

### **292.415 Claim of exemption -- Effect of failure to file.**

- (1) Before any security may be issued as an exempt security under KRS 292.400(9) or (12), a claim of exemption must first be filed with the commissioner and the commissioner by order shall not have determined that the exemption is unavailable within the next ten (10) full business days. A claim of exemption filed under this section shall be in such form and contain such information as the commissioner by rule or order requires and each offering shall be effective for a maximum of twelve (12) consecutive months unless the commissioner by rule or order extends such period of time, not to exceed five (5) years.
- (2) The issuer may make offers, but not sales, before and during the ten (10) business day period required by subsection (1) of this section, if:
  - (a) Each prospective purchaser is advised in writing that the offer is preliminary and subject to material change; and
  - (b) No enforceable offer to purchase the securities may be made by a prospective purchaser, and no consideration in any form may be accepted or received, directly or indirectly, from a prospective purchaser, before the termination of the ten (10) business day period and any order disallowing the exemption has been vacated.

The commissioner may, by rule or order, prohibit offers by a particular class of issuers before the expiration of the ten (10) business day period required by subsection (1) of this section, or may require issuers to comply with additional conditions and requirements prior to making offers before the expiration of the period, if appropriate in furtherance of the intent of this chapter.

- (3) The commissioner may issue a stop order denying effectiveness to, or suspending or revoking the effectiveness of an exemption, if the commissioner finds that the order is in the public interest and that any security has been or is about to be offered or sold in violation of this section. If the commissioner finds it appropriate in the public interest or necessary for the protection of investors, the commissioner may order any issuer in violation of this section to make an offer of rescission.
- (4) Failure by any person to file a claim of exemption under this section shall not give rise to a private right of action under KRS 292.330(1), 292.340, or 292.480 which would not otherwise be available under the provisions of this chapter.
- (5) Any person who fails to file a claim of exemption under this section, unless he or she does so intentionally, shall not be subject to KRS 292.991.

**Effective:** July 15, 2010

**History:** Amended 2010 Ky. Acts ch. 24, sec. 870, effective July 15, 2010. -- Amended 1998 Ky. Acts ch. 20, sec. 14, effective July 15, 1998. -- Amended 1994 Ky. Acts ch. 165, sec. 13, effective July 15, 1994. -- Amended 1982 Ky. Acts ch. 346, sec. 8, effective July 15, 1982. -- Created 1980 Ky. Acts ch. 368, sec. 6, effective July 15, 1980.