

New York
INSURANCE LAW — CHAPTER 28 OF THE
CONSOLIDATED LAWS
Article 21 — AGENTS, BROKERS, ADJUSTERS,
CONSULTANTS AND INTERMEDIARIES

Ins. Law s 2103 Insurance agents; licensing

Former Citations

Ins. Law s 113; Ins. Law s 115; Ins. Law s 114

(a) The superintendent may issue a license to any person, firm or corporation who or which has complied with the requirements of this chapter, authorizing such licensee to act as an insurance agent with respect to the lines of authority for life insurance, variable life and variable annuity products, or accident and health insurance and sickness or any other line of authority deemed to be similar by the superintendent, including for this purpose, health maintenance organization contracts, legal services insurance or with respect to any combination of the above, as specified in such license, on behalf of any insurer, fraternal benefit society or health maintenance organization, which is authorized to do such kind or kinds of insurance or health maintenance organization business in this state.

(b) The superintendent may issue a license to any person, firm, association or corporation who or which has complied with the requirements of this chapter, authorizing the licensee to act as agent of any authorized insurer, other than an insurer specified in subsection (b) of section two thousand one hundred fifteen of this article, with respect to the lines of authority for accident and health or sickness, property, casualty, personal lines or any other line of authority granted other than life, and variable life and variable annuity products, which such insurer is authorized to do in this state.

(c) Any such license issued to a firm or association shall authorize only the members thereof, named in such license as sub-licensees, to act individually as agents thereunder, and any such license issued to a corporation shall authorize only the officers and directors thereof, named in such license as sub-licensees, to act individually as agents thereunder. Every sub-licensee, acting as insurance agent pursuant to such a license shall be authorized so to act only in the name of the licensee.

(d) Every individual applicant for a license under this section and every proposed sub-licensee shall be eighteen years of age or over at the time of the issuance of such license.

(e) Before any original insurance agent's license is issued there shall be on file in the office of the superintendent an application by the prospective licensee in such form or forms and supplements, and containing information the superintendent prescribes and for each business entity, the sub-licensee or sub-licensees named in

the application shall be designated responsible for the business entity's compliance with the insurance laws, rules and regulations of this state.

(f)(1) The superintendent shall, in order to determine the competency of every individual applicant and of every proposed sub-licensee to have the kind of license applied for, require such individual to submit to a personal written examination and to pass the same to the satisfaction of the superintendent. Such examination shall be held at such times and places as the superintendent shall from time to time determine. Every individual applying to take any written examination shall, at the time of applying therefor, pay to the superintendent, or, at the discretion of the superintendent, directly to any organization that is under contract to provide examination services, an examination fee of an amount which is the actual documented administrative cost of conducting said qualifying examination as certified by the superintendent from time to time. An examination fee represents an administrative expense and is not refundable. The superintendent may accept, in lieu of any such examination, the result of any previous written examination, given by the superintendent, which in his judgment is equivalent to the examination for which it is substituted.

(2) The superintendent may from time to time make reasonable classifications of the kinds of insurance and may prescribe the following types of examinations:

(A) For individuals seeking to qualify to obtain a license under subsection (a) of this section, one examination adapted to test the qualifications for a life insurance agent's license, another adapted to test the qualifications for an accident and health insurance agent's license and another adapted to test the qualifications for a legal services insurance license. Each such individual shall be required to pass the type or types of examination prescribed by the superintendent for the line or lines of authority, as specified in subsection (a) of this section, for which the license is sought. No individual shall be deemed qualified to take the examination or examinations unless he shall have successfully completed a course or courses, approved as to method and content by the superintendent, covering the principal branches and contracts of life insurance, annuity contracts, disability insurance, accident and health insurance and related insurance and requiring not less than forty hours of classroom work or the equivalent in correspondence work or similar instruction, provided, however, that, at the discretion of the superintendent, insurance subject material may be eliminated from course content, with a corresponding reduction in course hours, if an insurer is not authorized to transact such kind or kinds of insurance in this state. Such course or courses either shall have been given by a degree conferring college or university which has, when such course is taken by such individual, a curriculum or curricula registered with the state education department, whether such course be given as part of any such curricula or separately, or by any other institution or life or accident and health insurer which maintains equivalent standards of instruction, and which shall have been approved for such purpose by the superintendent.

(B) For individuals seeking to qualify to obtain a license under subsection (b) of this section, not more than six types of examinations, each adapted to test the qualifications of an individual with respect to the kinds of insurance business specified in such classification. Every such individual shall be required to pass the type or types of examination prescribed by the superintendent for the line or lines of authority for which the license is sought. No individual shall

be deemed qualified to take the examination unless he shall have successfully completed a course or courses, approved as to method and content by the superintendent, covering the principal branches of the insurance business and requiring not less than ninety hours of classroom work, in institutions of learning meeting the standards prescribed by paragraph one of subsection (a) of section two thousand one hundred four of this article; provided, however, with respect to a license issued pursuant to subsection (b) of this section for a personal line of authority, there shall be required not less than forty hours of such classroom work.

(3) The superintendent shall require that all written examinations request the applicant to set forth: (i) his or her full name, age, residence address, business address and mailing address; (ii) the applicant's gender; (iii) the applicant's native language; (iv) the applicant's highest level of education achieved; and (v) the applicant's race or ethnicity. This section of the examination shall include a clear and unambiguous statement that the applicant is not required to disclose his or her race or ethnicity, gender, native language or level of education, that he or she will not be penalized for failing to do so, and that the department will use this information solely for statistical purposes that will then be studied in order to ensure continued quality and fairness of the examination.

(g) No such written examination shall be required:

(1) as a prerequisite to the issuance of a baggage or accident and health insurance agent's license to any ticket selling agent or representative of a railroad company, steamship company, carrier by air, or public bus carrier, who shall act thereunder as insurance agent only in reference to the issuance of baggage or accident insurance tickets primarily for the purpose of covering risk of travel;

(2) in the discretion of the superintendent, of any individual whose license has been revoked or suspended;

(3) of any individual seeking to be named as a licensee or sub-licensee, under subsection (a) hereof, to represent a fraternal benefit society as its agent;

(4) in connection with any certificate of appointment for an additional insurer, provided the certificate of appointment does not include any additional kind of insurance;

(5) in the discretion of the superintendent, of any individual seeking to be named as a licensee or sub-licensee who is a non-resident insurance agent;

(6) of any person who received a license effective the first day of July, nineteen hundred eighty-seven to represent any assessment corporation which was limited on that date to the kinds of insurance specified in subsection (a) of section six thousand six hundred five of this chapter, and whose license is limited to those kinds of insurance, in connection with any certificate of appointment to represent another such assessment corporation, provided the certificate of appointment does not include any additional kind of insurance.

(7) of any applicant who has passed the written examination given by the superintendent for an insurance agent's license and was licensed as such or of an applicant who was licensed as an insurance agent but did not pass such an examination, provided the applicant applies within two years following the date of termination of his license;

(8) of any person who was appointed prior to the first day of July, nineteen hundred fifty-seven, to represent any domestic assessment co-operative property/casualty insurance company which shall be licensed to do the business permitted under subsection (b) of section six thousand six hundred five of this chapter, provided such person within three months after that date files with the superintendent an application for a license in such form as the superintendent shall prescribe;

(9) in the discretion of the superintendent, as to all or any part of the written examination or the prerequisite minimum forty hour course specified in subparagraph (A) of paragraph two of subsection (f) of this section, of any individual seeking to be named a licensee or sub-licensee, upon whom has been conferred the Chartered Life Underwriter (C.L.U.) or Chartered Life Underwriter Associate designation by The American College;

(10) in the discretion of the superintendent, as to all or any part of the written examination or the prerequisite minimum ninety hour course specified in subparagraph (B) of paragraph two of subsection (f) of this section, of any individual seeking to be named a licensee or sub-licensee, upon whom has been conferred the Chartered Property Casualty Underwriter (C.P.C.U.) designation by the American Institute for Property and Liability Underwriters; or

(11) of any individual who applies for an insurance agent license in this state who was previously licensed for the same line or lines of authority in another state, provided, however, that the applicant's home state grants non-resident licenses to residents of this state on the same basis. Such individual shall also not be required to complete any prelicensing education. This exemption is only available if the person is currently licensed in that state or if the application is received within ninety days of the date of cancellation of the applicant's previous license and if the prior state issues a certification that, at the time of cancellation, the applicant was in good standing in that state or the state's producer database records, maintained by the National Association of Insurance Commissioners, its affiliates or subsidiaries, indicate that the producer is or was licensed in good standing for the line of authority requested. An individual or entity licensed in another state who moves to this state shall make an application within ninety days of establishing legal residence to become a resident licensee. No prelicensing education or examination shall be required of that person to obtain any line of authority previously held in the prior state except where the superintendent determines otherwise by regulation.

(h) The superintendent may refuse to issue any insurance agent's license if, in his judgment, the proposed licensee or any sub-licensee is not trustworthy and competent to act as such agent, or has given cause for the revocation or suspension of such a license, or has failed to comply with any prerequisite for the issuance of such license.

(j)(1) The superintendent may require from every applicant and from every proposed sub-licensee, before or after issuing any such license, a statement subscribed and affirmed as true by the applicant under the penalties of perjury as to the ownership of any interest in an applicant firm, association or corporation and as to facts indicating whether any applicant has been by reason of an existing license, if any, or will be by reason of the license applied for, receiving any benefit or advantage in violation of section two thousand three hundred twenty-four of this chapter, and also as to such facts as he may deem pertinent to the requirements of this subsection. The superintendent may refuse to issue, suspend or revoke a license, as the case may be, to or of any applicant if he finds that such applicant has been or will be, as aforesaid, receiving any benefit or advantage in violation of section two thousand three hundred twenty-four of this chapter, or if he finds that more than ten percent of the aggregate net commissions, received during the twelve month period immediately preceding, if any, or to be received during the ensuing twelve months, by the applicant, resulted or will result from insurance on the property and risks:

(A) of the spouse of an individual applicant; and of any corporation of which such individual applicant or his or her spouse or both own more than fifty percent of the shares; and of any affiliated or subsidiary corporations of such corporation; and of the members of any firm or association and their spouses, of which firm or association the individual applicant or his or her spouse is a member;

(B) of the members of an applicant firm or association and their respective spouses, and of the owners of any interest in such firm or association and their respective spouses, and of any corporation of which such firm or association or the members or owners and their respective spouses, either individually or in the aggregate, own more than fifty percent of the shares, and of any affiliated or subsidiary corporations of such corporation, and of any other firm and the members thereof and their respective spouses, of which other firm a member or members of the applicant firm or association and their respective spouses are members or owners; and

(C) of the shareholders of an applicant corporation and their respective spouses, and of any affiliated and subsidiary corporations of such applicant corporation, and of any subsidiary and affiliated corporations of a corporation owning any interest in such applicant corporation, and of any firm or association and the members thereof and their respective spouses which either individually or collectively own more than fifty percent of the shares of the applicant corporation, and of any corporation of which such firm or association and its members and their respective spouses, either individually or in the aggregate, own more than fifty percent of the shares, and of any affiliated or subsidiary corporation of such corporation.

(2) Nothing herein disqualifies any applicant by reason of acts done or facts existing at a time when the same did not, under the law then in force, constitute or contribute to constituting such a disqualification.

(3) The word "applicant" in this subsection, includes a licensee or sub-licensee.

(j)(1) Any license currently in force issued to an insurance agent of any insurer, fraternal benefit society or health maintenance organization pursuant to subsection

(a) of this section shall be deemed terminated as of June thirtieth, nineteen hundred eighty-five. Any license currently in force issued to an insurance agent of any insurer pursuant to subsection (b) of this section without an expiration date shall be deemed terminated as of June thirtieth, nineteen hundred eighty-six.

(2) Every license issued to a business entity pursuant to subsection (a) of this section shall expire on June thirtieth of odd numbered years. Every license issued to a business entity pursuant to subsection (b) of this section shall expire on June thirtieth of even numbered years. On and after January first, two thousand seven, every license issued pursuant to this section to an individual, and every license in effect prior to January first, two thousand seven that was issued pursuant to this section to an individual, who was born in an odd numbered year, shall expire on the individual's birthday in each odd numbered year. On and after January first, two thousand seven, every license issued pursuant to this section to an individual, and every license in effect prior to January first, two thousand seven that was issued pursuant to this section to an individual, who was born in an even numbered year, shall expire on the individual's birthday in each even numbered year. Every such license may be renewed for the ensuing period of twenty-four months upon the filing of an application in conformity with this subsection.

(3) In the case of a license issued to a new applicant, the superintendent may issue a license for a term of more than two years, provided however, such term shall not exceed thirty months.

(4) Any license shall be considered in good standing within the license term unless:

(A) revoked or suspended by the superintendent pursuant to this article.

(B) all certificates of appointment have been terminated by the insurers, at which time the license becomes inactive.

(C) if at the expiration date of the license term, provided the license was in good standing during the term, the licensee fails to file a renewal application.

(5) Before the renewal of any insurance agent's license shall be issued, the following requirements shall have been met:

(A) The licensee shall have filed a completed renewal application in such form or forms and supplements thereto and containing such information as the superintendent may prescribe.

(B) The licensee shall have paid such fees as are prescribed in this section.

(6) If the agent's license is deemed to be in an inactive status at the time of renewal, a renewal application may be completed and filed with the superintendent for the ensuing term of a license; however, if a certificate of appointment is not filed on the agent's behalf within the term of the renewal, the license will expire and will not be renewed at the end of the license term. During the term of the license for which no certificate of appointment was on file, it shall be deemed to be inactive.

(7) If an application for a renewal license shall have been filed with the superintendent before the expiration of such license, the license sought to be renewed shall continue in full force and effect either until the issuance by the superintendent of the renewal license applied for or until five days after the superintendent shall have refused to issue such renewal license and shall have given notice of such refusal to the applicant and to each proposed sub-licensee. Before refusing to renew any such license, except on the ground of failure to pass a written examination, the superintendent shall notify the applicant of his intention to do so and shall give such applicant a hearing.

(8)(A) The superintendent may in issuing a renewal license dispense with the requirements of a verified application by any individual licensee or sub-licensee who, by reason of being engaged in any military service for the United States, is unable to make personal application for such renewal license, upon the filing of an application on behalf of such individual, in such form as the superintendent shall prescribe, by some person or persons who in his judgment have knowledge of the facts and who make affidavit showing such military service and the inability of such insurance agent to make personal application.

(B) An individual licensee or sub-licensee who is unable to comply with license renewal procedures due to other extenuating circumstances, such as a long-term medical disability, may request a waiver of such procedures, in such form as the superintendent shall prescribe. The licensee or sub-licensee may also request a waiver of any examination requirement or any other fine or sanction imposed for failure to comply with renewal procedures.

(9) In addition to any examination fee required by subsection (f) of this section, there shall be paid to the superintendent for each individual license applicant and each proposed sub-licensee the sum of forty dollars for each year or fraction of a year in which a license shall be valid. If, however, the license applicant or a proposed sub-licensee should withdraw the application or the superintendent should deny the application before the license applied for is issued, the superintendent may refund the fee paid by the applicant for the license applied for with the exception of any examination fees required pursuant to subsection (f) of this section.

(10) An application for the renewal of a license shall be filed with the superintendent not less than sixty days prior to the date the license expires or the applicant shall be subject to a further fee for late filing of ten dollars.

(11) No license fee shall be required of any person who served as a member of the armed forces of the United States at any time and who shall have been discharged therefrom, under conditions other than dishonorable, in a current licensing period, for the duration of such period.

(12) Except where a corporation, association or firm licensed as an insurance agent is applying to add a sub-licensee, or the date of the expiration of the license is changed, there shall be no fee required for the issuance of an amended license.

(13) The license shall contain the licensee's name, address, personal identification number, the date of issuance, the licensee's lines of authority, the expiration date and any other information the superintendent deems necessary.

(k) If the superintendent deems it necessary he may require any licensed agent to submit a new application at any time.

(l) Any licensee may at any time while such license is in force apply to the superintendent for an additional license authorizing such licensee, and the sub-licensees named in such existing license, to act as insurance agents for additional insurers. The superintendent may, after the requirements of this chapter have been complied with, issue such additional license.

(m) An agent appointed for an insurer authorized to transact business in this state may transact business for any subsidiaries or affiliates of said insurer that are licensed in this state for the same line or lines of insurance without such insurers submitting additional appointments, provided a certified copy of a resolution adopted by the board of directors of each of the insurers requesting such authority is filed with the superintendent by each of the insurers and renewed and refiled whenever deemed necessary by the superintendent. The resolution shall also designate the primary insurer for which all of the company's agents must be appointed pursuant to subsection (a) or (b) of this section, and said appointment must be in full force and effect in order to transact business for any of the affiliated or subsidiary insurers.

(n) Any insurance agent licensed pursuant to subsection (b) of this section is hereby authorized while so licensed, to act in the sale, solicitation or negotiation for an insurance contract providing solely for disability benefits written to meet minimum requirements of article nine of the workers' compensation law.

(o) The superintendent may issue a replacement for a currently in force license which has been lost or destroyed. Before such replacement license shall be issued, there shall be on file in the office of the superintendent a written application for such replacement license, affirming under penalty of perjury that the original license has been lost or destroyed, together with a fee of fifteen dollars.

History L. 1984, c. 367, s 1; L. 1984, c. 769, ss 14 — 19; L. 1984, c. 955, s 1; L. 1985, c. 534, s 13; L. 1986, c. 137, ss 2, 3; L. 1988, c. 114, ss 5, 6; L. 1993, c. 285, s 1; L. 1996, c. 540, s 3; L. 1998, c. 65, ss 4, 5, 18; L. 2003, c. 28 (SB 2870), s 2; L. 2003, c. 687 (SB 5729), ss 11 — 19; L. 2005, c. 59 (SB 3669), pt. F, s 2, eff. 4-12-2005; 2008, SB 4074, s 1, eff. 9-18-2008; 2012, SB 2704, s 1, eff. 11-15-2012.