

Appendix

A

3905.01 Insurance producers licensing act definitions.

As used in this chapter:

(A) "Business entity" means a corporation, association, partnership, limited liability company, limited liability partnership, or other legal entity.

(B) "Home state" means the state or territory of the United States, including the District of Columbia, in which an insurance agent maintains the insurance agent's principal place of residence or principal place of business and is licensed to act as an insurance agent.

(C) "Insurance" means any of the lines of authority set forth in Chapter 1739., 1751., or 1761. or Title XXXIX [39] of the Revised Code, or as additionally determined by the superintendent of insurance.

(D) "Insurance agent" or "agent" means any person that, in order to sell, solicit, or negotiate insurance, is required to be licensed under the laws of this state, including limited lines insurance agents and surplus line brokers.

(E) "Insurer" has the same meaning as in section 3901.32 of the Revised Code.

(F) "License" means the authority issued by the superintendent to a person to act as an insurance agent for the lines of authority specified, but that does not create any actual, apparent, or inherent authority in the person to represent or commit an insurer.

(G) "Limited line credit insurance" means credit life, credit disability, credit property, credit unemployment, involuntary unemployment, mortgage life, mortgage guaranty, mortgage disability, guaranteed automobile protection insurance, or any other form of insurance offered in connection with an extension of credit that is limited to partially or wholly extinguishing that credit obligation and that is designated by the superintendent as limited line credit insurance.

(H) "Limited line credit insurance agent" means a person that sells, solicits, or negotiates one or more forms of limited line credit insurance to individuals through a master, corporate, group, or individual policy.

(I) "Limited lines insurance" means those lines of authority set forth in divisions (B)(7) to (10) of section 3905.06 of the Revised Code or in rules adopted by the superintendent, or any lines of authority the superintendent considers necessary to recognize for purposes of complying with section 3905.072 of the Revised Code.

(J) "Limited lines insurance agent" means a person authorized by the superintendent to sell, solicit, or negotiate limited lines insurance.

(K) "NAIC" means the national association of insurance commissioners.

(L) "Negotiate" means to confer directly with, or offer advice directly to, a purchaser or prospective purchaser of a particular contract of insurance with respect to the substantive benefits, terms, or conditions of the contract, provided the person that is conferring or offering advice either sells insurance

or obtains insurance from insurers for purchasers.

(M) "Person" means an individual or a business entity.

(N) "Sell" means to exchange a contract of insurance by any means, for money or its equivalent, on behalf of an insurer.

(O) "Solicit" means to attempt to sell insurance, or to ask or urge a person to apply for a particular kind of insurance from a particular insurer.

(P) "Superintendent" or "superintendent of insurance" means the superintendent of insurance of this state.

(Q) "Terminate" means to cancel the relationship between an insurance agent and the insurer or to terminate an insurance agent's authority to transact insurance.

(R) "Uniform application" means the NAIC uniform application for resident and nonresident agent licensing, as amended by the NAIC from time to time.

(S) "Uniform business entity application" means the NAIC uniform business entity application for resident and nonresident business entities, as amended by the NAIC from time to time.

Effective Date: 09-01-2002

3905.02 License required.

No person shall sell, solicit, or negotiate insurance in this state unless the person is licensed for that line of authority in accordance with this chapter.

Effective Date: 09-01-2002

3905.03 Exceptions to licensing requirement.

(A) Section 3905.02 of the Revised Code does not apply to any of the following:

(1) Any insurer. For purposes of this division, "insurer" does not include an insurer's officers, directors, employees, subsidiaries, or affiliates.

(2) Any officer, director, or employee of an insurer or of an insurance agent, provided the officer, director, or employee does not receive any commission on policies written or sold to insure risks residing, located, or to be performed in this state and any of the following applies:

(a) The activities of the officer, director, or employee are executive, administrative, managerial, clerical, or any combination thereof, and are only indirectly related to the sale, solicitation, or negotiation of insurance.

(b) The function of the officer, director, or employee relates to underwriting, loss control, inspection, or the processing, adjusting, investigation, or settling of a claim on a contract of insurance.

(c) The officer, director, or employee is acting in the capacity of a special agent or agency supervisor, provided the activities of the officer, director, or employee are limited to providing technical advice and assistance to licensed insurance agents and do not include the sale, solicitation, or negotiation of insurance.

(3) Any person who secures and furnishes information for purposes of group life insurance, group property and casualty insurance, group annuities, or group or blanket accident and health insurance, or for purposes of enrolling individuals under plans, issuing certificates under plans, or otherwise assisting in administering plans, or who performs administrative services related to mass marketed property and casualty insurance, provided that no commission is paid to the person for any of the services described in this division;

(4) Any employer or association, any officer, director, or employee of an employer or association, or any trustee of an employee trust plan, to the extent that any such person is engaged in the administration or operation of an employee benefits program for the employer's or association's own employees or for the employees of its subsidiaries or affiliates, if both of the following apply:

(a) The employee benefits program involves the use of insurance contracts issued by an insurer.

(b) The employer, association, officer, director, employee, or trustee is not in any manner compensated, either directly or indirectly, by the insurer issuing the insurance contracts.

(5) Any employee of an insurer or of an organization employed by an insurer, if the employee is engaged in the inspection, rating, or classification of risks or in the supervision of the training of insurance agents, and is not individually engaged in the sale, solicitation, or negotiation of insurance;

(6) Any person whose activities in this state are limited to advertising through communications in printed publications or in the electronic mass media, the distribution of which is not limited to residents of this state, if the person does not sell, solicit, or negotiate insurance covering risks residing, located,

or to be performed in this state;

(7) Any person who is not a resident of this state and who sells, solicits, or negotiates a contract of insurance covering commercial property and casualty risks located in more than one state, if the person is licensed as an insurance agent to sell, solicit, or negotiate that insurance contract in the state where the insured maintains its principal place of business and the contract insures risks located in that state;

(8) Any salaried full-time employee who counsels or advises the employee's employer with respect to the insurance interests of the employer or of the employer's subsidiaries or business affiliates, if the employee does not sell or solicit insurance or receive a commission;

(9) Any employee of an insurer or of an insurance agent who, at the direction of the insurer or agent, performs any of the following activities:

(a) The acceptance of premiums other than the initial premium;

(b) The gathering of information, such as names, addresses, expiration dates of current insurance, and names of current insurers;

(c) The setting of appointments for insurance agents, provided that the individual setting the appointment does not communicate any information about insurance;

(d) The servicing of existing insurance policies issued by or through the employee's employer, provided the servicing is not part of a solicitation;

(e) The performance of clerical or ministerial duties.

(10) Any employee of a creditor with respect to limited line credit insurance products, as long as the employee of the creditor is not paid by, and does not receive a fee, commission, or any other form of compensation from, an insurance agent or insurance company.

(B) The superintendent of insurance may adopt rules in accordance with Chapter 119. of the Revised Code to set forth the specific acts the performance of which either require or do not require licensure as an insurance agent.

Effective Date: 09-01-2002

3905.04 Written examination of applicant for agent license.

(A) Except as otherwise provided in this section or in section 3905.041 of the Revised Code, a resident individual applying for an insurance agent license for any of the lines of authority described in division (B) of this section shall take and pass a written examination prior to application for licensure. The examination shall test the knowledge of the individual with respect to the lines of authority for which application will be made, the duties and responsibilities of an insurance agent, and the insurance laws of this state. Before admission to the examination, each individual shall pay the nonrefundable examination fee .

(B) The examination described in division (A) of this section shall be required for the following lines of authority:

(1) Any of the lines of authority set forth in divisions (B)(1) to (5) of section 3905.06 of the Revised Code;

(2) Title insurance;

(3) Surety bail bonds as provided in sections 3905.83 to 3905.95 of the Revised Code;

(4) Any other line of authority designated by the superintendent of insurance.

(C) An individual shall not be permitted to take the examination described in division (A) of this section unless one of the following applies:

(1) The individual has earned a bachelor's or associate's degree in insurance from an accredited institution.

(2) The individual has earned a professional designation approved by the superintendent.

(3) The individual has completed, for each line of authority for which the individual has applied, twenty hours of study in a program of insurance education approved by the superintendent, in consultation with the insurance agent education advisory council, under criteria established by the superintendent. Division (C) of this section does not apply with respect to title insurance or any other line of authority designated by the superintendent.

(D) An individual who fails to appear for an examination as scheduled, or fails to pass an examination, may reapply for the examination if the individual pays the required fee and submits any necessary forms prior to being rescheduled for the examination.

(E)(1) The superintendent may, in accordance with Chapter 119. of the Revised Code, adopt any rule necessary for the implementation of this section.

(2) The superintendent may make any necessary arrangements, including contracting with an outside testing service, for the administration of the examinations and the collection of the fees required by this

section.

Amended by 128th General Assembly File No. 18, HB 300, § 1, eff. 5/26/2010.

Effective Date: 09-01-2002; 09-29-2005

See 128th General Assembly File No. 18, HB 300, §6.

See 128th General Assembly File No. 18, HB 300, §3.

3905.041 Exceptions to program of insurance education or examination requirement.

(A)(1) An individual who applies for a resident insurance agent license in this state within ninety days after establishing a principal place of residence or principal place of business in this state shall not be required under section 3905.04 of the Revised Code to complete a program of insurance education or to pass a written examination if the individual has paid all applicable fees required under this chapter and if either of the following applies:

(a) The individual is currently licensed in another state and is in good standing for the line or lines of authority requested.

(b) The individual was previously licensed in another state, the individual's application for a resident insurance agent license in this state is received within ninety days after the cancellation of the individual's previous license, and, at the time of license cancellation, the individual was in good standing for the line or lines of authority requested.

(2) To determine an applicant's licensure status and standing in another state, the superintendent of insurance may utilize the producer database maintained by the NAIC or its affiliates or subsidiaries. If that information is not available on the producer database, the superintendent may require documentation from the prior home state.

(B) An individual who applies for a temporary insurance agent license in this state shall not be required under section 3905.04 of the Revised Code to complete any prelicensing education or to pass a written examination.

(C) The superintendent may exempt any limited lines insurance from the examination requirement of section 3905.04 of the Revised Code.

Amended by 128th General Assembly File No. 18, HB 300, § 1, eff. 5/26/2010.

Effective Date: 09-01-2002

See 128th General Assembly File No. 18, HB 300, §6.

See 128th General Assembly File No. 18, HB 300, §3.

3905.05 Application for resident insurance agent license.

(A) A natural person shall apply for a resident insurance agent license by submitting to the superintendent of insurance the uniform application or any other application prescribed by the superintendent, any additional information required by the superintendent, and a declaration made under penalty of refusal, suspension, or revocation of the license, that the statements made in the application are true, correct, and complete to the best of the applicant's knowledge and belief and paying any applicable fees required under this chapter.

A person who applies for a resident insurance agent license with a variable life-variable annuity line of authority shall include in the person's application the person's individual central registration depository number.

The applicant shall also consent to a criminal records check pursuant to section 3905.051 of the Revised Code.

(B) A business entity acting as an insurance agent shall apply for a resident insurance agent license by submitting to the superintendent the uniform business entity application or any other application prescribed by the superintendent and paying any applicable fees required under this chapter.

(C) The superintendent may require an applicant to submit any document reasonably necessary to verify the information contained in an application.

Amended by 128th General Assembly File No. 18, HB 300, § 1, eff. 5/26/2010.

Effective Date: 09-01-2002

See 128th General Assembly File No. 18, HB 300, §6.

See 128th General Assembly File No. 18, HB 300, §3.

3905.051 Criminal records check; fingerprinting; confidentiality.

As used in this section:

(A) "Applicant" means a natural person applying for either of the following:

(1) A resident license as an insurance agent or surety bail bond agent;

(2) An additional line of authority under an existing resident insurance agent license if a criminal record check has not been obtained within the last twelve months for insurance license purposes.

(B) "Fingerprint" means an impression of the lines on the finger taken for the purpose of identification. The impression may be electronic or converted to an electronic format.

(C) Each applicant shall consent to a criminal record check in accordance with this section and shall submit a full set of fingerprints to the superintendent of insurance for that purpose.

(D) The superintendent of insurance shall request the superintendent of the bureau of criminal identification and investigation to conduct a criminal records check based on the applicant's fingerprints. The superintendent of insurance shall request that criminal record information from the federal bureau of investigation be obtained as part of the criminal records check.

(E) The superintendent of insurance may contract for the collection and transmission of fingerprints authorized under this section. The superintendent may order the fee for collecting and transmitting fingerprints to be payable directly to the contractor by the applicant. The superintendent may agree to a reasonable fingerprinting fee to be charged by the contractor. Any fee required under this section shall be paid by the applicant.

(F) The superintendent may receive criminal record information directly in lieu of the bureau of criminal identification and investigation that submitted the fingerprints to the federal bureau of investigation.

(G) The superintendent shall treat and maintain an applicant's fingerprints and any criminal record information obtained under this section as confidential and shall apply security measures consistent with the criminal justice information services division of the federal bureau of investigation standards for the electronic storage of fingerprints and necessary identifying information and limit the use of records solely to the purposes authorized by this section. The fingerprints and any criminal record information are not subject to subpoena other than one issued pursuant to a criminal investigation, are confidential by law and privileged, are not subject to discovery, and are not admissible in any private civil action.

(H) This section does not apply to an agent applying for renewal of an existing resident or nonresident license in this state.

Added by 128th General Assembly File No. 18, HB 300, § 1, eff. 5/26/2010.

See 128th General Assembly File No. 18, HB 300, §6.

3905.06 Issuance and contents of license - lines of authority.

(A)(1) The superintendent of insurance shall issue a resident insurance agent license to an individual applicant whose home state is Ohio upon submission of a completed application and payment of any applicable fee required under this chapter, if the superintendent finds all of the following:

(a) The applicant is at least eighteen years of age.

(b) The applicant has not committed any act that is a ground for the denial, suspension, or revocation of a license under section 3905.14 of the Revised Code.

(c) If required under section 3905.04 of the Revised Code, the applicant has completed a program of insurance education for each line of authority for which the applicant has applied.

(d) If required under section 3905.04 of the Revised Code, the applicant has passed an examination for each line of authority for which the applicant has applied.

(e) Any applicant applying for variable life-variable annuity line of authority is registered with the financial industry regulatory authority (FINRA) as a registered representative after having passed at least one of the following examinations administered by the FINRA: the series 6 examination, the series 7 examination, the series 63 examination, the series 66 examination, or any other FINRA examination approved by the superintendent.

(f) If required under section 3905.051 of the Revised Code, the applicant has consented to a criminal records check and the results of the applicant's criminal records check are determined to be satisfactory by the superintendent.

(g) The applicant is a United States citizen or has provided proof of having legal authorization to work in the United States.

(h) The applicant is of good reputation and character, is honest and trustworthy, and is otherwise suitable to be licensed.

(2) The superintendent shall issue a resident insurance agent license to a business entity applicant upon submission of a completed application and payment of any applicable fees required under this chapter if the superintendent finds all of the following:

(a) The applicant either is domiciled in Ohio or maintains its principal place of business in Ohio.

(b) The applicant has designated a licensed insurance agent who will be responsible for the applicant's compliance with the insurance laws of this state.

(c) The applicant has not committed any act that is a ground for the denial, suspension, or revocation of a license under section 3905.14 of the Revised Code.

(d) The applicant has submitted any other documents requested by the superintendent.

(B) An insurance agent license issued pursuant to division (A) of this section shall state the licensee's name, the license number, the date of issuance, the date the license expires, the line or lines of authority for which the licensee is qualified, and any other information the superintendent deems necessary.

A licensee may be qualified for any of the following lines of authority:

(1) Life, which is insurance coverage on human lives, including benefits of endowment and annuities, and may include benefits in the event of death or dismemberment by accident and benefits for disability income;

(2) Accident and health, which is insurance coverage for sickness, bodily injury, or accidental death, and may include benefits for disability income;

(3) Property, which is insurance coverage for the direct or consequential loss or damage to property of any kind;

(4) Casualty, which is insurance coverage against legal liability, including coverage for death, injury, or disability or damage to real or personal property;

(5) Personal lines, which is property and casualty insurance coverage sold to individuals and families for noncommercial purposes;

(6) Variable life and variable annuity products, which is insurance coverage provided under variable life insurance contracts and variable annuities;

(7) Credit, which is limited line credit insurance;

(8) Title, which is insurance coverage against loss or damage suffered by reason of liens against, encumbrances upon, defects in, or the unmarketability of, real property;

(9) Surety bail bond, which is the authority set forth in sections 3905.83 to 3905.95 of the Revised Code;

(10) Any other line of authority designated by the superintendent.

(C) (1) An individual seeking to renew a resident insurance agent license shall apply biennially for a renewal of the license on or before the last day of the licensee's birth month. A business entity seeking to renew a resident insurance agent license shall apply biennially for a renewal of the license on or before the date determined by the superintendent. The superintendent shall send a renewal notice to all licensees at least one month prior to the renewal date.

Applications shall be submitted to the superintendent on forms prescribed by the superintendent. Each application shall be accompanied by a biennial renewal fee. The superintendent also may require an applicant to submit any document reasonably necessary to verify the information contained in the renewal application.

(2) To be eligible for renewal, an individual applicant shall complete the continuing education requirements pursuant to section 3905.481 of the Revised Code prior to the renewal date.

(3) If an applicant submits a completed renewal application, qualifies for renewal pursuant to divisions (C)(1) and (2) of this section, and has not committed any act that is a ground for the refusal to issue, suspension of, or revocation of a license under section 3905.14 of the Revised Code, the superintendent shall renew the applicant's resident insurance agent license.

(D) If an individual or business entity does not apply for the renewal of the individual or business entity's license on or before the license renewal date specified in division (C)(1) of this section, the individual or business entity may submit a late renewal application along with all applicable fees required under this chapter prior to the first day of the second month following the license renewal date.

(E) A license issued under this section that is not renewed on or before its renewal date pursuant to division (C) of this section or its late renewal date pursuant to division (D) of this section automatically is suspended for nonrenewal on the first day of the second month following the renewal date. If a license is suspended for nonrenewal pursuant to this division, the individual or business entity is eligible to apply for reinstatement of the license within the twelve-month period following the date by which the license should have been renewed by complying with the reinstatement procedure established by the superintendent and paying all applicable fees required under this chapter.

(F) A license that is suspended for nonrenewal that is not reinstated pursuant to division (E) of this section automatically is canceled unless the superintendent is investigating any allegations of wrongdoing by the agent or has initiated proceedings under Chapter 119. of the Revised Code. In that case, the license automatically is canceled after the completion of the investigation or proceedings unless the superintendent revokes the license.

(G) An individual licensed as a resident insurance agent who is unable to comply with the license renewal procedures established under this section and who is unable to engage in the business of insurance due to military service, a long-term medical disability, or some other extenuating circumstance may request an extension of the renewal date of the individual's license. To be eligible for such an extension, the individual shall submit a written request with supporting documentation to the superintendent. At the superintendent's discretion, the superintendent may not consider a written request made after the renewal date of the license.

Amended by 128th General Assembly File No. 18, HB 300, § 1, eff. 5/26/2010.

Effective Date: 09-01-2002

See 128th General Assembly File No. 18, HB 300, §6.

See 128th General Assembly File No. 18, HB 300, §3.

This section is set out twice. See also §3905.061, effective until 5/26/2010.

3905.061 Agent to file of change of address.

(A) If a person licensed as an insurance agent under section 3905.06 of the Revised Code changes the person's address within the state, the person shall, within thirty days after making that change, file a change of address with the superintendent of insurance or the superintendent's designee.

(B)(1) If a person licensed as an insurance agent under section 3905.06 of the Revised Code changes the person's home state, the person shall, within thirty days after making that change, file a change of address with the superintendent and provide the superintendent with certification from the new home state.

(2) If a resident insurance agent complies with division (B)(1) of this section and the agent is in good standing with the superintendent, the agent's license shall be changed to that of a nonresident license and no fee or license application shall be required. A change in the residency status of an insurance agent license under this section does not change the license renewal date established by the initial licensure under section 3905.06 of the Revised Code.

Amended by 128th General Assembly File No. 18, HB 300, § 1, eff. 5/26/2010.

Effective Date: 09-01-2002

See 128th General Assembly File No. 18, HB 300, §6.

See 128th General Assembly File No. 18, HB 300, §3.

3905.071 Nonresident to file change of address.

(A)(1) If a nonresident person licensed as a nonresident insurance agent under section 3905.07 of the Revised Code changes the person's address within the person's state of residence, the person shall, within thirty days after making that change, file a change of address with the superintendent of insurance or the superintendent's designee.

(2) If a nonresident person licensed as a nonresident insurance agent under section 3905.07 of the Revised Code changes the person's home state , the person shall, within thirty days after making that change, file a change of address with the superintendent and provide the superintendent with certification from the new home state .

(B) If a nonresident insurance agent complies with division (A) of this section and the agent is in good standing with the superintendent, no fee or license application shall be required. A change in the residency status of an agent's license under this section does not change the license renewal date established by the initial license under section 3905.07 of the Revised Code.

Amended by 128th General Assembly File No. 18, HB 300, § 1, eff. 5/26/2010.

Effective Date: 09-01-2002

See 128th General Assembly File No. 18, HB 300, §6.

See 128th General Assembly File No. 18, HB 300, §3.

3905.14 Disciplinary actions.

(A) As used in sections 3905.14 to 3905.16 of the Revised Code:

- (1) "Insurance agent" includes a limited lines insurance agent, surety bail bond agent, and surplus line broker.
- (2) "Refusal to issue or renew" means the decision of the superintendent of insurance not to process either the initial application for a license as an agent or the renewal of such a license.
- (3) "Revocation" means the permanent termination of all authority to hold any license as an agent in this state.
- (4) "Surrender for cause" means the voluntary termination of all authority to hold any license as an agent in this state, in lieu of a revocation or suspension order.
- (5) "Suspension" means the termination of all authority to hold any license as an agent in this state, for either a specified period of time or an indefinite period of time and under any terms or conditions determined by the superintendent.

(B) The superintendent may suspend, revoke, or refuse to issue or renew any license of an insurance agent, assess a civil penalty, or impose any other sanction or sanctions authorized under this chapter, for one or more of the following reasons:

- (1) Providing incorrect, misleading, incomplete, or materially untrue information in a license or appointment application;
- (2) Violating or failing to comply with any insurance law, rule, subpoena, consent agreement, or order of the superintendent or of the insurance authority of another state;
- (3) Obtaining, maintaining, or attempting to obtain or maintain a license through misrepresentation or fraud;
- (4) Improperly withholding, misappropriating, or converting any money or property received in the course of doing insurance business;
- (5) Intentionally misrepresenting the terms, benefits, value, cost, or effective dates of any actual or proposed insurance contract or application for insurance;
- (6) Having been convicted of or pleaded guilty or no contest to a felony regardless of whether a judgment of conviction has been entered by the court;
- (7) Having been convicted of or pleaded guilty or no contest to a misdemeanor that involves the misuse or theft of money or property belonging to another, fraud, forgery, dishonest acts, or breach of a fiduciary duty, that is based on any act or omission relating to the business of insurance, securities, or financial services, or that involves moral turpitude regardless of whether a judgment has been entered by the court;

- (8) Having admitted to committing, or having been found to have committed, any insurance unfair trade act or practice or insurance fraud;
- (9) Using fraudulent, coercive, or dishonest practices, or demonstrating incompetence, untrustworthiness, or financial irresponsibility, in the conduct of business in this state or elsewhere;
- (10) Having an insurance agent license, or its equivalent, denied, suspended, or revoked in any other state, province, district, or territory;
- (11) Forging or causing the forgery of an application for insurance or any document related to or used in an insurance transaction;
- (12) Improperly using notes , any other reference material, equipment, or devices of any kind to complete an examination for an insurance agent license;
- (13) Knowingly accepting insurance business from an individual who is not licensed;
- (14) Failing to comply with any official invoice, notice, assessment, or order directing payment of federal, state, or local income tax, state or local sales tax, or workers' compensation premiums;
- (15) Failing to timely submit an application for insurance. For purposes of division (B)(15) of this section, a submission is considered timely if it occurs within the time period expressly provided for by the insurer, or within seven days after the insurance agent accepts a premium or an order to bind coverage from a policyholder or applicant for insurance, whichever is later.
- (16) Failing to disclose to an applicant for insurance or policyholder upon accepting a premium or an order to bind coverage from the applicant or policyholder, that the person has not been appointed by the insurer;
- (17) Having any professional license or financial industry regulatory authority registration suspended or revoked or having been barred from participation in any industry;
- (18) Having been subject to a cease and desist order or permanent injunction related to mishandling of funds or breach of fiduciary responsibilities or for unlicensed or unregistered activities;
- (19) Causing or permitting a policyholder or applicant for insurance to designate the insurance agent or the insurance agent's spouse, parent, child, or sibling as the beneficiary of a policy or annuity sold by the insurance agent or of a policy or annuity for which the agent, at any time, was designated as the agent of record, unless the insurance agent or a relative of the insurance agent is the insured or applicant;
- (20) Causing or permitting a policyholder or applicant for insurance to designate the insurance agent or the insurance agent's spouse, parent, child, or sibling as the owner or beneficiary of a trust funded, in whole or in part, by a policy or annuity sold by the insurance agent or by a policy or annuity for which the agent, at any time, was designated as the agent of record, unless the insurance agent or a relative of the insurance agent is the insured or applicant;
- (21) Failing to provide a written response to the department of insurance within twenty-one calendar

days after receipt of any written inquiry from the department, unless a reasonable extension of time has been requested of, and granted by, the superintendent or the superintendent's designee;

(22) Failing to appear to answer questions before the superintendent after being notified in writing by the superintendent of a scheduled interview, unless a reasonable extension of time has been requested of, and granted by, the superintendent or the superintendent's designee;

(23) Transferring or placing insurance with an insurer other than the insurer expressly chosen by the applicant for insurance or policyholder without the consent of the applicant or policyholder or absent extenuating circumstances;

(24) Failing to inform a policyholder or applicant for insurance of the identity of the insurer or insurers, or the identity of any other insurance agent or licensee known to be involved in procuring, placing, or continuing the insurance for the policyholder or applicant, upon the binding of the coverage;

(25) In the case of an agent that is a business entity, failing to report an individual licensee's violation to the department when the violation was known or should have been known by one or more of the partners, officers, managers, or members of the business entity;

(26) Submitting or using a document in the conduct of the business of insurance when the person knew or should have known that the document contained a writing that was forged as defined in section 2913.01 of the Revised Code;

(27) Misrepresenting the person's qualifications, status or relationship to another person, agency, or entity, or using in any way a professional designation that has not been conferred upon the person by the appropriate accrediting organization;

(28) Obtaining a premium loan or policy surrender or causing a premium loan or policy surrender to be made to or in the name of an insured or policyholder without that person's knowledge and written authorization;

(29) Using paper, software, or any other materials of or provided by an insurer after the insurer has terminated the authority of the licensee, if the use of such materials would cause a reasonable person to believe that the licensee was acting on behalf of or otherwise representing the insurer;

(30) Soliciting, procuring an application for, or placing, either directly or indirectly, any insurance policy when the person is not authorized under this chapter to engage in such activity;

(31) Soliciting, selling, or negotiating any product or service that offers benefits similar to insurance but is not regulated by the superintendent, without fully disclosing, orally and in writing, to the prospective purchaser that the product or service is not insurance and is not regulated by the superintendent;

(32) Failing to fulfill a refund obligation to a policyholder or applicant in a timely manner. For purposes of division (B)(32) of this section, a rebuttable presumption exists that a refund obligation is not fulfilled in a timely manner unless it is fulfilled within one of the following time periods:

(a) Thirty days after the date the policyholder, applicant, or insurer takes or requests action resulting in a refund;

(b) Thirty days after the date of the insurer's refund check, if the agent is expected to issue a portion of the total refund;

(c) Forty-five days after the date of the agent's statement of account on which the refund first appears.

The presumption may be rebutted by proof that the policyholder or applicant consented to the delay or agreed to permit the agent to apply the refund to amounts due for other coverages.

(33) With respect to a surety bail bond agent license, rebating or offering to rebate, or unlawfully dividing or offering to divide, any commission, premium, or fee;

(34) Using a license for the principal purpose of procuring, receiving, or forwarding applications for insurance of any kind, other than life, or soliciting, placing, or effecting such insurance directly or indirectly upon or in connection with the property of the licensee or that of relatives, employers, employees, or that for which they or the licensee is an agent, custodian, vendor, bailee, trustee, or payee;

(35) In the case of an insurance agent that is a business entity, using a life license for the principal purpose of soliciting or placing insurance on the lives of the business entity's officers, employees, or shareholders, or on the lives of relatives of such officers, employees, or shareholders, or on the lives of persons for whom they, their relatives, or the business entity is agent, custodian, vendor, bailee, trustee, or payee;

(36) Offering, selling, soliciting, or negotiating policies, contracts, agreements, or applications for insurance, or annuities providing fixed, variable, or fixed and variable benefits, or contractual payments, for or on behalf of any insurer or multiple employer welfare arrangement not authorized to transact business in this state, or for or on behalf of any spurious, fictitious, nonexistent, dissolved, inactive, liquidated or liquidating, or bankrupt insurer or multiple employer welfare arrangement;

(37) In the case of a resident business entity, failing to be qualified to do business in this state under Title XVII of the Revised Code, failing to be in good standing with the secretary of state, or failing to maintain a valid appointment of statutory agent with the secretary of state;

(38) In the case of a nonresident agent, failing to maintain licensure as an insurance agent in the agent's home state for the lines of authority held in this state;

(39) Knowingly aiding and abetting another person or entity in the violation of any insurance law of this state or the rules adopted under it.

(C) Before denying, revoking, suspending, or refusing to issue any license or imposing any penalty under this section, the superintendent shall provide the licensee or applicant with notice and an opportunity for hearing as provided in Chapter 119. of the Revised Code, except as follows:

(1)(a) Any notice of opportunity for hearing, the hearing officer's findings and recommendations, or the superintendent's order shall be served by certified mail at the last known address of the licensee or applicant. Service shall be evidenced by return receipt signed by any person.

For purposes of this section, the "last known address" is the residential address of a licensee or

applicant, or the principal-place-of-business address of a business entity, that is contained in the licensing records of the department.

(b) If the certified mail envelope is returned with an endorsement showing that service was refused, or that the envelope was unclaimed, the notice and all subsequent notices required by Chapter 119. of the Revised Code may be served by ordinary mail to the last known address of the licensee or applicant. The mailing shall be evidenced by a certificate of mailing. Service is deemed complete as of the date of such certificate provided that the ordinary mail envelope is not returned by the postal authorities with an endorsement showing failure of delivery. The time period in which to request a hearing, as provided in Chapter 119. of the Revised Code, begins to run on the date of mailing.

(c) If service by ordinary mail fails, the superintendent may cause a summary of the substantive provisions of the notice to be published once a week for three consecutive weeks in a newspaper of general circulation in the county where the last known place of residence or business of the party is located. The notice is considered served on the date of the third publication.

(d) Any notice required to be served under Chapter 119. of the Revised Code shall also be served upon the party's attorney by ordinary mail if the attorney has entered an appearance in the matter.

(e) The superintendent may, at any time, perfect service on a party by personal delivery of the notice by an employee of the department.

(f) Notices regarding the scheduling of hearings and all other matters not described in division (C)(1)(a) of this section shall be sent by ordinary mail to the party and to the party's attorney.

(2) Any subpoena for the appearance of a witness or the production of documents or other evidence at a hearing, or for the purpose of taking testimony for use at a hearing, shall be served by certified mail, return receipt requested, by an attorney or by an employee of the department designated by the superintendent. Such subpoenas shall be enforced in the manner provided in section 119.09 of the Revised Code. Nothing in this section shall be construed as limiting the superintendent's other statutory powers to issue subpoenas.

(D) If the superintendent determines that a violation described in this section has occurred, the superintendent may take one or more of the following actions:

(1) Assess a civil penalty in an amount not exceeding twenty-five thousand dollars per violation;

(2) Assess administrative costs to cover the expenses incurred by the department in the administrative action, including costs incurred in the investigation and hearing processes. Any costs collected shall be paid into the state treasury to the credit of the department of insurance operating fund created in section 3901.021 of the Revised Code.

(3) Suspend all of the person's licenses for all lines of insurance for either a specified period of time or an indefinite period of time and under such terms and conditions as the superintendent may determine;

(4) Permanently revoke all of the person's licenses for all lines of insurance;

(5) Refuse to issue a license;

(6) Refuse to renew a license;

(7) Prohibit the person from being employed in any capacity in the business of insurance and from having any financial interest in any insurance agency, company, surety bail bond business, or third-party administrator in this state. The superintendent may, in the superintendent's discretion, determine the nature, conditions, and duration of such restrictions.

(8) Order corrective actions in lieu of or in addition to the other penalties listed in division (D) of this section. Such an order may provide for the suspension of civil penalties, license revocation, license suspension, or refusal to issue or renew a license if the licensee complies with the terms and conditions of the corrective action order.

(9) Accept a surrender for cause offered by the licensee, which shall be for at least five years and shall prohibit the licensee from seeking any license authorized under this chapter during that time period. A surrender for cause shall be in lieu of revocation or suspension and may include a corrective action order as provided in division (D)(8) of this section.

(E) The superintendent may consider the following factors in denying a license, imposing suspensions, revocations, fines, or other penalties, and issuing orders under this section:

(1) Whether the person acted in good faith;

(2) Whether the person made restitution for any pecuniary losses suffered by other persons as a result of the person's actions;

(3) The actual harm or potential for harm to others;

(4) The degree of trust placed in the person by, and the vulnerability of, persons who were or could have been adversely affected by the person's actions;

(5) Whether the person was the subject of any previous administrative actions by the superintendent;

(6) The number of individuals adversely affected by the person's acts or omissions;

(7) Whether the person voluntarily reported the violation, and the extent of the person's cooperation and acceptance of responsibility;

(8) Whether the person obstructed or impeded, or attempted to obstruct or impede, the superintendent's investigation;

(9) The person's efforts to conceal the misconduct;

(10) Remedial efforts to prevent future violations;

(11) If the person was convicted of a criminal offense, the nature of the offense, whether the conviction was based on acts or omissions taken under any professional license, whether the offense involved the breach of a fiduciary duty, the amount of time that has passed, and the person's activities subsequent to the conviction;

(12) Such other factors as the superintendent determines to be appropriate under the circumstances.

(F)(1) A violation described in division (B)(1), (2), (3), (4), (5), (6), (7), (8), (9), (10), (11), (12), (13), (14), (16), (17), (18), (19), (20), (22), (23), (24), (25), (26), (27), (28), (29), (30), (31), (32), (33), (34), (35), and (36) of this section is a class A offense for which the superintendent may impose any penalty set forth in division (D) of this section.

(2) A violation described in division (B)(15) or (21) of this section, or a failure to comply with section 3905.061, 3905.071, or 3905.22 of the Revised Code, is a class B offense for which the superintendent may impose any penalty set forth in division (D)(1), (2), (8), or (9) of this section.

(3) If the superintendent determines that a violation described in division (B)(36) of this section has occurred, the superintendent shall impose a minimum of a two-year suspension on all of the person's licenses for all lines of insurance.

(G) If a violation described in this section has caused, is causing, or is about to cause substantial and material harm, the superintendent may issue an order requiring that person to cease and desist from engaging in the violation. Notice of the order shall be mailed by certified mail, return receipt requested, or served in any other manner provided for in this section, immediately after its issuance to the person subject to the order and to all persons known to be involved in the violation. The superintendent may thereafter publicize or otherwise make known to all interested parties that the order has been issued.

The notice shall specify the particular act, omission, practice, or transaction that is subject to the cease-and-desist order and shall set a date, not more than fifteen days after the date of the order, for a hearing on the continuation or revocation of the order. The person shall comply with the order immediately upon receipt of notice of the order.

The superintendent may, upon the application of a party and for good cause shown, continue the hearing. Chapter 119. of the Revised Code applies to such hearings to the extent that that chapter does not conflict with the procedures set forth in this section. The superintendent shall, within fifteen days after objections are submitted to the hearing officer's report and recommendation, issue a final order either confirming or revoking the cease-and-desist order. The final order may be appealed as provided under section 119.12 of the Revised Code.

The remedy under this division is cumulative and concurrent with the other remedies available under this section.

(H) If the superintendent has reasonable cause to believe that an order issued under this section has been violated in whole or in part, the superintendent may request the attorney general to commence and prosecute any appropriate action or proceeding in the name of the state against such person.

The court may, in an action brought pursuant to this division, impose any of the following:

(1) For each violation, a civil penalty of not more than twenty-five thousand dollars;

(2) Injunctive relief;

(3) Restitution;

(4) Any other appropriate relief.

(I) With respect to a surety bail bond agent license:

(1) Upon the suspension or revocation of a license, or the eligibility of a surety bail bond agent to hold a license, the superintendent likewise may suspend or revoke the license or eligibility of any surety bail bond agent who is employed by or associated with that agent and who knowingly was a party to the act that resulted in the suspension or revocation.

(2) The superintendent may revoke a license as a surety bail bond agent if the licensee is adjudged bankrupt.

(J) Nothing in this section shall be construed to create or imply a private cause of action against an agent or insurer.

Amended by 128th General Assembly File No. 18, HB 300, § 1, eff. 5/26/2010.

Effective Date: 07-02-2004

See 128th General Assembly File No. 18, HB 300, §6.

See 128th General Assembly File No. 18, HB 300, §3.

3905.16 Surrender of license.

(A)(1) Except as provided in division (A)(2) of this section, any person licensed as an agent under this chapter may at any time surrender any or all licenses held by the person.

(2) No agent shall surrender the agent's licenses if the superintendent of insurance is investigating any allegation of wrongdoing by the agent or has initiated proceedings under Chapter 119. of the Revised Code and notice of an opportunity for a hearing has been issued to the agent, and any attempt to so surrender is invalid.

(B)(1) If an agent's license is surrendered, revoked, suspended, canceled, or inactivated by request, all appointments held by the agent are void. If a new license is issued to that person or if that person's previous license is reinstated or renewed, any appointment of the person to represent an insurer must be made in accordance with the requirements of this chapter.

(2) If an agent's license is surrendered, revoked, or canceled and the person wishes to apply for a new license, the person shall apply as a new agent and shall satisfy all requirements for a new agent license including, if applicable, submitting to a criminal records check under section 3905.051 of the Revised Code.

(C)(1) Any agent, other than a business entity, who is no longer engaged in the business of insurance in any capacity for which an agent's license is required may apply to the superintendent for inactive status. The superintendent may grant such status only if the superintendent is satisfied that the person is not engaged in and does not intend to engage in any of the activities set forth in section 3905.02 of the Revised Code that requires an agent's license.

(2) A person who has been granted inactive status is exempt from any continuing education requirements imposed under this chapter.

(3) The superintendent may adopt rules in accordance with Chapter 119. of the Revised Code to establish procedures for applying for inactive status, criteria used to determine eligibility for such status, and standards and procedures for transferring from inactive to active status.

(D) The superintendent may suspend or revoke a license, or take any other disciplinary action authorized by this chapter, regardless of whether the person is appointed or otherwise authorized to represent an insurer or agent.

Amended by 128th General Assembly File No. 18, HB 300, § 1, eff. 5/26/2010.

Effective Date: 09-01-2002

See 128th General Assembly File No. 18, HB 300, §6.

See 128th General Assembly File No. 18, HB 300, §3.

3905.40 Fees paid to superintendent of insurance.

There shall be paid to the superintendent of insurance the following fees:

(A) Each insurance company doing business in this state shall pay:

(1) For filing a copy of its charter or deed of settlement, two hundred fifty dollars;

(2) For filing each statement, one hundred seventy-five dollars;

(3) For each certificate of authority or license, one hundred seventy-five, and for each certified copy thereof, five dollars;

(4) For each copy of a paper filed in the superintendent's office, twenty cents per page;

(5) For issuing certificates of deposits or certified copies thereof, five dollars for the first certificate or copy and one dollar for each additional certificate or copy;

(6) For issuing certificates of compliance or certified copies thereof, sixty dollars;

(7) For affixing the seal of office and certifying documents, other than those enumerated herein, two dollars;

(8) For each agent appointment and each annual renewal of an agent appointment, twenty dollars;

(9) For each termination of an agent appointment, five dollars.

(B) Each domestic life insurance company doing business in this state shall pay for annual valuation of its policies, one cent on every one thousand dollars of insurance.

(C) Each applicant for licensure as an insurance agent except applicants for licensure as surety bail bond agents and surplus line brokers shall pay ten dollars for each line of authority requested. Fees collected under this division shall be credited to the department of insurance operating fund created in section 3901.021 of the Revised Code.

(D) Each domestic mutual life insurance company shall pay for verifying that any amendment to its articles of incorporation was regularly adopted, two hundred fifty dollars with each application for verification. Any such amendment shall be considered to have been regularly adopted when approved by the affirmative vote of two-thirds of the policyholders present in person or by proxy at any annual meeting of policyholders or at a special meeting of policyholders called for that purpose.

(E) Each insurance agent doing business in this state shall pay a biennial license renewal fee of twenty-five dollars, except the following insurance agents are not required to pay the license renewal fee:

(1) Individual resident agents who have met their continuing education requirements under section 3905.481 of the Revised Code;

(2) Surety bail bond agents;

(3) Surplus line brokers.

(F) All fees collected by the superintendent under this section except any fees collected under divisions (A)(2), (3), and (6) of this section shall be credited to the department of insurance operating fund created under section 3901.021 of the Revised Code.

Amended by 128th General Assembly File No. 18, HB 300, § 1, eff. 5/26/2010.

Effective Date: 09-01-2002; 04-27-2005; 09-29-2005; 2008 HB562 09-22-2008

See 128th General Assembly File No. 18, HB 300, §6.

See 128th General Assembly File No. 18, HB 300, §5.

See 128th General Assembly File No. 18, HB 300, §3.

3905.484 Establishing criteria for course or program of study for license examination.

(A) The superintendent of insurance, in consultation with the insurance agent education advisory council, shall establish criteria for any course or program of study that is offered in this state under section 3905.04 or sections 3905.481 to 3905.486 of the Revised Code.

(B) No course or program of study shall be offered in this state under section 3905.04 or sections 3905.481 to 3905.486 of the Revised Code unless it is approved by the superintendent in consultation with the council.

(C) A course or program of study offered in this state under section 3905.04 or sections 3905.481 to 3905.486 of the Revised Code shall be developed or sponsored only by one of the following:

(1) An insurance company admitted to transact business in this state;

(2) An accredited college or university;

(3) An insurance trade association;

(4) An independent program of instruction that is approved by the superintendent in consultation with the council;

(5) Any institution as defined in section 1713.01 of the Revised Code that holds a certificate of authorization issued by the Ohio board of regents under Chapter 1713. of the Revised Code or is exempt under that chapter from the requirements for a certificate of authorization.

Amended by 128th General Assembly File No. 18, HB 300, § 1, eff. 5/26/2010.

Effective Date: 09-01-2002

See 128th General Assembly File No. 18, HB 300, §6.

See 128th General Assembly File No. 18, HB 300, §3.

3905.84 Surety bail bond agent to be qualified, licensed, and appointed.

No person shall act in the capacity of a surety bail bond agent, or perform any of the functions, duties, or powers prescribed for surety bail bond agents under sections [3905.83](#) to [3905.95](#) of the Revised Code, unless that person is qualified, licensed, and appointed as provided in those sections.

Effective Date: 10-09-2001

3905.841 Persons or classes of persons not to act as agents.

The following persons or classes of persons shall not act as surety bail bond agents or employees of a surety bail bond agent or bail bond business and shall not directly or indirectly receive any benefits from the execution of a bail bond, except as a principal:

- (A) Jailers or other persons employed in a detention facility, as defined in section 2921.01 of the Revised Code;
- (B) Prisoners incarcerated in any jail, prison, or any other place used for the incarceration of persons;
- (C) Peace officers as defined in section 2921.51 of the Revised Code, including volunteer or honorary peace officers, or other employees of a law enforcement agency;
- (D) Committing magistrates, judges, employees of a court, or employees of the clerk of any court;
- (E) Attorneys or any person employed at an attorney's office;
- (F) Any other persons having the power to arrest, or persons who have authority over or control of, federal, state, county, or municipal corporation prisoners.

Amended by 128th General Assembly File No. 18, HB 300, § 1, eff. 5/26/2010.

Effective Date: 10-09-2001

See 128th General Assembly File No. 18, HB 300, §6.

See 128th General Assembly File No. 18, HB 300, §3.

3905.85 Surety bail bond agent license.

(A) (1) An individual who applies for a license as a surety bail bond agent shall submit an application for the license in a manner prescribed by the superintendent of insurance. The application shall be accompanied by a one hundred fifty dollar fee and a statement that gives the applicant's name, age, residence, present occupation, occupation for the five years next preceding the date of the application, and such other information as the superintendent may require.

(2) An applicant for an individual resident license shall also submit to a criminal records check pursuant to section 3905.051 of the Revised Code.

(B)(1) The superintendent shall issue to an applicant an individual resident license that states in substance that the person is authorized to do the business of a surety bail bond agent, if the superintendent is satisfied that all of the following apply:

(a) The applicant is eighteen years of age or older.

(b) The applicant's home state is Ohio.

(c) The applicant is a person of high character and integrity.

(d) The applicant has not committed any act that is grounds for the refusal to issue, suspension of, or revocation of a license under section 3905.14 of the Revised Code.

(e) The applicant is a United States citizen or has provided proof of having legal authorization to work in the United States.

(f) The applicant has successfully completed the educational requirements set forth in section 3905.04 of the Revised Code and passed the examination required by that section.

(2) The superintendent shall issue to an applicant an individual nonresident license that states in substance that the person is authorized to do the business of a surety bail bond agent, if the superintendent is satisfied that all of the following apply:

(a) The applicant is eighteen years of age or older.

(b) The applicant is currently licensed as a resident in another state and is in good standing in the applicant's home state for surety bail bond or is qualified for the same authority.

(c) The applicant is a person of high character and integrity.

(d) The applicant has not committed any act that is grounds for the refusal to issue, suspension of, or revocation of a license under section 3905.14 of the Revised Code.

(3) The superintendent shall issue an applicant a resident business entity license that states in substance that the person is authorized to do the business of a surety bail bond agent if the superintendent is satisfied that all of the following apply:

(a) The applicant has submitted an application for the license in a manner prescribed by the superintendent and the one-hundred-fifty-dollar application fee.

(b) The applicant either is domiciled in this state or maintains its principal place of business in this state.

(c) The applicant has designated an individual licensed surety bail bond agent who will be responsible for the applicant's compliance with the insurance laws of this state.

(d) The applicant has not committed any act that is grounds for the refusal to issue, suspension of, or revocation of a license under section 3905.14 of the Revised Code.

(e) The applicant is authorized to do business in this state by the secretary of state if so required under the applicable provisions of Title XVII of the Revised Code.

(f) The applicant has submitted any other documents requested by the superintendent.

(4) The superintendent shall issue an applicant a nonresident business entity license that states in substance that the person is authorized to do the business of a surety bail bond agent if the superintendent is satisfied that all of the following apply:

(a) The applicant has submitted an application for the license in a manner prescribed by the superintendent and the one-hundred-fifty-dollar application fee.

(b) The applicant is currently licensed and is in good standing in the applicant's home state with surety bail bond authority.

(c) The applicant has designated an individual licensed surety bail bond agent who will be responsible for the applicant's compliance with the insurance laws of this state.

(d) The applicant has not committed any act that is grounds for the refusal to issue, suspension of, or revocation of a license under section 3905.14 of the Revised Code.

(e) The applicant has submitted any other documents requested by the superintendent.

(C) A resident and nonresident surety bail bond agent license issued pursuant to this section authorizes the holder, when appointed by an insurer, to execute or countersign bail bonds in connection with judicial proceedings and to receive money or other things of value for those services. However, the holder shall not execute or deliver a bond during the first one hundred eighty days after the license is initially issued. This restriction does not apply with respect to license renewals or any license issued under divisions (B)(3) and (4) of this section.

(D) The superintendent may refuse to renew a surety bail bond agent's license as provided in division (B) of section 3905.88 of the Revised Code, and may suspend, revoke, or refuse to issue or renew such a license as provided in section 3905.14 of the Revised Code.

If the superintendent refuses to issue such a license based in whole or in part upon the written response to a criminal records check completed pursuant to division (A) of this section, the superintendent shall send a copy of the response that was transmitted to the superintendent to the applicant at the

applicant's home address upon the applicant's submission of a written request to the superintendent.

(E) Any person licensed as a surety bail bond agent may surrender the person's license in accordance with section 3905.16 of the Revised Code.

(F) (1) A person seeking to renew a surety bail bond agent license shall apply annually for a renewal of the license on or before the last day of February. Applications shall be submitted to the superintendent on forms prescribed by the superintendent. Each application shall be accompanied by a one-hundred-fifty-dollar renewal fee.

(2) To be eligible for renewal, an individual applicant shall complete the continuing education requirements pursuant to section 3905.88 of the Revised Code prior to the renewal date.

(3) If an applicant submits a completed renewal application, qualifies for renewal pursuant to divisions (F)(1) and (2) of this section, and has not committed any act that is a ground for the refusal to issue, suspension of, or revocation of a license under section 3905.14 or sections 3905.83 to 3905.99 of the Revised Code, the superintendent shall renew the applicant's surety bail bond insurance agent license.

(4) If an individual or business entity does not apply for the renewal of the individual or business entity's license on or before the license renewal date specified in division (F)(1) of this section, the individual or business entity may submit a late renewal application along with all applicable fees required under this chapter prior to the last day of March following the renewal date. The superintendent shall renew the license of an applicant that submits a late renewal application if the applicant satisfies all of the following conditions:

(a) The applicant submits a completed renewal application.

(b) The applicant pays the one-hundred-fifty-dollar renewal fee.

(c) The applicant pays the late renewal fee established by the superintendent.

(d) The applicant provides proof of compliance with the continuing education requirements pursuant to section 3905.88 of the Revised Code.

(e) The applicant has not committed any act that is grounds for the refusal to issue, suspension of, or revocation of a license under section 3905.14 or sections 3905.83 to 3905.99 of the Revised Code.

(5) A license issued under this section that is not renewed on or before its late renewal date specified in division (F)(4) of this section is automatically suspended for nonrenewal effective the first day of April.

(6) If a license is suspended for nonrenewal pursuant to division (F)(5) of this section, the individual or business entity is eligible to apply for reinstatement of the license within the twelve-month period following the date by which the license should have been renewed by complying with the reinstatement procedure established by the superintendent and paying all applicable fees required under this chapter.

(7) A license that is suspended for nonrenewal that is not reinstated pursuant to division (F)(6) of this section automatically is canceled unless the superintendent is investigating any allegations of wrongdoing by the agent or has initiated proceedings under Chapter 119. of the Revised Code. In that

case, the license automatically is canceled after the completion of the investigation or proceedings unless the superintendent revokes the license.

(G) The superintendent may prescribe the forms to be used as evidence of the issuance of a license under this section. The superintendent shall require each licensee to acquire, from a source designated by the superintendent, a wallet identification card that includes the licensee's photograph and any other information required by the superintendent. The licensee shall keep the wallet identification card on the licensee's person while engaging in the bail bond business.

(H)(1) The superintendent of insurance shall not issue or renew the license of a business entity organized under the laws of this or any other state unless the business entity is qualified to do business in this state under the applicable provisions of Title XVII of the Revised Code.

(2) The failure of a business entity to be in good standing with the secretary of state or to maintain a valid appointment of statutory agent is grounds for suspending, revoking, or refusing to renew its license.

(3) By applying for a surety bail bond agent license under this section, an individual or business entity consents to the jurisdiction of the courts of this state.

(I) A surety bail bond agent licensed pursuant to this section is an officer of the court.

(J) Any fee collected under this section shall be paid into the state treasury to the credit of the department of insurance operating fund created by section 3901.021 of the Revised Code.

Amended by 128th General Assembly File No. 18, HB 300, § 1, eff. 5/26/2010.

Effective Date: 09-01-2002

See 128th General Assembly File No. 18, HB 300, §6.

See 128th General Assembly File No. 18, HB 300, §3.

3951.01 Public insurance adjuster definitions - exceptions.

As used in sections 3951.01 to 3951.09, inclusive, of the Revised Code:

(A) "Lending institution" means a lending institution, as defined in division (L) of section 175.01 of the Revised Code, that is not organized for the purpose of qualifying to do business as a public insurance adjuster in this state, as determined by the superintendent, and that has been engaged in business as a bona fide lending institution for at least five years, and any member of an affiliated group, as defined by division (B)(3)(e) of section 5739.01 of the Revised Code, associated with a lending institution, which member has been a member of the affiliated group for at least five years and which member is not organized or affiliated with the lending institution for the purpose of qualifying to do business as a public insurance adjuster in this state, as determined by the superintendent.

(B) "Public insurance adjuster" means any person, firm, association, partnership, or corporation who, for compensation, acts on behalf of or aids in any manner, an insurer or insured or another in negotiating for, or effecting the settlement of a claim or claims for loss or damage under any policy of insurance covering real or personal property, and any person, firm, association, partnership, or corporation who advertises, solicits business, or holds itself out to the public as an adjuster of such insurance claims, and any person who for compensation investigates, settles, adjusts, advises, or assists an insurer or insured with reference to claims for such losses, on behalf of any such public insurance adjuster.

(C) "Public insurance adjuster agent" means any person who is a bona fide employee of a public insurance adjuster and who aids in the adjustment, investigation, and in securing of any contract for the adjustment of a loss.

(D) "Superintendent" means the superintendent of insurance acting as director of the department of insurance.

(E) Nothing contained in Chapter 3951. of the Revised Code shall apply to the following:

(1) An attorney at law admitted to practice in this state who adjusts insurance losses in the course of the practice of the attorney's profession and who does not hold the attorney out by sign, advertisement, or otherwise as offering such services to the general public;

(2) An officer, agent, or regular salaried employee of an insurer, or underwriter, or any attorney in fact of any reciprocal insurer of Lloyd's underwriter licensed to do business in this state who adjusts losses arising under the employer's or principal's own policies; or an underwriter by whom a policy of insurance against loss or damage or other causes has been written upon property within this state, in adjusting loss or damage under such policy, nor to an agent or broker acting as adjuster for the agent's or broker's own company;

(3) An adjustment bureau or association owned and maintained by insurers to adjust or investigate losses of such insurers, or any regularly salaried employee thereof who devotes substantially all of the employee's time to the business of such bureau or association;

(4) Any licensed agent or employee or officer of such agent or agency of an authorized insurer who adjusts losses for such insurer solely under policies issued through such agency;

(5) Any independent adjuster representing an insurer.

Amended by 128th General Assembly File No. 9, HB 1, § 101.01, eff. 10/16/2009.

Effective Date: 01-10-1961; 04-27-2005

3951.02 Certificate of authority requirement.

No person, firm, association, partnership or corporation shall act within this state as a public insurance adjuster, or receive, directly or indirectly, compensation for services rendered in the adjustment of any claim or claims under the types of insurance policies set forth in section 3951.01 of the Revised Code, unless he, or it, is the holder of a certificate of authority to act as a public insurance adjuster, issued pursuant to sections 3951.01 to 3951.09, inclusive, of the Revised Code.

Any person, firm, association, partnership, or corporation, who has received from the superintendent of insurance a public insurance adjuster's certificate of authority shall be styled and be known as a "certified public insurance adjuster."

Effective Date: 11-06-1959

3951.03 Applying for certificate of authority.

Before any certificate of authority shall be issued by the superintendent of insurance there shall be filed in his office a written application therefor. Such application shall be in the form or forms and supplements thereto prescribed by the superintendent and shall set forth:

(A) The name and address of the applicant, and if the applicant be a firm, association, or partnership, the name and address of each member thereof, and if the applicant be a corporation, the name and address of each of its officers and directors;

(B) Whether any license or certificate of authority as agent, broker, or public insurance adjuster has been issued previously by the superintendent of this state or by the insurance department of any state to the individual applicant, and, if the applicant be an individual, whether any such certificate has been issued previously to any firm, association, or partnership of which he was or is an officer or director, and, if the applicant be a firm, association, or partnership, whether any such certificate has been issued previously to any member thereof, and, if the applicant be a corporation, whether any such certificate has been issued previously to any officer or director of such corporation;

(C) The business or employment in which the applicant has been engaged for the five years next preceding the date of the application, and the name and address of such business and the name or names and addresses of his employer or employers;

(D) Such information as the superintendent may require of applicants in order to determine their trustworthiness and competency to transact the business of public insurance adjusters, in such manner as to safeguard the interest of the public;

(E) The superintendent shall issue a public insurance adjuster agent certificate to a person, who is a bona fide employee of a public insurance adjuster without examination, provided said application is made by a person, partnership, association, or corporation engaged in the public insurance adjusting business. The fee to be paid by the applicant for such a license at the time the application is made, and annually thereafter for the renewal thereof according to the standard renewal procedure of sections 4745.01 to 4745.03, inclusive, of the Revised Code, shall be fifty dollars, and such applicant shall be bonded in the amount of one thousand dollars as provided for in division (D) of section 3951.06 of the Revised Code.

An application for any certificate of authority shall be signed and verified under oath by the applicant and, if made by a firm, association, partnership, or corporation, by each member or officer and director thereof to be authorized thereby to act as a public insurance adjuster.

Effective Date: 06-11-1968

3951.04 Issuing or denying certificate of authority.

The superintendent of insurance shall issue certificates of authority to any person, firm, association, partnership, or corporation making application therefor who is trustworthy and competent to act as a public insurance adjuster in such manner as to safeguard the interest of the public and who have complied with the prerequisites herein described. A certificate of authority issued to a firm, association, partnership, or corporation shall authorize only the members of the firm, association, or partnership or the officers and directors of the corporation, specified in the certificate of authority to act as a public insurance adjuster.

The superintendent shall not issue any certificate of authority to any applicant who is convicted of a felony, or any crime or offense involving fraudulent or dishonest practice or who, within three years preceding the date of filing such application, has been guilty of any practice which would be grounds for suspension or revocation of a certificate of authority as a public insurance adjuster.

Effective Date: 11-06-1959

3951.05 Examination of applicant.

The superintendent shall, in order to determine the trustworthiness and competency of any applicant for a certificate of authority to act as a public insurance adjuster, require such applicant or in the case of a firm, association, partnership, or corporation, such of its employees, members, officers, or directors, who are to be individually authorized to act under its certificate of authority, to submit to a written examination, except applicants who are granted a waiver of examination in accordance with section 3951.09 of the Revised Code. Examinations shall be held in such place in this state and at such time as the superintendent may designate.

Effective Date: 11-06-1959; 04-27-2005

3951.09 Waiving of examination for applicant licensed in another state.

The superintendent may waive the requirement that an applicant submit to an examination to obtain a certificate of authority under this chapter, provided that the applicant is licensed as a public insurance adjuster in another state that required the applicant to submit to an examination as a condition of licensure. Prior to waiving the examination requirement with respect to a public insurance adjuster licensed in another state, the superintendent shall issue a notice at least sixty days prior to the effective date of the waiver identifying the applicant's other state of licensure. The notice shall be issued in a manner deemed appropriate by the superintendent. Once the superintendent has issued a notice under this section identifying an applicant's other state of licensure, the superintendent need not issue subsequent notices as to applicants licensed in the same state in order to waive the examination requirement for those applicants.

Effective Date: 04-27-2005

3953.01 Title insurance definitions.

As used in this chapter:

(A) "Title insurance" means insuring, guaranteeing, or indemnifying owners of real property or others interested in real property against loss or damage suffered by reason of liens or encumbrances upon, defect in, or the unmarketability of the title to the real property, guaranteeing, warranting, or otherwise insuring by a title insurance company the correctness of searches relating to the title to real property, or doing any business in substance equivalent to any of the foregoing.

(B) "The business of title insurance" means the following:

(1) The making as insurer, guarantor, or surety, or proposing to make as insurer, guarantor, or surety, any contract or policy of title insurance;

(2) The transacting, or proposing to transact, any phase of title insurance, including solicitation, negotiation preliminary to execution, execution of a contract of title insurance, insuring, and transacting matters subsequent to the execution of the contract and arising out of it, including reinsurance;

(3) The doing or proposing to do any business in substance equivalent to any of the foregoing.

(C) "Title insurance company" means any of the following:

(1) Any domestic title guaranty company and domestic title guarantee and trust company to the extent that they are engaged in the business of title insurance;

(2) Any domestic company organized under this chapter for the purpose of insuring titles to real property;

(3) Any title insurance company organized under the laws of another state or foreign government;

(4) Any domestic or foreign company that has the powers and is authorized to insure titles to real estate within this state on December 12, 1967, and that meets the requirements of this chapter.

(D) "Applicants for insurance" includes all those, whether or not a prospective insured, who from time to time apply to a title insurance company or to its agent for title insurance and who at the time of that application are not agents for a title insurance company.

(E) "Risk premium" for title insurance means that portion of the fee charged by a title insurance company, agent of a title insurance company, or approved attorney of a title insurance company to an insured or an applicant for insurance for the assumption by the title insurance company of the risk created by the issuance of the title insurance policy.

(F) "Fee" for title insurance means the risk premium, abstracting or searching charge, examination charge, and every other charge, exclusive of settlement, closing, or escrow charges, whether denominated premium or otherwise, made by a title insurance company, agent of a title insurance company, or an approved attorney of a title insurance company to an insured or an applicant for

insurance for any policy or contract for the issuance of title insurance. "Fee" does not include any charges paid to and retained by an attorney at law or abstractor acting as an independent contractor whether or not the attorney or abstractor is acting as an agent of a title insurance company or an approved attorney and does not include any charges made for special services not constituting title insurance, even though performed in connection with a title insurance policy or contract.

(G) "Approved attorney" means an attorney at law who is not an employee of a title insurance company or a title insurance agent and upon whose examination of title and report on the examination a title insurance company may issue a policy of title insurance.

(H) "Title insurance agent" means a person, partnership, or corporation authorized in writing by a title insurance company to solicit insurance and collect premiums and to issue or countersign policies on its behalf. "Title insurance agent" does not include officers and salaried employees of any title insurance company authorized to do a title insurance business within this state.

(I) "Single insurance risk" means the insured amount of any policy or contract of title insurance issued by a title insurance company.

(J) "Foreign title insurance company" means a title insurance company organized under the laws of any state or territory of the United States or the District of Columbia.

(K) "Alien title insurance company" means a title insurance company that is incorporated or organized under the laws of any foreign nation or any province or territory of a foreign nation and that is not "a foreign title insurance company."

(L) "Non-directed escrow funds" means any funds delivered to a title insurance agent or title insurance company with instructions to hold or disburse the funds pursuant to a transaction in which a title insurance policy will be issued, but without written instructions to either deposit the funds in an account for the benefit of a specific person, or to pay the interest earned on the funds to a specific person.

(M) "Business day" means any day, other than a Saturday or Sunday, or a legal holiday, on which a bank, savings and loan association, credit union, or savings bank is open to the public for carrying on substantially all of its functions.

(N) "Housing accommodations" and "restrictive covenant" have the same meanings as in section 4112.01 of the Revised Code.

Effective Date: 03-30-1999

3953.21 Certification of title insurance agents.

(A) Every title insurance company authorized to transact business within this state shall certify annually to the superintendent of insurance the names of all title insurance agents representing it in this state in accordance with section 3905.20 of the Revised Code.

(B) No bank, trust company, bank and trust company, or other lending institution, mortgage service, brokerage, mortgage guaranty company, escrow company, real estate company or any subsidiaries thereof or any individuals so engaged shall be permitted to act as an agent for a title insurance company.

Effective Date: 09-01-2002

3953.22 Licensing title insurance agents.

(A) Title insurance agents shall be licensed in the manner provided for agents of insurance companies in Chapter 3905. of the Revised Code.

(B) A title insurance agent shall not be required to take an examination of such license if application for the original issuance of his license was filed with the superintendent of insurance on or before June 12, 1968.

Effective Date: 03-26-1971