

**PUBLIC PROTECTION CABINET**  
**Department of Insurance**  
**Consumer Protection and Education Division**  
**(New Administrative Regulation)**

**806 KAR 2:088. Verification of Risk Location Systems.**

RELATES TO: KRS 91A.0804, 91A.0806, 304.2-100, 304.2-310, 304.3, 304.10-030, 304.10-160  
STATUTORY AUTHORITY: KRS 91A.0806(1), EO 2008-507

NECESSITY, FUNCTION, AND CONFORMITY: EO 2008-507, signed June 6, 2008, and effective June 16, 2008, created the Department of Insurance, headed by the Commissioner of Insurance. KRS 91A.0806(1) requires the Office of Insurance to establish criteria for the verification of risk location systems and programs. This administrative regulation establishes the risk location verification criteria, sets forth the process to obtain and renew verification, and sets forth the process for revocation of verification. This administrative regulation also establishes the process for an insurer with limited risks to request an order allowing an alternative form of risk location.

Section 1. Definitions. (1) "Broker" is defined in KRS 304.10-030.

(2) "Department" means the Department of Insurance.

(3) "Insurance company" means an entity holding a certificate of authority in accordance with KRS 304, Subtitle 3.

(4) "Risk location system or program" is defined in KRS 91A.0802(2).

(5) "Verified entity" means a vendor, insurance company or surplus lines broker that has received an order of verification from the Department of Insurance.

(6) "Verified risk location system" means a risk location system or program that is the subject of an effective order of verification issued by the department that has not expired or otherwise been revoked.

Section 2. Application for Verification. (1) A vendor, insurance company, or broker seeking verification of a risk location system or program shall submit:

(a) A complete Application for Verification of Risk Location System or Program;

(b) An application fee in accordance with KRS 91A.0806(2);

(c) A complete copy of the risk location address data set provided in accordance with the Verification Data Manual;

(d) A written explanation of how the risk location system or program is updated and the frequency with which the system or program is updated; and

(e) A written certification that the risk location system or program uses the municipal and county boundary data available from the Commonwealth Office of Technology that is based upon municipal and other filings with the Secretary of State as its sole source of boundary data.

(2) Upon receipt of the information required in subsection (1) of this section, the department shall:

(a) Review the application and documents submitted;

(b) Test the accuracy of the risk location system or program's address data set by identifying a random sampling of address data to determine if the data accurately falls within or outside of a Kentucky taxing entity; and

(c) Issue a preliminary report to the applicant of the results of the test.

(3) Within twenty (20) days from the date of issuance of the preliminary report, the applicant shall:

(a) Review the preliminary report;

(b) Provide the department with a written response to a contested finding; and

(c) Provide the department with documentation to support the response to a contested finding.

(4) The department shall issue a final report of the results of the test within:

(a) Thirty (30) days from the date of receipt of a written response from the applicant; or

(b) Thirty (30) days from the date of issuance of the preliminary report if a response is not received in accordance with subsection (3) of this section.

(5)(a) The department shall issue an order verifying the risk location software or program if:

1. The results of the test demonstrate that the risk location system or program achieved an overall level of accuracy of at least ninety percent (90%) in identifying the city or county within which an address is located; and

2. The risk location system or program is updated at least quarterly with regard to changes in municipal and county boundary data, street addresses and zip codes.

(b) The order shall expire automatically three (3) years from its effective date unless otherwise revoked.

Section 3. Continuation of Verification. A verified entity seeking to continue an order of verification of a risk location system or program shall, at least six (6) months prior to the date the order of verification is scheduled to expire, submit an application and comply with the application process set forth in Section 2 of this administrative regulation.

Section 4. Alternative Option for Insurers and Brokers with Limited Risk Locations. (1) An insurance company or surplus lines broker seeking an order from the commissioner allowing for an alternative means of determining risk location pursuant to KRS 91A.0806 shall submit the following to the department:

(a) Documentation demonstrating that the insurance company or surplus lines broker has 200 or less risk locations in Kentucky;

(b) A written explanation of the method that will be used to determine risk location; and

(c) A risk location address data set including:

1. Street number;

2. Street name;

3. City;

4. State;

5. Zip code;

6. Notation indicating if the address is inside or outside of an incorporated city boundary; and

7. If inside an incorporated city boundary, identification of the taxing entity.

(2) Upon receipt of the information required in subsection (1) of this section, the department shall:

(a) Review the information provided; and

(b) Test the accuracy of the risk location address data set by identifying a random sampling of address data to determine if the data accurately falls within or outside of a Kentucky taxing entity.

(3) The department shall issue an order permitting the use of an alternative method of determining risk location if the results of the review determine:

(a) The insurance company or surplus lines broker has a limited number of risk locations, not exceeding 200 in Kentucky; and

(b) The method of determining risk location will achieve an overall level of accuracy of at least ninety (90) percent in identifying the city or county within which an address is located.

(4) The order issued pursuant to subsection (3) of this section shall expire automatically three (3) years from its effective date unless otherwise revoked.

(5)(a) On or before January 31 of each year, an insurance company or surplus lines broker that has been issued an order pursuant to subsection (3) of this section, shall certify to the department that it has 200 or less risk locations in Kentucky.

(b) Notwithstanding subsection (4) of this section, an order issued pursuant to subsection (3) of this section shall be revoked if:

1. An insurance company or surplus lines broker fails to certify that it has 200 or less risk locations in Kentucky in accordance with paragraph (a) of this subsection; or

2. An insurance company or surplus lines broker has more than 200 risk locations in Kentucky.

Section 5. Revocation of Order of Verification or Order of Alternative Risk Methodology. (1) If the department has reason to believe after an investigation pursuant to 304.2-100, audit or investigation under KRS 91A.0804, examination of an insurer through 304.2-310 or examination of a surplus lines broker pursuant to 304.10-160, that a verified risk location system or program no longer meets the requirements for verification set forth in Section 2(5) of this administrative regulation, the department shall request that the verified entity, insurance company or surplus lines broker provide a risk location address data set as set forth in Section 2(1)(c) within thirty (30) days of the request.

(2) If the department has reason to believe after an investigation pursuant to 304.2-100, audit or investigation under KRS 91A.0804, examination of an insurer through 304.2-310 or examination of a surplus lines broker pursuant to 304.10-160, that an insurance company or surplus lines broker no longer meets the requirements for an alternative risk methodology set forth in Section 4 of this administrative regulation, the department shall request that the insurance company or surplus lines broker provide a risk location address data set as set forth in Section 4(1)(c) within thirty (30) days of the request.

(3) Upon receipt of a risk location address data set in accordance with subsections (1) and (2) of this section, the department shall test the accuracy of the data received to determine the accuracy in identifying the city or county within which an address is located. If the test results demonstrate an overall level of accuracy of less than ninety (90) percent, the department shall issue a notice of deficiency to the verified entity.

(4) (a) Within ten (10) days from the date of the notice of deficiency, the verified entity shall provide the department with the names and addresses of all insurance companies and surplus lines brokers in Kentucky utilizing the verified risk location system.

(b) The department shall provide a copy of the notice of deficiency to all insurance companies and surplus lines brokers identified by the verified entity in accordance with paragraph (a) of this subsection.

(5) A verified entity, insurance company or surplus lines broker shall have sixty (60) days from the date of a notice of deficiency to:

(a) Correct the deficiency; and

(b) Submit a risk location address data set to the department demonstrating that the deficiency has been corrected.

(6) The department shall issue an order revoking its order of verification if:

(a) The verified entity, insurance company or surplus lines broker fails to provide the information requested in accordance with subsection (1) of this section; or

(b) The verified entity, insurance company or surplus lines broker fails to demonstrate that the deficiency has been corrected in accordance with subsection (5) of this section.

Section 6. Listing of Verified Risk Location Systems. The department shall post a listing of verified risk location systems on its Web site. The listing shall include: (1) The name of the verified risk location system;

(2) The effective date of the order of verification;

(3) The expiration date of the order of verification; and

(4) The date the order of verification was revoked, if applicable.

Section 7. Incorporated by Reference. (1) The following material is incorporated by reference:

(a) "Application for Verification of Risk Location System or Program", 10/2008; and

(b) "Verification Data Manual", 10/2008.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Department of Insurance, 215 West Main Street, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m. Forms may also be obtained on the department's internet Web site at: <http://insurance.ky.gov>

SHARON P. CLARK, Commissioner

ROBERT D. VANCE, Secretary

APPROVED BY AGENCY: December 12, 2008

FILED WITH LRC: December 12, 2008 at 3 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on January 29, 2009 at 9 a.m., (ET) at the Kentucky Department of Insurance, 215 West Main Street, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by January 22, 2009 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 cancelled. 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 until February 2, 2009. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: DJ Wasson, Kentucky Department of Insurance, P. O. Box 517, Frankfort, Kentucky 40602, phone (502) 564-0888, fax (502) 564-1453.

#### REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: DJ Wasson

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the risk location verification criteria, sets forth the process to obtain and renew verification, and sets forth the process for revocation of verification. This administrative regulation also establishes the process for an insurer with limited risks to request an order allowing an alternative form of risk location.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to implement the provisions KRS 91A.0806, which requires the Department to establish, through administrative regulation, the criteria for verification of risk location systems and programs.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 91A.0806(1) requires the Department of Insurance to establish the criteria for verification of risk location systems and programs. This administrative regulation establishes that criteria.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation will set forth the procedures for vendors, insurance companies and surplus lines brokers to apply for verification of a risk location system, renew that verification, and, if necessary, the process for revoking verification of a risk location system. This administrative regulation also establishes the process for an insurance company or surplus lines broker with limited risks to request the Department to approve an alternative method of risk location.

(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 is a new administrative regulation.

(b) The necessity of the amendment to this administrative regulation: This is a new administrative regulation.

(c) How the amendment conforms to the content of the authorizing statutes: This is a new administrative regulation.

(d) How the amendment will assist in the effective administration of the statutes: This is a new administrative regulation.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This regulation will affect the approximately 1,409 insurance companies that hold a certificate of authority in Kentucky and the approximately 1,147 surplus lines brokers that are licensed in Kentucky and are subject to local government taxes. This regulation will also impact an unknown number of vendors who seek verification of their risk location system or program.

(4) Provide an assessment of how the above group or groups 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 that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: Entities seeking verification or renewed verification of a risk location system will be required to submit an application, pay an application fee, and provide specific data to test the accuracy of the system or program. Entities seeking approval of an alternative risk location method will be required to submit documentation that they have a limited number of risks and an explanation of the method they are proposing. They will also be required to certify that information on an annual basis. Verified entities whose verified risk location system has been determined to be deficient will be required to correct the deficiency within specific timeframes and provide specific documentation to the Department to document that the deficiency has been corrected.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): The application fee for verification is \$2,500, which is set forth in KRS 91A.0806(2).

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): As a result of compliance, vendors, insurance companies and surplus lines brokers can obtain verification of risk location systems or programs. Insurers and surplus lines brokers that utilize a verified risk location system in conjunction with other steps to identify and remit taxes to the proper taxing jurisdiction are exempt from specific penalties by the Department of Insurance.

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

(a) Initially: The cost will be \$60,000, including the annual salary for a new information technology employee.

(b) On a continuing basis: The cost will be \$61,000, including continuing salary costs.

(6) What is the source of funding to be used for the implementation and enforcement of this administrative regulation: The budget of the Kentucky Department of Insurance will be used for implementation and enforcement of this administrative regulation. Additionally, KRS 91A.0806 sets forth a \$2,500 application fee to fund the verification process, and KRS 91A.0812 includes an assessment on insurance companies and surplus lines brokers to

fund the administrative costs of implementation of HB 524.

(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: The Department did anticipate an increase in funding would be necessary during the legislative process. An application fee and an assessment on insurance companies and surplus lines brokers were both included in the legislation to address the fiscal impact.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This administrative regulation does not set forth any specific fees. Rather, the fee for this verification is set forth in KRS 91A.0806 and is \$2,500 per vendor, insurance company or surplus lines broker that applies for verification of a risk location system or program.

(9) TIERING: Is tiering applied? Tiering is not applied because this regulation applies equally to all vendors, insurance companies and surplus lines brokers applying for an order of verification of a risk location system or an order approving an alternative risk location method.

#### FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. Does this administrative regulation relate to any program, service, or requirements of a state or local government (including cities, counties, fire departments, or school districts)? Yes

2. 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? The Kentucky Department of Insurance as the implementer of the regulation.

3. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 91A.0806

4. 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 districts) for the first full year the administrative regulation is to be in effect.

(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? The application fees are expected to generate approximately \$15,000.

(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 regulation should remain essentially revenue neutral.

(c) How much will it cost to administer this program for the first year? This regulation should initially cost \$60,000, including the annual salary for a new information technology employee.

(d) How much will it cost to administer this program for subsequent years? This regulation should cost \$61,000, including continuing salary costs.

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

Revenues (+/-):

Expenditures (+/-):

Other Explanation: