the year that the SIU was formed; or

(c) If the insurer has contracted SIU services through another company, the identity of the company providing SIU services and the initial year of the contract between the insurer and the company.

(2) Within thirty (30) days of a material change of the information provided in the compliance report, the insurer shall amend the compliance report and resubmit it to the division.

Section 6. Reporting Fraudulent Insurance Acts. (1) All persons identified in KRS 304.47-050(2) shall report suspected fraudulent insurance acts to the division within fourteen (14) days of determination that a suspected fraudulent act has been committed. Reports submitted to a person or entity other than the division shall not satisfy the reporting duty of KRS 304.47-050(2). Reports shall be submitted by:

(a) Completing a report on the department's electronic services portal at <https://insurance.ky.gov/eservices/default.aspx>; or

(b) Submitting a completed Uniform Suspected Insurance Fraud Reporting Form.

(2) All persons identified in KRS 304.47-050(1) may report suspected fraudulent insurance acts to the division by:

(a) Completing a report on the department's electronic services portal at <https://insurance.ky.gov/eservices/default.aspx>; or

(b) Submitting a completed Uniform Suspected Insurance Fraud Reporting Form.

Section 7. Incorporation by Reference. (1) The "Uniform Suspected Insurance Fraud Reporting Form," 03/2019, is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Department of Insurance, 215 W. Main St., Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

K. GAIL RUSSELL, Acting Secretary  
NANCY G. ADKINS, Commissioner

APPROVED BY AGENCY: March 14, 2019

FILED WITH LRC: March 15, 2019 at 11 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on 10:00 a.m. on April 22, 2019 at 215 West Main Street, Frankfort, Kentucky 40602. Individuals interested in being heard at this hearing shall notify this agency in writing by five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at

the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through 11:59 PM on April 30, 2019. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person below.

CONTACT PERSON: Patrick O'Connor II, Deputy Commissioner, Policy, P.O. Box 517, 215 West Main Street, Frankfort, Kentucky 40602, phone (502) 564-6026, fax (502) 564-1453, email patrick.oconnor@ky.gov.

## REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Patrick O'Connor II

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes insurer requirements and creates a comprehensive process for reporting and investigating fraudulent insurance acts. The administrative regulation requires insurers to establish a Special Investigative Unit, identify primary anti-fraud contacts, submit anti-fraud plans and reports to the Department of Insurance division of insurance fraud investigation, and sets forth the process for all persons reporting to the department.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to carry out requirements of KRS 304 Subtitle 47. The administrative regulation facilitates insurer and public communications with the Division regarding suspected fraudulent insurance acts.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 304.2-110 authorizes the Commissioner to promulgate administrative regulations necessary to carry out and enforce the provisions of the Kentucky Insurance Code. KRS 304.47-040 establishes the division of insurance fraud investigations.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation facilitates communication between insurers and the division, making it easier for both to fulfill their statutory duties regarding insurance fraud.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: This administrative regulation amendment incorporates necessary substantive provisions from 806 KAR 47:010, 806 KAR 47:020, and 806 KAR 47:030, combining them into a single administrative regulation for administrative efficiency. The amended administrative regulation will now serve as a comprehensive guide to the reporting and investigating of fraudulent insurance acts while eliminating unnecessary duplication, repetition, and complexity.

(b) The necessity of the amendment to this administrative regulation: This administrative regulation amendment will make it easier for insurers to comply with their statutory duties. Additionally, this amendment will make it easier for the Division to uphold its statutory duty to investigate fraudulent insurance acts. Lastly, this amendment will make it clearer of how someone, although not obligated to do so, can report fraudulent insurance acts to the Division.

(c) How the amendment conforms to the content of the authorizing statutes: KRS 304.2-110 authorizes the Commissioner to promulgate administrative regulations necessary to carry out and enforce the provisions of the Kentucky Insurance Code.

(d) How the amendment will assist in the effective administration of the statutes: This administrative regulation amendment serves as a comprehensive guide for insurers regarding the reporting and investigating of fraudulent insurance acts. Additionally, this amendment offers

guidance of how someone, although not obligated to do so, can report fraudulent insurance acts to the Division.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This administrative regulation amendment will affect insurers doing business in the Commonwealth, and the general public to the extent they report fraudulent insurance acts.

(4) Provide an analysis of how the entities identified in the previous question will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions each of the regulated entities have to take to comply with this regulation or amendment: Insurers will have to become familiar with the revised regulatory scheme and ensure that anti-fraud plans and compliance reports satisfy all revised requirements. The general public will not have to take any action to comply.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities: This administrative regulation amendment should create no cost to regulated entities or the general public.

(c) As a result of compliance, what benefits will accrue to the entities: Insurers will have an easier time complying with a single administrative regulation governing the reporting and investigating of insurance fraud.

(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:

(a) Initially: There will be no initial costs to implement this administrative regulation amendment.

(b) On a continuing basis: There will be no continuing costs to implement this administrative regulation amendment.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: No funding is necessary to implement and enforce this administrative regulation amendment.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No increase in fees or funding is necessary to implement this administrative regulation amendment.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: This amendment does not establish any fees, and it does not directly or indirectly increase any fees.

(9) TIERING: Is tiering applied? No. Tiering is not applied because this administrative regulation amendment applies equally to all regulated entities.

## FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

(1) What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? This administrative regulation amendment will impact the Insurance Fraud Investigation division of the Kentucky Department of Insurance.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 304.2-110 authorizes the Commissioner make reasonable rules and regulations necessary for or as an aid to the effectuation of any provision of the Kentucky Insurance Code.

(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school dis-

tricts) for the first full year the administrative regulation is to be in effect. If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? This administrative regulation amendment will not generate revenue for state or local government in the first year.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? This administrative regulation amendment will not generate revenue for state or local government in subsequent years.

(c) How much will it cost to administer this program for the first year? There is no cost associated with administering this administrative regulation amendment for the first year.

(d) How much will it cost to administer this program for subsequent years? There is no cost associated with administering this administrative regulation amendment for subsequent years.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-): Neutral.

Expenditures (+/-): Neutral.

Other Explanation: None.