

3901-5-10

Rental car insurance agent limited license.**(A) Purpose**

The purpose of this rule is to set forth procedures and requirements for the issuance of a limited authority rental car agent. Paragraph (F) of rule 3901-5-09 of the Administrative Code authorizes a limited lines license for rental car insurance.

(B) Authority

This rule is promulgated pursuant to the authority vested in the superintendent under sections 3901.041 and 3905.28 of the Revised Code.

(C) Definitions

For the purposes of this rule:

- (1) "Endorsee" means an employee of a rental car agent or any authorized representative who meets the requirements of this rule.
- (2) "Person" means an individual or a business entity.
- (3) "Rental agreement" means any written master, corporate, group or individual agreement setting forth the terms and conditions governing the use of a rental car rented or leased by a rental car company.
- (4) "Rental car" means any motor vehicle that is intended to be rented or leased for a period of less than thirty consecutive days by a driver who is not required to possess a commercial driver's license to operate the motor vehicle and the motor vehicle is either of the following:
 - (a) A private passenger motor vehicle, including a passenger van, minivan, or sports utility vehicle; or
 - (b) A cargo vehicle, including a cargo van, pickup truck, or truck with a gross vehicle weight of less than twenty-six thousand pounds.
- (5) "Rental car agent" means any rental car company that is licensed by the superintendent and appointed by an insurer to offer, sell, or solicit rental car insurance pursuant to this rule.
- (6) "Rental car company" means any person in the business of renting rental cars to the public.

(7) "Rental car insurance" means insurance offered, sold, or solicited in connection with and incidental to the rental of rental cars, whether at the rental office or by pre-selection of coverage in master, corporate, group or individual agreements that:

(a) Is non-transferable;

(b) Applies only to the rental car that is the subject of the rental agreement;
and

(c) Is limited to the following kinds of insurance:

(i) Personal accident insurance for renters and other rental car occupants, for accidental death or dismemberment, and for medical expenses resulting from an accident that occurs with the rental car during the rental period;

(ii) Liability insurance that provides protection to the renters and to other authorized drivers of a rental car for liability arising from the operation or use of the rental car during the rental period;

(iii) Personal effects insurance that provides coverage to renters and other vehicle occupants for loss of, or damage to, personal effects in the rental car during the rental period; and

(iv) Roadside assistance and emergency sickness protection insurance.

(8) "Renter" means any person who executes a rental agreement.

(D) General rules

(1) No rental car company, and no officer, director, authorized representative, or employee of a rental car company, shall offer, sell, solicit or identify the availability of or effectuate the placement of rental car insurance or the purchase of rental car insurance unless that person is licensed as an insurance agent pursuant to Chapter 3905. of the Revised Code or there has been compliance with the requirements of this rule.

(2) The superintendent may issue to a rental car company that has complied with the requirements of this rule, a limited authority license that authorizes the

rental car company to act as a rental car agent in accordance with the provisions of this rule, in connection with and incidental to rental agreements, on behalf of any insurer admitted to write such insurance in this state.

(E) Licensing rental car companies as rental car agents

- (1) A rental car company may apply to be licensed as a rental car agent under the terms of this rule if it satisfies all of the requirements of this rule and if it submits to the superintendent an application for licensure in the form prescribed by the superintendent that includes an appointment by an admitted insurer.
- (2) A limited authority license as a rental car agent is valid and authorizes the licensee to act as a limited authority agent to the extent permitted by law only so long as the licensee is appointed by at least one insurer that is authorized to write rental car insurance.

(F) Responsibilities of the appointing insurer

By appointing a rental car agent, an insurer certifies that the applicant is competent, financially responsible, and suitable to act as a rental car agent; that the insurer has reviewed the endorsee training and education program required by paragraph ~~(F)(4)~~ (G)(4) of this rule and believes that it satisfies the requirements of this rule; and that the insurer is responsible for the conduct of the rental car agent acting within the scope of its agency appointment.

(G) Rental car agent endorsees

- (1) An endorsee of a rental car agent may identify the availability of and effectuate the placement of rental car insurance in accordance with this rule. Such activities, and any activities incidental thereto, shall not constitute any of the activities listed in section 3905.01 of the Revised Code when performed by an endorsee in accordance with this rule. An individual may be an endorsee if all of the following conditions are satisfied:
 - (a) The individual is eighteen years of age or older;
 - (b) The individual is an employee of a rental car agent or an authorized representative;
 - (c) the individual has completed a training and education program; and

- (d) The rental car company maintains and, upon request, makes available to the superintendent a list of the names and addresses of all endorsees and the dates during which each endorsee was employed by the rental car company. Records must be maintained for five years following the termination of an endorsee's employment.
- (2) A rental car agent's failure to maintain the records required by paragraph ~~(F)(1)~~ (G)(1) of this rule shall be a violation of division (B) of section 3905.14 of the Revised Code and shall constitute grounds to refuse to renew, suspend or revoke its license.
- (3) A rental car agent's endorsee may only act on behalf of the rental car agent in identifying the availability of and effectuating rental car insurance. A rental car agent is responsible for and must supervise all actions of its endorsees related to rental car insurance. The conduct of an endorsee acting within the scope of his or her employment in connection with products described in paragraph ~~(B)(7)~~ (C)(7) of this rule shall be deemed the conduct of the rental car agent for purposes of this rule and shall not constitute conduct requiring an agent's licensee under section 3905.01 of the Revised Code.
- (4) Each rental car agent or the insurer that appoints the rental car agent shall provide a training and education program for each endorsee prior to allowing an endorsee to identify the availability of and effectuate the placement of rental car insurance. The program shall be submitted to the superintendent for approval prior to use and shall meet the following minimum standards:
- (a) Each endorsee shall receive instruction about the kinds of insurance specified in this rule that are offered to prospective renters;
- (b) Each endorsee shall receive training about the requirements and limitations imposed on rental car agents and endorsees by this rule. That training shall include specific instruction that the endorsee is prohibited by law from making any statement or engaging in any conduct, express or implied, that would lead a consumer to believe:
- (i) That the purchase of rental car insurance is required in order for the renter to rent a motor vehicle;
- (ii) That the renter does not have insurance policies in place that already provide the coverage being offered by the rental car company pursuant to this rule; or

- (iii) That the endorsee is qualified to evaluate the adequacy of the renter's existing insurance coverages.
- (5) The training and education program submitted to the superintendent shall be deemed approved if no action is taken within thirty days of its submission. The training program may be a videotaped course.
- (6) The rental car agent shall retain for a period of one year from the date of each transaction records which enable it to identify the name of the endorsee involved in each rental transaction where a renter purchases rental car insurance.

(H) Rental car agent restrictions

No insurance may be offered, sold, or solicited pursuant to this rule unless:

- (1) The rental period of the rental car agreement is less than thirty consecutive days.
- (2) At every location where rental agreements are executed, the rental car agent or endorsee provides or prominently displays brochures or other written materials to each renter who purchases rental car insurance that, clearly and conspicuously and in plain language:
 - (a) Summarize, clearly and correctly, the material terms, exclusions, limitations, and conditions of coverage offered to renters, including the identity of the insurer;
 - (b) Describe the process for filing a claim in the event the renter elects to purchase coverage, including a toll-free telephone number to report a claim;
 - (c) Provide the rental car agent's name, address, telephone number, and license number;
 - (d) Inform the consumer that the rental car insurance offered, sold, or solicited by the rental car agent may provide a duplication of coverage already provided by a renter's personal automobile insurance policy, homeowners insurance policy, or by another source of coverage;
 - (e) Inform the consumer that the purchase by the renter of the rental car insurance is not required in order to rent a rental car from the rental car

agent; and

- (f) Inform the consumer that neither the rental car agent nor the rental car agent's endorsees are qualified to evaluate the adequacy of the renter's existing insurance coverages.
- (3) The brochures or other written materials provided or prominently displayed pursuant to paragraph ~~(G)(2)~~ (H)(2) of this rule shall be filed by the insurer with the department of insurance pursuant to the procedures of section 3937.01 of the Revised Code.
- (4) The purchaser of rental car insurance acknowledges, in writing or electronically, the receipt or offer of the brochures or written materials required by paragraph ~~(G)(2)~~ (H)(2) of this rule.
- (5) Evidence of the rental car insurance coverage is stated on the face of the rental agreement.
- (6) All costs for the rental car insurance are separately itemized in the rental agreement.

(I) Rental car agent prohibitions

- (1) A rental car agent shall not:
 - (a) Offer, sell, or solicit the purchase of rental car insurance except in conjunction with and incidental to rental car agreements.
 - (b) Advertise, represent, or otherwise portray itself or any of its employees, authorized representatives, or agents as an insurer.
 - (c) Pay any person, including a rental car agent endorsee, any compensation, fee, or commission that is dependent solely upon the placement of rental car insurance unless that person is a licensed rental car agent. Nothing in this rule shall prohibit production payments or incentive payments that are not dependent solely upon the sale of rental car insurance.
 - (d) Make any statement or engage in any conduct, express or implied, that would lead a customer to believe:

- (i) That the insurance policies offered by the rental car agent may not provide a duplication of coverage already provided by a renter's personal automobile insurance policy, homeowners insurance policy, or by another source of coverage;
 - (ii) That the purchase by the renter of rental car insurance is required in order to rent a rental car from the rental car agent; and
 - (iii) That the rental car agent or the rental car agent's endorsees are qualified to evaluate the adequacy of the renter's existing insurance coverages.
- (2) No licensee or endorsee shall provide any information or advice or make any representation as to what benefits or coverages a renter's personal or other insurance policies may provide.

(J) Enforcement

- (1) In the event any provision of this rule is violated by a rental car agent or its endorsee, the superintendent may revoke or suspend the license issued under this rule or impose any other sanctions provided by Chapter 3905. of the Revised Code in accordance with the provisions set forth in Chapter 119. of the Revised Code;
- (2) If any person sells insurance in connection with or incidental to rental car agreements or holds self out as a rental car agent without satisfying either the requirements of this rule or the licensing provisions of Chapter 3905. of the Revised Code, the superintendent shall be authorized to issue a cease and desist order in addition to taking any other administrative action provided for in section 3901.22 and division (B) of section 3905.14 of the Revised Code.

(K) Trust accounts

A rental car agent shall not be required to treat moneys collected from renters purchasing rental car insurance as funds received in a fiduciary capacity, provided that:

- (1) The charges for rental car insurance coverage are itemized and ancillary to a rental transaction; and
- (2) The insurer has consented in writing, signed by an officer of the insurer, that

premiums need not be segregated from funds received by the rental car agent.

(L) 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: 12/06/2013

R.C. 119.032 review dates: 09/19/2013 and 08/30/2018

CERTIFIED ELECTRONICALLY

Certification

11/26/2013

Date

Promulgated Under: 119.03
Statutory Authority: 3901.041
Rule Amplifies: 3901.041, 3905.28
Prior Effective Dates: 1/14/2002, 4/5/2007, 11/11/2011