

**304.47-020 Fraudulent insurance acts -- Penalties -- Compensatory damages --
Application of section.**

- (1) For the purposes of this subtitle, a person or entity commits a "fraudulent insurance act" if he or she engages in any of the following, including but not limited to matters relating to workers' compensation:
 - (a) Knowingly and with intent to defraud or deceive presents, causes to be presented, or prepares with knowledge or belief that it will be presented to an insurer, Kentucky Claims Commission, Special Fund, or any agent thereof:
 1. Any written or oral statement as part of, or in support of, a claim for payment or other benefit pursuant to an insurance policy or from a "self-insurer" as defined by KRS Chapter 342, knowing that the statement contains any false, incomplete, or misleading information concerning any fact or thing material to a claim; or
 2. Any statement as part of, or in support of, an application for an insurance policy, for renewal, reinstatement, or replacement of insurance, or in support of an application to a lender for money to pay a premium, knowing that the statement contains any false, incomplete, or misleading information concerning any fact or thing material to the application;
 - (b) Knowingly and willfully transacts any contract, agreement, or instrument which violates this title;
 - (c) Knowingly and with intent to defraud or deceive:
 1. Receives money for the purpose of purchasing insurance, and fails to obtain insurance;
 2. Fails to make payment or disposition of money or voucher as defined in KRS 304.17A-750, as required by agreement or legal obligation, that comes into his or her possession while acting as a licensee under this chapter;
 3. Presents, causes to be presented, or prepares with knowledge or belief that it will be presented to or by an insurer, or to the commissioner, any statement, knowing that the statement contains any false, incomplete, or misleading information concerning any material fact or thing, as part of, or in support of one (1) or more of the following:
 - a. The rating of an insurance policy;
 - b. The financial condition of an insurer;
 - c. The formation, acquisition, merger, reconsolidation, dissolution, or withdrawal from one (1) or more lines of insurance in all or part of this Commonwealth by an insurer; or
 - d. A document filed with the commissioner; or
 4. Engages in any of the following:
 - a. Solicitation or acceptance of new or renewal insurance risks on behalf of an insolvent insurer; or

- b. Removal, concealment, alteration, tampering, or destruction of money, records, or any other property or assets of an insurer;
 - (d) Issues or knowingly presents fake or counterfeit insurance policies, certificates of insurance, insurance identification cards, insurance binders, or any other documents that purport to evidence insurance;
 - (e) Makes any false or fraudulent representation as to the death or disability of a policy or certificate holder in any written statement or certificate for the purpose of fraudulently obtaining money or benefit from an insurer;
 - (f) Engages in unauthorized insurance, as set forth in KRS 304.11-030; or
 - (g) Assists, abets, solicits, or conspires with another to commit a fraudulent insurance act in violation of this subtitle.
- (2) A person convicted of a violation of subsection (1) of this section shall be guilty of a Class A misdemeanor, unless the aggregate of the claim, benefit, or money referred to in subsection (1) of this section is:
- (a) Five hundred dollars (\$500) or more but less than ten thousand dollars (\$10,000), in which case it is a Class D felony;
 - (b) Ten thousand dollars (\$10,000) or more but less than one million dollars (\$1,000,000), in which case it is a Class C felony; or
 - (c) One million dollars (\$1,000,000) or more, in which case it is a Class B felony.
- (3) A person, with the purpose to establish or maintain a criminal syndicate or to facilitate any of its activities, shall be guilty of engaging in organized crime, a Class B felony, if he or she engages in any of the activities set forth in KRS 506.120(1).
- (4) A person convicted of a crime established in this section shall be punished by:
- (a) Imprisonment for a term:
 - 1. Not to exceed the period set forth in KRS 532.090 if the crime is a Class A misdemeanor; or
 - 2. Within the periods set forth in KRS 532.060 if the crime is a Class D, C, or B felony;
 - (b) A fine, per occurrence, of:
 - 1. For a misdemeanor, not more than one thousand dollars (\$1,000) per individual nor five thousand dollars (\$5,000) per corporation or twice the amount of gain received as a result of the violation, whichever is greater; or
 - 2. For a felony, not more than ten thousand dollars (\$10,000) per individual nor one hundred thousand dollars (\$100,000) per corporation, or twice the amount of gain received as a result of the violation; whichever is greater; or
 - (c) Both imprisonment and a fine, as set forth in paragraphs (a) and (b) of this subsection.
- (5) In addition to imprisonment, the assessment of a fine, or both, a person convicted of a crime established in this section may be ordered to make restitution to any victim

who suffered a monetary loss due to any actions by that person which resulted in the adjudication of guilt, and to the division for the cost of any investigation. The amount of restitution shall equal the monetary value of the actual loss or twice the amount of gain received as a result of the violation, whichever is greater.

- (6) Any person damaged as a result of a violation of any provision of this section shall have a cause of action to recover compensatory damages, plus all reasonable investigation and litigation expenses, including attorneys' fees, at the trial and appellate courts.
- (7) The provisions of this section shall also apply to any agent, unauthorized insurer or its agents or representatives, or surplus lines carrier who, with intent, injures, defrauds, or deceives any claimant with regard to any claim. The claimant shall have the right to recover the damages provided in subsection (6) of this section.

Effective: June 27, 2019

History: Amended 2019 Ky. Acts ch. 143, sec. 1, effective June 27, 2019. -- Amended 2018 Ky. Acts ch. 178, sec. 1, effective July 14, 2018. -- Amended 2017 Ky. Acts ch. 74, sec. 99, effective June 29, 2017. -- Amended 2010 Ky. Acts ch. 24, sec. 1582, effective July 15, 2010; and ch. 166, sec. 14, effective July 15, 2010. -- Amended 2002 Ky. Acts ch. 207, sec. 11, effective July 15, 2002. -- Amended 2000 Ky. Acts ch. 253, sec. 4, effective July 14, 2000. -- Amended 1998 Ky. Acts ch. 213, sec. 7, effective July 15, 1998. -- Amended 1996 (1st Extra. Sess.) Ky. Acts ch. 1, sec. 87, effective December 12, 1996. -- Created 1994 Ky. Acts ch. 496, sec. 18, effective July 15, 1994.