InsurTech’s Old Kentucky Home:
How HB 386 Brings Insurance Innovation to Kentucky

Kentucky Department of Insurance
Patrick O’Connor II, Deputy Commissioner of Policy
A Commonwealth State of Mind

- Kentucky
  - Population of 4.4 million people
  - Geographically diverse
  - 4 Major Metropolitan Areas/Centers

- Historically Known For:
  - Coal
  - Thoroughbred Horse Racing
  - Bourbon

- Transformation and Growth Since 2016:
  - Nearly 40,000 new manufacturing, service, and technology jobs have located in Kentucky.
  - Over $15 Billion in new business investments.

- Kentucky Rankings
  - #1 in U.S. in vehicle production per capita
  - #2 in U.S. in employment in motor vehicle manufacturing
  - #2 in U.S. in aerospace related exports
  - #4 in U.S. in vehicle production overall
  - #8 in U.S. among top business climates

- Public and private universities educating top tier workforce hungry for opportunity.

- Expanding and evolving economy ripe for new sector innovation and investment.
Goals

• Flexibility
  • Provide Department with some flexibility to review meritorious innovation and permit its limited use in the marketplace.

• Consumer Protection
  • Ensure vital consumer protections remain in place and oversight available to terminate harmful beta tests.

• Dialogue
  • Encourage innovation and increase the dialogue between various parties in this environment.

• Collaboration
  • Support insurance innovation and economic growth within Kentucky by fostering a collaborative relationship between the parties.
Summary of HB 386

• Framework:
  • Providing the Commissioner with the statutory authority to waive specific regulatory and/or statutory barriers to permit the use, sale, or licensure of an approved insurance innovation.
  • Detailed application for review by the Director of Insurance Innovation.

• Discretion:
  • Commissioner has broad discretion and oversight at all stages including the application process, issuance of letters, beta test oversight, and reporting.

• Consumer protection is main priority:
  • Licensing and financial security requirements;
  • Specific consideration in the application and approval process;
  • Terms and conditions letter;
  • Some statutes specifically can’t be waived; and
  • Early termination and civil penalty.

• Legislative Oversight:
  • Reporting requirements for DOI.
  • Recommendations for statutory and/or regulatory change.
The Innovation Application

• Section 2 establishes the application process.
  • Requirements include:
    • Detailed explanation of innovation and how it adds value and doesn’t pose an unreasonable risk of consumer harm;
    • Applicable licenses held;
    • Specific citation to regulatory/statutory barriers; and
    • Disclosure of financial security.

• Application Submission
  • Hard copy directly to the Department;
  • Hand delivery to the Department; and
  • Electronically through eServices at insurance.ky.gov (in progress).
DOI Review of Applications

• Section 3 – The Review Process
  • Authority to request more information.
  • 60 day initial timeframe, plus a 30 day extension with a deemed approved stipulation.
  • Commissioner may issue a notice of acceptance or rejection.
    • Does the application satisfy all of the requirements?
      • Incorporates many of the requirements in Section 2 including the consumer protection provisions.
    • Does the application/innovation pose an unreasonable risk of consumer harm?
    • Are there actual statutory/regulatory barriers?
    • Is there anything substantially similar in the marketplace?
Other Noteworthy Provisions

• Commissioner’s Terms and Conditions
  • Included in Notice of Acceptance and incorporated in LNAL.
  • Consumer protection guardrails over the beta test.

• Limited No-Action Letter (“LNAL”)
  • Initial safe harbor to act according to the terms and conditions.
  • Can be terminated if complaints arise, not used, or terms violated.
  • One to two year period.
  • Published on Department website.

• Extended No-Action Letter (“ENAL”)
  • If beta test successful, Commissioner may enact an ENAL if certain criteria are satisfied.
  • All companies can use the ENAL.
  • Three year maximum period.
  • Published on Department website.
Publication

- Department of Insurance Website: insurance.ky.gov
- Look for “Insurance Innovation”
Publication

• Department of Insurance Website: insurance.ky.gov
Bring Innovation to the Bluegrass!

• The Kentucky Department of Insurance is here to assist!
• Applications can be submitted by mail or in person to:
  Kentucky Department of Insurance
  Attn: Director of Innovation
  P.O. Box 517
  215 W. Main Street
  Frankfort, KY 40602
• KDOI began accepting applications on June 27, 2019.
Questions?

• Please direct any questions to:

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