

304.49-226 Change that materially impacts financial condition or management -- Notification to and approval of commissioner to take material action -- Loans to parent company or affiliates.

- (1) If there is any change in the current operations or condition of a captive insurer that materially impacts the financial condition or management of the captive insurer, the captive insurer or captive manager shall notify the commissioner, in writing, within ten (10) business days of the change or event.
- (2) No captive insurer shall voluntarily take any of the following material actions without providing the commissioner at least thirty (30) days' prior written notice and receiving the commissioner's approval of the action within the thirty (30) day period:
 - (a) The dissolution of the captive insurer;
 - (b) Any sale, exchange, lease, mortgage, assignment, pledge, or other transfer of, or granting of a security interest in, all or substantially all of the assets of the captive insurer;
 - (c) Any incurrence of material indebtedness by the captive insurer;
 - (d) Any making of a material loan or other material extension of credit by the captive insurer;
 - (e) Any payment or distribution that materially reduces capital and surplus;
 - (f) Any merger or consolidation to which the captive insurer is a constituent party;
 - (g) Any conversion of the captive insurer to another business form;
 - (h) Any transfer to or domestication in any jurisdiction by the captive insurer; or
 - (i) Any material amendment of the organizational documents of the captive insurer, including changes in the officers, directors, owners, captive manager, actuary, or auditor.
- (3) A captive insurer may make loans to its parent company or affiliates; however, no loans to a parent company or any affiliate shall be permitted without prior written approval of the commissioner and shall be evidenced by a note in a form approved by the commissioner. The loans shall be evaluated with regard to creditworthiness and collateral.

Effective: July 15, 2010

History: Amended 2010 Ky. Acts ch. 24, sec. 1621, effective July 15, 2010; and ch. 91, sec. 13, effective July 15, 2010. -- Created 2006 Ky. Acts ch. 252, Pt. XXXIV, sec. 3, effective April 25, 2006.

Legislative Research Commission Note (7/15/2010). References to the "executive director" of insurance in subsection (3) of this section, as amended by 2010 Ky. Acts ch. 91, sec. 13, have been changed in codification to the "commissioner" of insurance to reflect the reorganization of certain parts of the Executive Branch, as set forth in Executive Order 2009-535 and confirmed by the General Assembly in 2010 Ky. Acts ch. 24. These changes were made by the Reviser of Statutes pursuant to 2010 Ky. Acts ch. 24, sec. 1938.

Legislative Research Commission Note (7/15/2010). This section was amended by 2010 Ky. Acts chs. 24 and 91, which do not appear to be in conflict and have been codified together.