

### **304.3-270 Retaliatory provision.**

- (1) The purpose of this section is to aid in the protection of insurers formed under the laws of Kentucky and transacting insurance in other states or countries against discriminatory or onerous requirements under the laws of such states or countries or the administration thereof.
- (2) When by or pursuant to the laws of any other state or foreign country or province any taxes, licenses and other fees, in the aggregate, and any fines, penalties, deposit requirements or other material obligations, prohibitions or restrictions are or would be imposed upon Kentucky insurers, or upon the agents or representatives of such insurers, which are in excess of such taxes, licenses and other fees, in the aggregate, or which are in excess of the fines, penalties, deposit requirements or other obligations, prohibitions, or restrictions directly imposed upon similar insurers, or upon the agents or representatives of such insurers, of such other state or country under the statutes of this state, so long as such laws of such other state or country continue in force or are so applied, the same taxes, licenses and other fees, in the aggregate, or fines, penalties, or deposit requirements or other material obligations, prohibitions, or restrictions of whatever kind shall be imposed by the commissioner upon the insurers, or upon the agents or representatives of such insurers, of such other state or country doing business or seeking to do business in Kentucky. Any tax, license or other fee or other obligation imposed by any city, county, or other political subdivision or agency of such other state or country on Kentucky insurers or their agents or representatives shall be deemed to be imposed by such state or country within the meaning of this section.
- (3) This section shall not apply as to personal income taxes, nor as to ad valorem taxes on real or personal property, nor as to special purpose obligations or assessments imposed by another state in connection with particular kinds of insurance other than property insurance; except that deductions, from premium taxes or other taxes otherwise payable, allowed on account of real estate or personal property taxes paid shall be taken into consideration by the commissioner in determining the propriety and extent of retaliatory action under this section.
- (4) For the purposes of this section the domicile of an alien insurer, other than insurers formed under the laws of Canada, or a province thereof, shall be that state designated by the insurer in writing filed with the commissioner at time of admission to this state or within six (6) months after the effective date of this code, whichever date is the later, and may be any one (1) of the following states:
  - (a) That in which the insurer was first authorized to transact insurance;
  - (b) That in which is located the insurer's principal office; or
  - (c) That in which is held the largest deposit of trusteed assets of the insurer for the protection of its policyholders in the United States.

If the insurer makes no such designation its domicile shall be deemed to be that state in which is located its principal office.

- (5) For the purpose of this section assessments by insurance guaranty associations or similar organizations in any other state shall not be considered or used in

determining retaliatory taxation to be imposed by the commissioner upon insurers doing business in this state that are incorporated or organized under the laws of such other state, or upon their agents.

**Effective:** July 15, 2010

**History:** Amended 2010 Ky. Acts ch. 24, sec. 976, effective July 15, 2010. -- Amended 1972 Ky. Acts ch. 137, sec. 18, effective June 16, 1972. -- Created 1970 Ky. Acts ch. 301, subtit. 3, sec. 27, effective June 18, 1970.