

3901-5-09

**Agent licensing and appointments.****(A) Purpose**

The purpose of this rule is to set forth procedures and requirements for the licensing and appointment of insurance agents in this state; and to identify lines of authority eligible for limited lines licenses.

**(B) Authority**

This rule is promulgated pursuant to the authority vested in the superintendent under sections 3901.041, 3905.04, 3905.12 and 3905.20 of the Revised Code.

**(C) Definitions**

For purposes of this rule:

- (1) "Insurer" and "insurance company" shall have the same meaning in this rule as "insurer" does in section 3901.32 of the Revised Code.
- (2) "Clearance letter" is the certification to another state of an agent's license status when moving out of Ohio.

**(D) Resident individual agent licensing**

- (1) An applicant must comply with the requirements contained in sections 3905.05 and 3905.06 of the Revised Code for the appropriate line of authority.
- (2) An individual applying for a resident insurance agent license shall do all of the following:
  - (a) The applicant shall complete any pertinent pre-licensing education for the lines of authority listed below unless the applicant is exempt pursuant to paragraph (D) of rule 3901-5-07 of the Administrative Code:
    - (i) Life: twenty hours;
    - (ii) Accident and health: twenty hours;
    - (iii) Property: twenty hours;
    - (iv) Casualty: twenty hours;

- (v) Personal lines: twenty hours;
  - (vi) Surety bail bonds: twenty hours;
  - (b) Pass any required licensing examination as set forth in division (B) of section 3905.04 of the Revised Code;
  - (c) Request a criminal records check as set forth in section 3905.051 of the Revised Code;
  - (d) Submit a completed producer application form;
  - (e) Pay any required fees.
- (3) A completed application may not be submitted until the applicant has passed any required licensing examination, but must be submitted within one hundred eighty calendar days of the applicant's passing that examination.
- (4) An applicant is not eligible for a license until the superintendent or the superintendent's designee, as determined by the superintendent, receives a completed application including the completed application form, the criminal records check, any other information required by the superintendent and any required fees. An incomplete application cannot be processed by the superintendent and may be returned to the applicant.
- (5) A license shall be deemed issued on the date the application is approved by the superintendent.
- (6) A license shall be issued in the legal name of the applicant.
- (7) If an agent has active appointments at the time the agent's licenses are inactivated by agent request, canceled, non-renewed, suspended, revoked or surrendered, the superintendent shall notify the appointing companies of the inactivation, cancellation, non-renewal, suspension, revocation or surrender.
- (8) An agent must report to the superintendent all demographic changes (i.e. name, resident address, business address, mailing address, email address, etc.) within thirty days of the change.
- (E) Nonresident individual agent licensing

- (1) An individual applying for a nonresident insurance agent license shall do all of the following:
  - (a) Complete the uniform application;
  - (b) Comply with the requirements set forth in section 3905.07 of the Revised Code; and
  - (c) Pay any required fees.
- (2) Upon satisfying the requirements of this rule, a nonresident agent license shall be issued to the applicant granting the applicant the same scope of authority as the applicant has under the license issued by the applicant's home state.
- (3) If the applicant's home state does not issue nonresident insurance agent licenses to residents of this state, then the applicant must complete any licensing requirements that are imposed upon residents of this state.
- (4) A nonresident license shall be deemed issued on the date the application is approved by the superintendent.
- (5) A nonresident agent who applies for a line of authority for which he is not licensed in his home state must fulfill the requirements for an Ohio resident agent license for that type of authority.
- (6) An agent must report to the superintendent all demographic changes (i.e. name, resident address, business address, mailing address, email address, etc.) within thirty days of the change.
- (7) A nonresident must maintain an active resident license in another state in order to maintain the nonresident Ohio license. Failure to maintain an active resident license is grounds for the revocation of an Ohio non-resident license. It is the agent's responsibility to notify the superintendent of a change in the agent's resident license state.

(F) Limited lines licenses

- (1) A person may obtain a limited lines license for one or more of the lines of insurance specified in paragraph (F)(2) of this rule so long as the following conditions are met:

- (a) Submitted a completed producer application form or other form and means prescribed by the superintendent;
- (b) Pay any required fees;
- (c) The applicant is of good reputation and character, is honest and trustworthy, and is otherwise suitable to be licensed; and
- (d) Resident applicants must comply with the requirements set forth in sections 3905.05 and 3905.06 of the Revised Code. Nonresident applicants must comply with the requirements contained in section 3905.07 of the Revised Code.

(2) Limited lines licenses may be issued for the following lines of insurance:

- (a) Credit insurance products as defined in division (G) of section 3905.01 of the Revised Code;
- (b) Rental car insurance in accordance with rule 3901-5-10 of the Administrative Code;
- (c) Crop insurance providing protection against damage to crops from unfavorable weather conditions, fire, or lightning, flood, hail, insect infestation, disease or other yield-reducing conditions or perils provided by the private insurance market, or that is subsidized by the federal crop insurance corporation, including multi-peril crop insurance;
- (d) Funeral expense insurance sold to provide for payment of funeral or burial goods and services in accordance with sections 3905.45 and 3905.451 of the Revised Code so long as the agent is also a licensed funeral director in this state.
- (e) Travel insurance coverage for trip cancellation, trip interruption, baggage, life, sickness and accident, disability, and personal effects when limited to a specific trip and sold in connection with transportation provided by a common carrier;
- (f) Title insurance marketing representative as provided in paragraph (G) of this rule;

- (g) Any limited lines insurance agent license as required by section 3905.072 of the Revised Code.
- (3) No pre-licensing education, licensing examination or continuing education is required for a limited lines license.
- (4) Limited lines licenses are subject to section 3905.14 of the Revised Code and all other requirements for agents, except as provided in this rule.
- (5) A license shall be deemed issued on the date the application is approved by the superintendent.
- (6) A license shall be issued in the legal name of the applicant.
- (7) Upon satisfying the requirements of this rule, a nonresident limited line agent license shall be issued to the applicant granting the applicant the same scope of authority as the applicant has under the license issued by the applicant's home state.
- (8) If the applicant's home state does not issue nonresident limited line insurance agent licenses to residents of this state, then the applicant must complete any licensing requirements that are imposed upon residents of this state.
- (9) A nonresident agent who applies for a line of authority for which the agent is not licensed in the home state must fulfill the requirements for an Ohio resident agent license for that type of authority.
- (10) A nonresident must maintain an active resident limited line license in another state in order to maintain his nonresident Ohio license. Failure to maintain an active resident license is grounds for the revocation of an Ohio nonresident license. It is the agent's responsibility to notify the superintendent of a change to the agent's resident license state.
- (11) The holder of a limited lines license may not sell, solicit, or negotiate insurance on behalf of any insurer unless appointed to represent that insurer.
- (12) If an agent has active appointments at the time the agent's licenses are inactivated by agent request, canceled, non-renewed, suspended, revoked or surrendered, the superintendent shall notify the appointing companies of the inactivation, cancellation, non-renewal, suspension, revocation or surrender.

- (13) An agent must report to the superintendent all demographic changes (i.e. name, resident address, business address, mailing address, email address, etc.) within thirty days of the change.
- (14) The superintendent has discretion to investigate the suitability of an applicant for a limited lines license and may suspend, revoke, refuse to issue, or renew a limited lines license for any of the reasons that the superintendent may refuse to issue a full-lines agent's license.

(G) Title insurance marketing representative

- (1) Persons who market goods and services associated with the issuance of title insurance shall obtain a limited lines license as a title insurance marketing representative. A title insurance marketing representative shall be appointed by a licensed title agent. A title insurance marketing representative may solicit and perform marketing services only on behalf of the appointing agent. A title insurance marketing representative who holds a limited lines license may not do any of the following:
  - (a) Quote filed title insurance rates or premiums;
  - (b) Discuss insurance coverages, benefits or limits except that the marketing representative may, in general terms, explain the basic differences between an owner's policy and a lender's policy;
  - (c) Make recommendations, provide advice about, or negotiate title insurance;
  - (d) Execute or issue a title insurance policy, binder or commitment;
  - (e) Determine insurability;
  - (f) Holds oneself out as a representative of a title insurance company.
- (2) A title agent who appoints a title insurance marketing representative shall be responsible for the acts and omissions of the title insurance marketing representative. Violations of the insurance laws in Title 39 of the Revised Code that are committed by a title insurance marketing representative will be attributed to the appointing title agent as well as to the marketing representative and will subject the appointing licensed title agent to a civil forfeiture in an amount not to exceed ten thousand dollars for each violation,

unless the violation is reported by the title agent to the superintendent promptly upon discovery and the title agent takes appropriate remedial action.

- (3) Any written materials used or distributed by a title insurance marketing representative must be pre-approved by the licensed title agent that appointed the title insurance marketing representative.
- (4) No pre-licensing education, licensing examination or continuing education is required for a person who holds a limited lines license as a title insurance marketing representative.
- (5) No person who is prohibited under division (B) of section 3953.21 of the Revised Code from acting as an agent for a title insurance company shall be licensed as a title insurance marketing representative.
- (6) A license as a title insurance marketing representative is valid and authorizes the holder to act as a title insurance marketing representative to the extent permitted by law only so long as the person is appointed by a licensed title insurance agent.
- (7) A title marketing representative may be appointed by only one title agent at any given time.

(H) Resident business entity licenses

- (1) A business entity that is either domiciled in Ohio or maintains a principal place of business in Ohio may be licensed as an insurance agent in this state if it satisfies all of the following conditions:
  - (a) Completes a business entity application and provides any other information required by the superintendent;
  - (b) Complies with division (B) of section 3905.05 of the Revised Code and division (A)(2) of section 3905.06 of the Revised Code;
  - (c) Is authorized to do business in the state of Ohio by the Ohio secretary of state if so required by section 1703.03, 1705.54, or 1775.64 of the Revised Code.
- (2) A resident business entity agent license shall be deemed issued on the date and the application is approved by the superintendent.

- (3) A resident business entity agent must maintain at least one designated licensed individual insurance agent who will be responsible for the business entity's compliance with the insurance law of this state. Failure to maintain a licensed agent is grounds for revocation of the business entity's license.
- (4) If the resident business entity ceases to exist as a corporate or other legal entity, its agent license shall be subject to revocation.
- (5) A business entity agent must report any change in its name, address, email address, licensed agents, officers, directors, and members or owners with ten per cent or more voting interest in the licensed entity to the superintendent within thirty days of such change.
- (6) In addition to the requirements in paragraph (H)(5) of this rule, a business entity title agent must notify the superintendent of any change in its ownership or in the ownership of any business entity holding an ownership interest in the business entity title agent within thirty days and must include an organizational chart that shows all owners and their percentages of ownership of both the business entity title agent and business entities having ownership interests.
- (7) A resident business entity applicant must apply for licensure under the legal name of the applicant as registered with the Ohio secretary of state. The superintendent may deny the use of a name that is too similar to a name already in use by another business entity or a name that may be misleading to the public.

(I) Nonresident business entity licenses

- (1) A business entity domiciled in another state or whose principal place of business is in another state may be licensed as an insurance agent in this state if it satisfies all of the following conditions:
  - (a) Complete a business entity application;
  - (b) Comply with the provisions of section 3905.07 of the Revised Code.
- (2) Upon satisfying the requirements of this rule, a nonresident business entity license shall be issued to the applicant granting the applicant the same scope of authority as the applicant has under the license issued by the applicant's home state.

- (3) A nonresident business entity agent license shall be deemed issued on the date and the application is approved by the superintendent.
- (4) A nonresident business entity agent must maintain at least one individual insurance agent licensed in Ohio who will be responsible for the business entity's compliance with the insurance laws of this state. Failure to maintain an Ohio licensed agent is grounds for revocation of the business entity's license.
- (5) Nonresident business entities should contact the Ohio secretary of state to verify if registration is required in order to do business in the state of Ohio. Registration with the Ohio secretary of state may be required pursuant to section 1703.03, 1705.54, or 1775.64 of the Revised Code.

Registration with the Ohio secretary of state is not a license prerequisite, but the superintendent of insurance shall verify if the business entity is registered. If not registered, a notification letter will be sent to the applicant and to the Ohio secretary of state indicating that an insurance license was issued without registration.
- (6) A business entity agent must report any change in its name, address, email address, licensed agents, officers, directors, and members or owners with ten per cent or more voting interest in the licensed entity to the superintendent within thirty days of such change.
- (7) A business entity title agent must notify the superintendent of any change in its ownership or in the ownership of any business entity holding an ownership interest in the business entity title agent within thirty days and must include an organizational chart that shows all owners and their percentage of ownership of both the business entity title agent and business entities having ownership interests.
- (8) A nonresident business entity applicant must apply for licensure under the legal name of the applicant. The superintendent may deny the use of a name that is too similar to a name already in use by another business entity or a name that may be misleading to the public.

(J) License renewal

An agent who wishes to renew their insurance agent license shall do all of the following:

- (1) Complete a renewal application;
- (2) Comply with the renewal requirements set forth in section 3905.06, 3905.07, or 3905.85 of the Revised Code; and
- (3) Pay any required fees.
  - (a) License renewal fee as set forth in section 3905.40 or 3905.85 of the Revised Code;
  - (b) In addition to the license renewal fee, the fee for filing a renewal application during the late renewal period is ~~one hundred~~ fifty dollars; or
  - (c) In addition to the license renewal fee, the fee for filing a renewal application during the reinstatement period is ~~three~~ one hundred dollars.
  - (d) The superintendent has the authority to waive the fee in paragraphs (J)(3)(b) and (J)(3)(c) of this rule due to military service, a long term medical disability, or some other special or extenuating circumstance.

(K) Appointments

- (1) Within thirty days after the date the agency contract is executed or the first insurance application is submitted, each insurer shall file a notice of appointment with the superintendent regarding all agents who were newly appointed to represent the insurer. Additionally, within thirty days of a termination, each insurer shall notify the superintendent of any agents whose appointments were terminated by the insurer. The insurer shall specify the effective date of appointment or termination for each agent. The insurer shall identify each agent by the full name that appears on the agent's insurance license, national producer number or other such identification number as requested by the superintendent, and such other information as the superintendent may require.
- (2) All individual and business entity agent appointments and terminations must be submitted to the superintendent electronically.
  - (a) An insurer that annually appoints and/or terminates twenty-five or fewer agents may make non-electronic appointments and terminations.

- (b) Any insurer that annually appoints and/or terminates more than twenty-five agents but that is unable to process electronic appointments and terminations must provide adequate documentation explaining its inability to comply.
- (3) Appointments will renew automatically on the first day of July each year unless the insurer terminates the appointment prior to the renewal date.
- (4) No appointment shall be effective unless the appointee is licensed for that line of authority.
- (5) The superintendent will bill insurers for the initial and renewal appointment and for termination fees. If an agent holds both a property and casualty appointment with an insurer, a single appointment/termination fee will be billed for those appointments/terminations that are processed at the same time.
- (6) If the termination of an appointment is for any of the reasons set forth in division (B) of section 3905.14 of the Revised Code, the insurer shall provide a detailed statement of the facts and the reasons for the termination to the superintendent within thirty days of the effective date of the termination. Insurers who provide such statements shall be immune from liability to the extent provided in section 3905.211 of the Revised Code.

(L) Inactive status

- (1) An agent may request inactive status by submitting a form prescribed by the superintendent and such other information as the superintendent may request. The agent must attest that the conditions in paragraph (L)(2) of this rule are met.
- (2) An agent may be eligible for inactive status only if and so long as all of the following conditions are met at the time of the inactivation request:
  - (a) The agent is not employed or engaged, full or part-time, in any capacity for which an agent's license is required and does not engage in or in any way participate in or assist with any activity for which an agent's license is required in this state. This does not apply to clerical or ministerial acts;
  - (b) The agent must be out of the insurance industry in relation to any duties or

activities that would require an agent's license for at least the next twenty-four months;

- (c) The agent must be in compliance with their continuing education requirements;
  - (d) The agent must be in good standing with the superintendent;
  - (e) The agent is a natural person and holds an active resident major line of authority, title, or surety bail bond license in this state at the time of inactivation request; and
  - (f) The request for inactivation was received by the superintendent prior to the expiration date of the license.
- (3) If the superintendent is satisfied that the agent is eligible for inactive status, the superintendent shall notify the agent and all appointing insurers and agents about the inactive status.
- (4) A person who has been granted inactive status must notify each insurer with which he or she is appointed no later than ten days after inactive status is granted. Failure to do so is grounds to terminate the inactive status. All appointments held by an agent who has been granted inactive status shall be void as of the date inactive status is granted.
- (5) If an agent is granted inactive status and subsequently engages in, participates or assists in any way in any conduct or activity for which a license is required, excluding clerical or ministerial acts, such agent's license(s) may be suspended or revoked or the superintendent may impose a civil penalty in an amount not to exceed twenty-five thousand dollars.
- (6) When an agent is granted inactive status, the inactive status affects all licenses and appointments held by that agent except surety bail bond and title which may be maintained independent of the inactivation of other licenses.
- (7) An agent who has been granted inactive status is exempt from the continuing education requirements of this state.
- (8) An agent who has been inactive two years or more may return to active status upon the following conditions:

- (a) The agent notifies the superintendent using the form and means prescribed by the superintendent and provides any other information requested by the superintendent;
  - (b) The agent has completed approved continuing education credits based on the license type being activated or has completed a pre-licensing education course for the particular type of license being reactivated, within the preceding six months of the reactivation application;
    - (i) An agent who held resident major line of authority license must complete twenty-four hours of approved continuing education, three of which must be approved as ethics;
    - (ii) An agent who held a title license must complete twelve credits, ten of which must be approved as title specific and two of which must be approved as ethics;
    - (iii) An agent who held a surety bail bond license must complete fourteen credits, twelve of which must be approved as surety bail bond specific and two of which must be approved as ethics.
  - (c) The person has paid a reactivation fee of fifty dollars;
  - (d) The person, if requesting the reactivation of a surety bail bond license, has paid an additional fee of one hundred fifty dollars; and
  - (e) The person is otherwise eligible and suitable to be an agent.
- (9) A person who has been inactive less than two years must comply with paragraph (D) of this rule as a new applicant.
- (10) The licenses of a person who has been granted inactive status may be subject to suspension, revocation or any other disciplinary action for questionable conduct occurring before or after the inactive status was granted.
- (11) Inactive status applies prospectively.

(M) Surrender

- (1) An agent may surrender all or some of the agent's licenses by submitting a form

prescribed by the superintendent. If an agent is under investigation by the superintendent or the superintendent has issued a notice of opportunity for hearing under Chapter 119. of the Revised Code, the superintendent may not accept a surrender except for cause and as a resolution of allegations that the agent violated the insurance laws and regulations of this state. For purposes of this paragraph, an investigation shall include the review of any complaint made against or involving the agent.

- (2) A surrender will be effective immediately after the superintendent receives the request or at a date chosen by the agent but in no case shall the surrender be effective prior to the date of receipt by the superintendent or more than thirty days after receipt of the surrender request.
- (3) The surrender of an agent's license for any line of authority voids all appointments held by the agent for that line of authority.
- (4) The superintendent shall notify each appointing company and agent when an agent's licenses are surrendered.
- (5) An agent who has surrendered a license or licenses and who wants to obtain a license as an agent must comply with the pre-licensing education and examination requirements as if the person had never been licensed, if otherwise eligible and suitable to be an agent. This provision shall apply to a license previously surrendered even when the agent still has a license of another type.
- (6) A person who has been granted inactive status may surrender all or some licenses if the person is otherwise eligible to surrender licenses.
- (7) A clearance letter request acts as a voluntary surrender of all licenses. Once a clearance is issued an individual may reactivate the Ohio licenses if the following requirements are met:
  - (a) The individual requested reactivation within ninety days of the effective date of surrender by clearance request, and
  - (b) The individual did not obtain a resident license in another state.
- (8) When a person reactivates Ohio licenses pursuant to paragraph (M)(7) of this rule, the person's continuing education requirements and license renewal date continue as if a clearance letter had not been requested.

(N) Compensation

- (1) Commissions or other compensation paid by an insurer to a person for any activity that requires a license must be paid in the legal name of the licensee as that name appears on the superintendent's records or a trade name registered in accordance with section 3905.11 of the Revised Code.
- (2) An agent who is appointed with the issuing insurance company may pay commissions to another agent who is licensed for that line of business but who is not appointed with the issuing insurance company.
- (3) A licensed agent may assign commissions lawfully earned to a non-licensed person or entity pursuant to a written agreement and for a purpose that is not otherwise a pretext for the unlawful payment or split of commissions or the payment of an unlawful lead fee to the assignee.
- (4) An agent or insurer may pay an unlicensed person or organization for administrative services actually rendered by that person or organization in connection with an insurance program offered to the members or customers of the unlicensed person or organization. Such payment shall be negotiated in an arms-length transaction. The amount of payment may not be calculated as a percentage of premium or any other measure of sales production. The amount of payment must be reasonable in relation to the services actually rendered. This paragraph does not prohibit the payment of a flat fee per transaction or service.
- (5) An agent or insurance company may pay an unlicensed person or organization for an endorsement in favor of the agent, insurance company or a product. Such payment shall be a flat fee per member or customer or shall be in the amount of actual costs incurred by the unlicensed person or organization in making the endorsement. In no event shall the payment be calculated as a percentage of premium or any other measure of sales production.
- (6) For purposes of this rule, an "endorsement" means a communication by an unlicensed person in any medium that introduces or mentions the availability of a general type of insurance coverage, identifies a particular insurer or agent, explains the method for obtaining additional information, and contains the words "endorse," "endorsed by," "sponsor," or "sponsored by," if all of the following conditions apply:
  - (a) The communication does not contain any comparison to other insurance products, insurers or agents;

- (b) The communication does not contain any specific information or details about the benefits provided by the insurance;
- (c) The communication does not indicate the rates or cost of the insurance;
- (d) The communication does not contain any statement or suggestion that the recipient needs, or should apply for or buy the insurance.

(O) Severability

If any paragraph, term or provision of this rule is adjudged invalid for any reason, the judgment shall not affect, impair or invalidate any other paragraph, term or provision of this rule, but the remaining paragraphs, terms and provisions shall be and continue in full force and effect.

Effective: 01/01/2013

R.C. 119.032 review dates: 08/31/2014

CERTIFIED ELECTRONICALLY

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Certification

11/13/2012

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Date

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