

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) 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.

(C) Resident individual agent licensing

- (1) ~~In applying for a individual license as an insurance agent, a resident of this state shall do all of the following:~~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.

~~(a) Complete the NAIC uniform application;~~

~~(b) Comply with the requirements contained in sections 3905.05 and 3905.06 of the Revised Code for the appropriate line of authority.~~

~~(c) Unless the applicant satisfies division (C)(1) of section 3905.04 of the Revised Code, the applicant shall complete the following prelicensing education program requirements:~~

~~(i) Life, and variable life and variable annuity products: twenty hours;~~

~~(ii) Accident and health: twenty hours;~~

~~(iii) Property : twenty hours;~~

~~(iv) Casualty: twenty hours~~

~~(v) Personal lines: twenty hours;~~

~~(vi) Surety bail bond: twenty hours;~~

- ~~(d) Pass any required licensing examination as set forth in division (B) of section 3905.04 of the Revised Code.~~
 - ~~(e) Pay any required fees.~~
- (2) ~~An applicant is not eligible for a license or to sit for a licensing examination 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.~~In applying for a individual license as an insurance agent, a resident of this state shall do all of the following:
- (a) The applicant shall complete the following prelicensing education program requirements unless the applicant satisfies (C)(1) of section 3905.04 of the revised code:
 - (i) Life, and variable life and variable annuity products: 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;
 - (d) Submit a completed NAIC producer application form;
 - (e) Pay any required fees.
- (3) ~~The superintendent may refuse to permit an applicant to sit for an examination if the application or the criminal records check contains any information that could disqualify the applicant for a license or if the superintendent has any other information which, if true, could disqualify the applicant. The superintendent may hold the application in abeyance pending an investigation of the matter.~~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) ~~A person who fails the licensing examination for a particular line(s) of insurance three consecutive times must retake the required approved prelicensing education before the person is eligible to sit for such examination a fourth time.~~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) ~~If an examination is required for the issuance of a license, the license will be deemed issued on the date the applicant passes the examination. Otherwise, the A license shall be deemed issued on the date it is processed and approved by the department.~~
- (6) A license shall be issued in the legal name of the applicant.
- (7) Term of license
 - (a) An agent's license, excluding limited lines, surety bail bond, surplus lines, third party administrators, managing general agents, re-insurance intermediaries, public insurance adjusters, viatical settlement provider, and viatical settlement broker licenses, issued by the superintendent to an individual or business entity shall not expire unless the licensee surrenders the license or the superintendent suspends or revokes the license.
 - (b) Limited lines licenses shall expire on August thirty-first of each year unless renewed. Renewal of limited lines licenses shall be accomplished by:
 - (i) automatic renewal of licenses where the licensee has at least one active appointment on July first of that year; or
 - (ii) the licensee filing a renewal notice with the department prior to the August thirty-first expiration date. The renewal notice must be on a prescribed form approved by the superintendent.

- (c) If an agent has active appointments at the time the agent's licenses are suspended, revoked or surrendered, the superintendent shall notify the appointing companies or agents of the suspension, revocation or surrender.
- (8) An agent must report to the department all demographic changes (i.e. name, resident address, business address, mailing address, etc.) within thirty days of the change.

(D) Nonresident individual agent licensing

- (1) A nonresident individual who wishes to obtain a nonresident insurance agent license in this state, including a limited lines license, must do the following:
 - (a) Complete the NAIC uniform application;
 - (b) Comply with the requirements contained in section 3905.07 of the Revised Code.
 - (c) Pay any required fees.
 - (d) Comply with paragraph (E) of this rule if seeking a limited lines license.
- (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 it is processed and approved by the department. ~~If, however, an examination is required for the issuance of a license, the license will be deemed issued on the date the applicant passes the examination.~~
- (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 department all demographic changes (i.e. name, resident address, business address, mailing address, etc.) within thirty days of the change.
- (7) A nonresident must ~~retain~~ maintain an active resident 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 non-resident license. It is the agent's responsibility to notify the department of a change in his resident license state.

(E) Limited lines licenses

- (1) A person may obtain a limited lines license for one or more of the lines of insurance specified in paragraph (E)(2) of this rule so long as the following conditions are met:
 - (a) The person has submitted a completed application, using a 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.
- (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 (F) of this rule;
 - (g) Any limited lines insurance agent license as required by section 3905.072 of the Revised Code.
- (3) No prelicensing 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) 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.
 - (6) The superintendent has discretion to investigate the suitability of an applicant for a limited lines license and may refuse to issue a limited lines license for any of the reasons that the superintendent may refuse to issue a full-lines agent's license.

(F) 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) Hold self 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 prelicensing education, licensing examination or continuing education is required for a person who holds a limited lines license as a title insurance marketing representative.
- (5) Any 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 not 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.

(G) 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) Complete a uniform business entity application and provide any other information required by the superintendent;
 - (b) Comply with division (B) of section 3905.05 of the Revised Code and division (A)(2) of section 3905.06 of the Revised Code;
 - (c) Submit a copy of its certified articles of incorporation, articles of organization, partnership agreement, or other organizational documents;
 - (d) 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 it is processed and approved by the department.
- (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 ~~producers~~agents, officers, directors, and members or owners with ten per cent or more voting interest in the licensed entity to the department within thirty days of such change.
- (6) In addition to the requirements in paragraph (G)(5) of this rule, a business entity title agent must notify the department 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.

(H) 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 nonresident uniform business entity application;
 - (b) Comply with the provisions of section 3905.07 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) 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 it is processed and approved by the department.
- (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) If the nonresident business entity ceases to exist as a corporate or other legal entity or fails to maintain its authorization to do business in the state of Ohio, its agent license shall be subject to revocation.
- (6) A business entity agent must report any change in its name, address, email address, licensed ~~producers, agents,~~ officers, directors, and members or owners with ten per cent or more voting interest in the licensed entity to the department within thirty days of such change.
- (7) In addition to the requirements in paragraph (G)(5) of this rule, a business entity title agent must notify the department 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.

(I) Surety bail bond agent and agency license renewals

- (1) Surety bail bond individual and business entity agent licenses expire the last day of February each year. To be timely renewed, a complete renewal application must be postmarked or received on or before the last day of February.
- (2) For an application to be considered complete, it must be fully executed by the applicant and be accompanied by the statutory renewal fee of one hundred fifty dollars. The effective date of renewal will be March first.
- (3) Completed applications that are postmarked or received after the last day of February but on or before March thirty-first must include an administrative late fee of one hundred dollars in addition to the statutory renewal fee. The effective date of renewal will be March first.
- (4) Any application postmarked or received after March thirty-first will not be processed as a renewal. The application along with any submitted fees will be returned unprocessed. The surety bail bond license will non-renew effective March first and the person or business entity will be required to submit an application for a new license and will be subject to all of the requirements of a new applicant.

(J) 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, license number, and such other information as the superintendent may require.
- (2) All individual and business entity agent appointments and terminations must be

submitted to the department 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 appointment and 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. If an agent holds both a life and accident and health appointment with an insurer, a single appointment/termination fee will be billed for those appointments/terminations that are processed at the same time. In all cases, a separate appointment/termination fee will be billed for a variable life and variable annuity products appointment/termination.
 - (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.
 - (7) Any agent who appoints a solicitor as permitted by section 3905.10 of the Revised Code of this rule shall follow the procedures set forth for insurers appointing agents as set forth in paragraphs (J)(1) to (J)(6) of this rule.
 - (8) Agents holding limited authority licenses shall not appoint solicitors for any type limited line of authority.

(K) Solicitors

- (1) A solicitor may solicit insurance only on behalf of a licensed and appointed agent.
- (2) A solicitor may procure applications for insurance on behalf of the appointing agent. Only the appointing agent may sign and submit the applications to the respective insurance company.
- (3) The appointing agent will be responsible for any misrepresentations made by or other wrongful conduct on the part of the solicitor.
- (4) A solicitor shall identify himself or herself as a representative of the appointing agent and not as a representative of any insurer.
- (5) Any person who is prohibited under division (B) of section 3953.21 of the Revised Code from acting as a title insurance agent shall not be licensed as a title solicitor.

(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 person must attest that the conditions in paragraph (L)(2) of this rule are met.
- (2) A person may be eligible for inactive status only if and so long as all of the following conditions are met:
 - (a) The person 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 person does not anticipate a change in the person's~~ 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 person must be in compliance with their continuing education requirements and be in good standing with the department at the time of the inactivation request.

(d) Only resident agents may request inactive status in accordance with this paragraph.

- (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) Only a natural person is eligible for inactive status.
- (5) 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 a person who has been granted inactive status shall be void as of the date inactive status is granted.
- (6) If a person 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 person's license(s) may be suspended or revoked or the superintendent may impose a civil penalty in an amount not to exceed five thousand dollars.
- (7) When a person is granted inactive status, the inactive status affects all licenses and appointments held by that person except surety bail bond and title which may be maintained independent of the inactivation of other licenses.
- (8) A person who has been granted inactive status is exempt from the continuing education requirements of this state.
- (9) A person who has been inactive two years or more may return to active status upon the following conditions:
 - (a) The person notifies the superintendent using the form and means prescribed by the superintendent and provides any other information requested by the superintendent;
 - (b) The person has completed twenty hours of approved continuing education (ten hours for title only agents), or has completed a prelicensing education course for the particular type of license, within the preceding ~~twelve~~six months;
 - (i) A title only agent must complete only ten credits of title specific topics during the preceding six months;

(ii) A surety bail bond only agent must complete only fourteen surety bail bond specific credits during the preceding six months. A surety bail bond agent who holds other insurance licenses must complete twenty credits of approved continuing education, fourteen credits of which must be surety bail bond specific.

(c) The person has paid any required fees;

~~(e)~~(d) The person is otherwise eligible and suitable to be an agent.

(10) A person who has been inactive less than two years ~~may return to active status upon the following conditions:~~must comply with section (C) of this rule as a new applicant.

~~(a) The person has complied with paragraph (L)(9) of this rule.~~

~~(b) The person has completed any required CE credit for the compliance period in which the agent was granted inactive status and has paid any applicable extension fees.~~

~~(c) The person has paid the suspension reactivation fee if, but for the inactivation, the agent's insurance licenses would have been suspended or revoked for failure to meet continuing education requirements.~~

~~(11) When a person reactivates an Ohio license in accordance with paragraph (L)(10) of this rule, the agent's continuing education requirements continue as if the inactivation had never been requested.~~

~~(12)~~(11) The licenses of a person who has been granted inactive status may be subject to suspension, revocation or any other disciplinary action for actionable conduct occurring before or after the inactive status was granted. The superintendent may also refuse to return a person's licenses to active status for actionable conduct.

~~(13)~~(12) 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 department or more than thirty days after receipt of the surrender request.
- (3) The surrender of an agent's license for any line of insurance voids all appointments held by the agent for that line of insurance.
- (4) The superintendent shall notify each appointing company and agent when an agent's licenses are surrendered.
- (5) A person who has surrendered a license or licenses and who wants to obtain a license as an agent will have to comply with the prelicensing 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 a person 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) Requests reactivation within ninety days of the effective date of surrender by clearance request, and
 - (b) 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 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) 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 section, term or provision of this rule, but the remaining sections, terms and provisions shall be and continue in full force and effect.

(P) Effective Date

This rule shall take effect on the 1st day of July 2007.

Effective:

R.C. 119.032 review dates: 10/20/2006

Certification

Date

Promulgated Under: 119.03
Statutory Authority: 3901.041, 3905.12
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