

# **Appendix**

## **B**

## **3901-5-01 Agent continuing education.**

### **(A) Purpose**

The purpose of this rule is to establish continuing education (CE) requirements, standards and procedures for insurance agents.

### **(B) Authority**

This rule is promulgated pursuant to the authority vested in the superintendent under sections 3901.041, 3901.20, 3905.16, 3905.486, and 3905.95 of the Revised Code.

### **(C) License renewal cycle and CE transcripts**

- (1) The biennial license renewal cycle shall be set forth in rule 3901-5-08 of the Administrative Code.
- (2) On-going renewal cycles shall be the last day of an agent's birth month every two years thereafter.
- (3) The superintendent shall send a renewal notice to each agent at least one month prior to the agents renewal date. The renewal notice shall indicate if the resident agent has completed the required number of CE hours for that renewal cycle as of the date of the renewal notice.
- (4) The superintendent shall post continuing education transcripts on the department's website.
- (5) If the CE transcript or renewal notice indicates that a resident agent has not completed the required number of CE hours for that renewal cycle, it is the agent's responsibility to prove compliance with this rule.
- (6) If the agent is seeking an extension or the inactivation, surrender, reinstatement, reactivation or late renewal of a licenses, the agent must complete the necessary form as required by the superintendent.
- (7) An agent's failure to receive a renewal notice or CE transcript does not relieve the agent of the responsibility to timely complete the CE requirements or to timely renew the license.
- (8) Credits must be earned and posted on the agent's record before a license can be renewed.

### **(D) Exemptions**

The CE requirements contained in division (A) of section 3905.481 of the Revised Code do not apply to the following agents:

- (1) Agents who have been granted inactive status pursuant to section 3905.16 of the Revised Code.
- (2) Agents who hold only a limited lines licenses.
- (3) Agents who hold only a title insurance license, provided they complete at least twelve credits of

approved CE during each renewal cycle, ten of which must be directly related to the title insurance business and two of which must be approved as ethics.

Agents who hold both a resident title and a resident major line license will have the same renewal cycle for both license types. The agent must complete twenty-four credits of CE, ten of which must be directly related to the title insurance business and three of which must be approved as ethics.

(4) Agents who hold only a resident surety bail bond license shall comply with the CE requirements as set forth in section 3905.88 of the Revised Code.

Agents who hold both a resident surety bail bond license and a resident major line license will have two separate renewal cycles. With the exception of ethics, credits earned for the agent's major line license will not count towards the surety bail bond credit requirement. CE credits completed for the surety bail bond license will count towards the agent's major line CE requirement.

(E) Credits

(1) A person who moves to Ohio from another state and becomes a resident agent may not carry over any CE credits from the other state.

(2) At the discretion of the superintendent, credit may be given for a course that has been filed according to the submission requirements of rule 3901-5-03 of the Administrative Code, but is held prior to the issuance of a written approval of such course by the superintendent, provided such written approval is granted.

(3) With the exception of association membership credit, any agent who completed a course more than once in a renewal cycle will only be given credit for the first time the course was completed .

(4) Partial credit, rounded down in one hour increments, may be given for classroom courses only at the provider's option.

(a) The provider may, but is not required to, give refunds for the portion of the course unattended. The provider's refund policy on partial attendance must be disclosed pursuant to the requirements of paragraph (E)(6) of rule 3901-5-04 of the Administrative Code.

(b) If partial credit is given, the course participation fee must be paid to the superintendent or its designee in the amount required as if the agent had attended the entire class.

(5) To qualify for CE credit, both the course and the provider must be approved by the superintendent.

(6) Credit hours are considered earned on the date the agent completed the course, not the date that the credits are posted on the agent's record with the superintendent.

(7) Credit hours earned in one renewal cycle cannot be carried over to the next renewal cycle and with the exception of the following, will only be applied to the renewal cycle in which the credits were earned;

(a) Credit hours earned within the agent's authorized extension period pursuant to paragraph (C)(1) of rule 3901-5-08 of the Administrative Code, the late month renewal period pursuant to division (D) of

section 3905.06 of the Revised Code, or the reinstatement period pursuant to division (E) of section 3905.06 of the Revised Code may be used to meet the requirements necessary to renew that license.

(b) Credit hours earned in 2011, but not applied to the 2009 and 2010 CE compliance period shall be applied to the agent's 2013 renewal cycle requirements so long as the agent has complied with the requirements pursuant to paragraph (C)(1) of rule 3901-5-08 of the Administrative Code.

(F) Credit for publication, classroom instruction, and association membership

(1) An agent may receive up to ten hours of CE credit per renewal cycle for the publication of articles or books authored by such agent. Articles and books must deal with matters directly related to the business of insurance. An article must be published in a generally known and recognized state or national publication. The extent to which such credit may be given shall be at the discretion of the superintendent. A request for such credit must be made in writing and must be accompanied by proof of authorship and publication. Credit will be given only once for each approved article or book.

(2) CE credit may be allowed for the authors of written materials used in approved CE courses on a one-time per course basis. The author will be allowed the number of CE credit hours for which the course was approved. If there are multiple authors of the written course materials, no author will receive more than his or her pro rata share as determined by the provider. The total number of hours received by all authors for a course cannot exceed the total number of hours for which the course is approved. A request for such credit must be made in writing and must be accompanied by proof of authorship.

(3) Instructors for approved CE courses may receive CE credit for instructing courses. Credit may be given in an amount equal to two times the number of hours actually spent instructing a course. Credit will be given only once per course per renewal cycle.

(4) An agent who authors materials for an approved course and teaches the same course in a renewal cycle may receive credit for authoring the written materials or instructing the course, but not for both activities in any one renewal cycle, subject to paragraph (E)(3) of this rule.

(5) An agent may earn up to four CE credits per renewal cycle for membership and active participation in local, regional, state or national professional insurance associations. Credits may be earned from the combination of different local, regional, state or national professional insurance associations in which the agent holds a membership to reach the four credit limit. The following are the minimum qualifications and limitations for earning association membership credit;

(a) The agent must be a dues-paying member of the local, regional, state or national professional insurance association that is approved as a CE provider and has a course specifically approved in this state to issue association membership credits.

(b) The agent must be in good standing with the local, regional, state or national professional insurance association at the time the credits are earned.

(c) The agent must actively participate in the functions of a local, regional, state or national professional insurance association, at the minimum, for the number of association credits earned. For purposes of this rule an association credit must provide for no less than fifty minutes of participation. Active participation in a local, regional, state or national professional insurance association can be met by the

following activities:

- (i) Attending a formal meeting or a formal business program hosted by a local, regional, state or national professional insurance association where attendance is verified;
  - (ii) Serving on and actively participating in a local, regional, state or national board or committee in affiliation with the local, regional, state or national professional insurance association; or
  - (iii) Participating in industry, regulatory or legislative meetings held by or on behalf of a local, regional, state or national professional insurance association.
  - (d) The agent must submit a written request to the association for the association's determination of participation credit and its submission of those credits to the superintendent.
  - (e) Credits approved for regular CE courses offered by the professional insurance associations do not count towards membership CE credit.
  - (f) Association credits will only count as general credits for satisfying major line, title or surety bail bond credit requirements. Association credits do not count towards satisfying ethics requirements for any type of license.
  - (g) The association must be an approved continuing education provider authorized to offer association membership CE credit in this state.
  - (h) The activity or program must have taken place while the association was authorized to offer association membership credit.
  - (i) The association is responsible for determining participation in a meeting, program or affiliation qualified for association credit.
- (6) Credits earned from association membership using the same course identification number shall be permitted so long as the same activity type and completion date have not been previously submitted for credit. Agents may accumulate an unlimited number of association membership credits from the combination of different local, regional, state or national professional insurance associations, however, only the first four association credits reported to the superintendent will be applied towards the maximum number of association credits allowed per renewal cycle.
- (G) Unfair and deceptive act or practice The making of any misrepresentation, or any untrue, misleading or deceptive statement or assertion in support of or in connection with a request for an exemption, extension or for inactive status is an unfair and deceptive act or practice in the business of insurance.
- (H) 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, and the remaining paragraphs, terms and provisions shall be and shall continue in full force and effect.

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Rule Amplifies: 3905.12, 3905.481

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## **3901-5-05 Agent education violations.**

### (A) Purpose

The purpose of this rule is to identify conduct related to continuing education that violates Ohio statutes or rules and may subject a continuing education provider or agent to administrative actions.

### (B) Authority

This rule is promulgated pursuant to the authority vested in the superintendent under sections 3901.041 and 3905.486 of the Revised Code.

### (C) Providers

The following are violations of the pre-licensing education and continuing education statutes and rules:

- (1) Making any false, misleading or deceptive statement or representation about the status of a course approval, the number of hours for which a course is approved or any other statement about a course or provider. The penalty for a single violation is a forfeiture of five hundred dollars.
- (2) The use of an unqualified instructor. The penalty for a single violation is a forfeiture of five hundred dollars.
- (3) Failure to maintain all necessary records for the required time periods. The penalty for a single violation is a forfeiture of one hundred dollars.
- (4) The use, submission or filing of any document for the purpose of complying with the agent education statutes and rules, or in responding to any inquiry from the superintendent concerning agent education, when the provider knows or should know that the document, or any part of it, is false or deceptive. The penalty for a single violation is a forfeiture of one thousand dollars.
- (5) Failure to use the approved course outline. The penalty for a single violation is a forfeiture of one hundred dollars.
- (6) Failure to notify the superintendent of changes to any course, previously approved, prior to course offering. The penalty for a single violation is a forfeiture of one hundred dollars.
- (7) Failure to conduct the approved course for the full time, as specified in the course application. The penalty for a single violation is a forfeiture of one hundred dollars.
- (8) Failure to monitor course attendance, course participation or completion of examination. The penalty for a single violation is a forfeiture of five hundred dollars.
- (9) Failure to comply with applicable Americans with Disabilities Act and "Equal Employment Opportunity" regulations. The penalty for a single violation is a forfeiture of one hundred dollars.
- (10) Failure to provide timely refunds to participants when required. The penalty for a single violation is

a forfeiture of one hundred dollars.

(11) Failure to file or the late filing of any form or required information, other than attendance roster. The penalty for a single violation is a forfeiture of one hundred dollars.

(12) Failure to timely file an attendance roster. The penalty for a single violation is a forfeiture of five hundred dollars.

(13) Failure to conduct a course as it was approved or maintain course integrity. The penalty for a single violation is a forfeiture of five hundred dollars.

(14) Obtaining the attendance or enrollment of licensees or students by actual or implied coercion. The penalty for a single violation is a forfeiture of five hundred dollars.

(15) The failure of a provider to timely provide a certificate of completion to an attendee or the failure of a provider to provide an attendee with an accurate certificate of completion. The penalty for a single violation is a forfeiture of two hundred dollars.

(16) Failure to accurately report the actual number of course hours attended for each individual. The penalty for a single violation is a forfeiture of five hundred dollars.

(17) Failure to properly determine active participation in a local, regional, state or national professional insurance association activity. The penalty for a single violation is a forfeiture of five hundred dollars.

(18) Advertising that an agent may receive credit for simply becoming a member of an association. The penalty for a single violation is a forfeiture of one thousand dollars.

(19) Failure to provide a written response to the superintendent within twenty-one days after receipt of any written inquiry from the superintendent. The penalty for a single violation is a forfeiture of fifty dollars.

(20) Failure to report disciplinary action taken against the provider's authority by any regulatory body which grants a license, registration or permission to conduct business. The penalty for a single violation is a forfeiture of two hundred dollars.

(21) The violation of any provision of rule 3901-5-01, 3901-5-02, 3901-5-03, 3901-5-04, 3901-5-06 or 3901-5-07 of the Administrative Code may be grounds for termination of a provider's authority to offer pre-license courses or continuing education courses in this state.

#### (D) Applicants and agents

The following are violations of the pre-licensing education and continuing education statutes and rules:

(1) The use, submission or filing of any document or record for the purpose of complying with the agent education statutes and rules, or in responding to any inquiry from the superintendent concerning agent education, when the person knows or should know that the document or record, or any part of the document or record, is false or deceptive .

(2) Obtaining, accepting or using any evidence of completion or participation from a provider when the person has not attended or completed the course or the number of hours identified on the certificate .

(3) Cheating or using unauthorized materials or receiving unauthorized assistance during an examination .

(4) Assisting another person in complying with the agent education requirements when the person knows or should know that the assistance is a violation of the agent education statutes and rules.

(5) Disruptive threatening or deceptive behavior during a course or examination shall be grounds for termination of participation and shall be grounds for the superintendent to refuse course completion credit or a passing grade of an examination for those individuals responsible for the disruptive, threatening or deceptive behavior.

(6) The use of any unauthorized telecommunication device, including by not limited to, cellular phones and "PDA's," examination notes and study guides, or conversations with unauthorized persons during an examination or authorized break from a state insurance licensure examination. The penalty for a single violation shall be grounds for the superintendent to refuse to issue any license as an insurance agent or assess a forfeiture of up to five hundred dollars.

(E) Application of penalties

(1) The superintendent may suspend, revoke, non-renew or deny authority to any pre-licensing education or continuing education provider who has committed multiple violations of paragraph (C) of this rule. This penalty may be in addition to the forfeitures levied pursuant to paragraph (C) of this rule.

(2) The superintendent may, once a violation of paragraph (C) or (D) of this rule requiring a forfeiture has been found, suspend all or part of such forfeiture, upon a showing of mitigating circumstances.

(F) 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.

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## **3901-5-06 Agent education fees.**

### **(A) Purpose**

The purpose of this rule is to establish the fees to be charged for certain services and transactions for the pre-licensing and the continuing education programs.

### **(B) Authority**

This rule is promulgated pursuant to authority vested in the superintendent under sections 3901.041, 3901.043 and 3905.481 to 3905.486 of the Revised Code.

### **(C) All fees in this rule are non-refundable and non-transferable**

### **(D) Continuing education provider and course initial and renewal application fees**

(1) Every continuing education provider shall pay the fee established in paragraph (C)(2) of this rule. The fee is due with the submission of the provider application. Course fees, where applicable, shall be submitted with the course application.

(2) The applicant shall select one of the fee options listed below. If the status of the provider changes during the year and a different fee is due, the new fee will be in addition to the previous payments with no credit for the prior payments.

(a) Flat fee provider. The fee is one thousand dollars per year, which covers the provider application fee and course application fees for all course applications submitted during the calendar year.

(b) Individual fee provider. The fee is one hundred dollars for submission of the provider application, plus forty dollars for each course application.

(c) Limited fee provider. The fee is twenty-five dollars for submission of the provider application, plus twenty-five dollars for each course application. A provider electing this status is limited to offering no more than three courses of no more than three credit hours each, during the calendar year.

### **(E) Continuing education agent participation fee**

(1) Provider's filing of course roster, listing of all licensees enrolled for continuing education credit one dollar per agent/per course approved credit hour.

(2) Licensee's filing of publication or author of written material continuing education credit one dollar per approved credit hour.

### **(F) Pre-licensing education provider, course and instructor initial and renewal application fees**

(1) Provider application fee is one hundred dollars.

(2) Provider's course application fees:

(a) Fee for each course application is two hundred dollars.

(b) Fee for each subject matter category requested on the course application is twenty-five dollars.

(3) Instructor application fee is twenty-five dollars.

(G) Miscellaneous fees (1) Processing fee as a result of submitting any check, money order or other instrument which is returned to the superintendent for insufficient funds, account closed or for any other reason is thirty dollars. The superintendent may require a certified check from any agent or provider whose check has been dishonored.

(2) Fee to receive an extension of time to complete continuing education credits due to military service, a long term medical disability, or some other extenuating circumstance is one hundred dollars. The superintendent has the authority to waive this fee due to special circumstances.

(H) 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.

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Rule Amplifies: 3905.485

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## **3901-5-07 Regulation of agent pre-licensing education.**

### **(A) Purpose**

The purpose of this rule is to establish the criteria for agent pre-licensing education and to establish certain examination requirements.

### **(B) Authority**

This rule is promulgated pursuant to the authority vested in the superintendent under sections 3901.041 and 3905.486 of the Revised Code.

### **(C) Definitions**

As used in this rule:

(1) "Authorized provider official" means a person designated by a provider and approved by the superintendent as the person who is responsible for a provider's compliance with the pre-licensing education regulations and who is responsible for a provider's integrity and operation. This includes the responsibility for obtaining pre-license education provider, course and instructor approvals.

(2) "Authorized provider personnel" means any person identified by a provider's authorized provider official as being authorized to certify a provider certification of course completion form, a certificate of pre-licensing course completion form, a schedule of courses form, attendance forms, and any other forms required by the superintendent.

(3) "Board" means the "Insurance Agent Education Advisory Board."

(4) "Classroom" means any pre-licensing course method that is delivered or presented by a registered instructor in which the student and instructor are in the same physical location.

(5) "Course" means instruction offered by a provider approved by the superintendent to offer insurance education in one of the following subject matter categories:

(a) Property insurance;

(b) Casualty insurance;

(c) Life insurance;

(d) Accident and health insurance;

(e) Personal lines insurance; and

(f) Surety bail bond insurance.

(6) "Course hour" means the time spent providing instruction for preparation for a state insurance

license examination. For purposes of this rule a course hour must provide for no less than sixty minutes of instruction. A course hour may include a reasonable amount of time testing, but not the time a student spends studying, preparing for a course, breaks, introductions, lunches, announcements, receiving marketing or sales technique instruction or other non-instruction time.

(7) "Program of insurance education" means a provider's overall curriculum.

(8) "Provider" means an organization or person approved by the superintendent to offer agent pre-licensing courses.

(9) "Registered student" means any person who has given an approved pre-license education provider a written intention and payment to take their program of insurance education. Only students who are taking a course for the purpose of complying with the pre-licensing education requirements shall be deemed enrolled for purposes of this rule.

(10) "Self study" means any pre-licensing course method that does not require that a student attend organized classes, is completed by individual study, and ends with a proctored final examination offered by the approved pre-licensing provider.

(11) "Self study proctor" means a person who is an impartial and disinterested third party with no family or financial relationship to the student. The proctor shall verify the student's identity and complete an affidavit supplied by the approved provider certifying that the student received no outside assistance. Membership in a professional insurance association or organization does not constitute a financial relationship.

(12) "Self study with prep course" means any pre-licensing course method that is offered as self study but includes some organized classroom time prior to the offering of a proctored final examination.

(13) "Superintendent" means the superintendent of insurance.

(D) Pre-license education exemptions

(1) Any person with a bachelor's or associate's degree in insurance from an accredited institution shall be exempt from agent pre-licensing education requirements for all major lines of authority.

(2) Any person with one or more of the following professional designations shall be exempt from agent pre-licensing education requirements for personal lines or for property and casualty lines of authority.

(a) "Chartered Property and Casualty Underwriter" (CPCU);

(b) "Accredited Advisor in Insurance" (AAI);

(c) "Associate in Risk Management" (ARM); or

(d) "Certified Insurance Counselor" (CIC).

(3) Any person with one or more of the following professional designations shall be exempt from agent pre-licensing education requirements for lifelines of authority:

- (a) "Chartered Life Underwriter" (CLU);
- (b) "Certified Employee Benefit Specialist" (CEBS);
- (c) "Chartered Financial Consultant" (ChFC);
- (d) "Certified Insurance Counselor" (CIC);
- (e) "Certified Financial Planner" (CFP);
- (f) "Fellow of the Life Management Institute" (FLMI); or
- (g) "Life Underwriter Training Council Fellow" (LUTCF).

(4) Any person with one or more of the following professional designations shall be exempt from agent pre-licensing education requirements for accident and health line of authority:

- (a) "Registered Health Underwriter" (RHU);
- (b) "Certified Employee Benefit Specialist" (CEBS);
- (c) "Registered Employee Benefits Consultant" (REBC); or
- (d) "Health Insurance Associate" (HIA).

(5) Any person requesting exemption of the pre-licensing education requirement under this section shall provide verification of the degree in insurance or professional designation prior to registering for the examination in order to receive a pre-licensing education waiver from the superintendent. A separate education waiver must be requested and obtained for each subject matter category.

(6) A pre-licensing education waiver issued using the exemptions in paragraph (D)(1), (D)(2), (D)(3) or (D)(4) of this rule are valid for one hundred eighty days from the date the waiver was issued by the superintendent.

(7) No person who has been issued a pre-licensing education waiver from the superintendent under the exemptions in paragraphs (D)(1), (D)(2), (D)(3) or (D)(4) of this rule may be issued more than one exemption for each major line of authority.

(8) Any person who has received an education waiver under the exemptions in paragraph (D)(1), (D)(2), (D)(3) or (D)(4) of this rule and has not passed the corresponding examination prior to the expiration of the waiver shall complete any required education according to section 3905.04 of the Revised Code before the agent is eligible to sit for such examination.

(9) No person who has surrendered an insurance license or who has had an insurance license suspended, inactivated, cancelled for non-renewal or revoked may use the exemptions in paragraph (D)(1), (D)(2), (D)(3) or (D)(4) of this rule.

(E) Program of insurance education application requirements

(1) An application for pre-licensing provider, course, and instructor approval shall be on forms prescribed by the superintendent. An application for provider approval must include an application for at least one course approval and, if offering classroom instruction, at least one instructor application. Application's shall be completed by the authorized provider official.

(a) To be eligible to be the designated authorized provider official, a person shall be of good character and business repute and shall agree to be responsible for the provider's compliance with the laws and regulations relating to pre-licensing insurance education programs. A person who has had an insurance suspended, revoked or surrendered for cause in any state is not eligible to serve as an authorized provider official.

(b) For the purposes of this rule, a course method type is defined as classroom, self-study or self-study with prep course. An application for pre-licensing course approval shall only include one course method type per course application. Multiple course applications will be required if more than one course method type is requested.

A request for one or multiple subject matter categories as referenced in paragraph (C)(5) of this rule shall be requested on each pre-license course application. The appropriate fee shall be submitted for each subject matter category requested on the application.

(c) For the purposes of this rule, an instructor application must be submitted for each subject matter category as referenced in paragraph (C)(5) of this rule when a provider is requesting approval for any self-study with prep course or classroom method type.

The approval of an instructor qualifies that instructor to provide classroom instruction under the authority of that provider for any subject matter category in which the instructor was approved.

(2) If the applicant or provider submits an initial or renewal application that is incomplete or if the application lacks information deemed necessary by the superintendent, the application will be returned with a letter indicating areas which must be addressed before the review process will continue. If the superintendent does not receive the requested information by the requested response date, the filing will be considered abandoned. Initial and renewal application fees are non-refundable and non-transferable.

(a) If a provider, course or instructor application(s) are approved or renewed, the provider will be notified in writing of this approval. The superintendent will assign provider and course identification numbers for initial approvals.

(b) The initial approval of a provider, course or instructor shall be valid from the date of approval through the thirty-first day of December of the same year in which the approval was granted.

(c) No person or organization shall offer any agent pre-licensing education until the superintendent issues a written approval for the program of insurance education.

(3) A provider shall submit any provider, course or instructor renewal applications annually no later than November thirtieth on forms prescribed by the superintendent. The superintendent shall have thirty days to review initial and renewal applications.

(a) Any provider whose renewal has not been processed and approved before the expiration date will automatically expire as of December thirty-first of that renewal year. All active courses and registered instructors connected with a provider that is not renewed will automatically expire as of December thirty-first of the same year.

(b) Any course or instructor renewal that has not been processed and approved before the expiration date will automatically expire as of December thirty-first of that renewal year.

(c) Any provider whose authority has expired must reapply as a new provider before offering or holding any courses.

(d) No provider shall conduct pre-licensing education courses until the provider's renewal application, course applications and any necessary instructor applications have been approved by the superintendent and the provider has received a renewal approval letter from the superintendent.

(e) The non-renewal of a provider, course(s) or instructor(s) does not affect the validity of certificates of completion of pre-licensing course that the provider issued prior to the non-renewal.

(F) Course requirements

(1) Classroom

(a) The minimum number of registered students shall be two and the maximum number shall be fifty.

(b) All courses must be held for a minimum of twenty course hours and must begin and end as scheduled .

(c) Providers must monitor attendance at each course. An attendance record shall be kept for each course. The attendance record must contain the full name of the provider, subject matter category of the course, and beginning and ending date of the course. Each student shall sign the attendance form upon arrival and upon departure from each session of the course and shall note the time of arrival and departure.

(d) A course schedule shall be filed with the superintendent no later than ten days before a course is scheduled to begin. Multiple courses may be included on a schedule as long as the schedule is filed at least ten days before the earliest course listed is scheduled to begin. Written notice must be given to the superintendent immediately upon cancellation or any change to a scheduled course.

(e) A student's completion of a course shall be satisfied when the student has attended the minimum number of hours required pursuant to section 3905.04 of the Revised Code and has received instruction on the content outlines for the topics and subtopics listed in the most recent edition of the Ohio superintendent of insurance licensing information bulletin at the time the course was taken.

(f) Upon conclusion of a classroom course, the authorized provider official shall submit to the superintendent, on a form prescribed by the superintendent, the names of each student who attended the course. The provider official shall identify the number of hours attended by each student and whether a course completion certificate was issued to the student.

(2) Self study

(a) A student's completion of a self-study course shall be satisfied when the student has completed an equivalent to twenty course hours through self-study course instruction and has received a grade of seventy per cent or greater on a proctored final examination given by the approval pre-licensing provider.

(b) A provider's self study examination shall be administered only upon completion of a self study course and shall be supervised by a self-study proctor authorized by the provider. The self-study proctor shall sign an affidavit provided by the approved provider stating that the proctor is qualified to proctor the examination and that the student completed the examination without assistance.

(c) Each student shall sign an affidavit provided by the approved provider stating that the student completed the examination without assistance.

(d) The following are minimum requirements for final examinations:

(i) Multiple choice items must have a minimum of four options;

(ii) Multiple choice items must have only one correct response;

(iii) Multiple choice answers must be grammatically consistent and parallel in form to eliminate obviously wrong answers;

(iv) No correct answer to one question shall provide a clue to the correct answer to any other questions in the chapter/section or examination;

(v) Questions shall be clearly written;

(vi) Questions shall adequately cover the course material; and

(vii) Answers to the questions shall not be in a discernable pattern.

(e) Upon the conclusion of a course, the authorized provider official shall submit to the superintendent, on a form prescribed by the superintendent, the names of each student who satisfactorily completed the self study course.

(3) Self-study with prep course.

(a) A course schedule shall be filed with the superintendent not later than ten days before a prep course is scheduled to begin. Multiple prep courses may be included on a schedule as long as the schedule is filed at least ten days before the earliest prep course listed is scheduled to begin. Written notice must be given to the superintendent immediately upon cancellation or any change to a scheduled prep course.

(b) An attendance record shall be kept for each prep course. The attendance record must contain the full name of the provider, subject matter category of the course, and beginning and ending date of the prep course. Each student shall sign the attendance form upon arrival and upon departure from each session of the prep course and shall note the time of arrival and departure.

(c) A provider's self study examination shall be administered only upon completion of a self study prep course and shall be supervised by a self-study proctor authorized by the provider. The self-study proctor shall sign an affidavit provided by the approved provider stating that they are qualified to proctor the examination and that the student completed the examination without assistance.

(d) Each student shall sign an affidavit provided by the approved provider stating that the student completed the examination without assistance.

(e) The following are minimum requirements for final examinations:

(i) Multiple choice items must have a minimum of four options;

(ii) Multiple choice items must have only one correct response;

(iii) Multiple choice answers must be grammatically consistent and parallel in form to eliminate obviously wrong answers;

(iv) No correct answer to one question shall provide a clue to the correct answer to any other questions in the chapter/section or examination;

(v) Questions shall be clearly written;

(vi) Questions shall adequately cover the course material; and

(vii) Answers to the questions shall not be in a discernable pattern.

(f) A student's completion of a self-study with prep course shall be satisfied when the student has completed an equivalent to a twenty course hours through a combination of self-study and classroom instruction and has received a grade of seventy per cent or greater on a proctored final examination given by the approved pre-licensing provider.

(g) Upon the conclusion of a self-study with prep course, the authorized provider official shall submit to the superintendent, on a form prescribed by the superintendent, the names of each student who satisfactorily completed the course.

(G) Instructor qualifications

(1) No person may teach or hold himself out as qualified to teach pre-licensing education courses except as an approved instructor for an approved provider. All instructors for agent pre-licensing insurance education programs must meet the following criteria:

The individual must be of good character and business repute and has never had a professional license or registration revoked, suspended or surrendered for cause in any state.

(2) The provider must demonstrate that an individual applying to instruct property and casualty insurance courses or personal lines insurance courses has met at least one of the following criteria:

(a) Received a bachelor's or associate's degree in insurance from an accredited institution;

(b) Holds a current and valid designation of "Chartered Property and Casualty Underwriter" (CPCU);

(c) Has worked continuously in the property and casualty insurance industry for the preceding three years and currently has one of the following professional designations:

(i) "Accredited Advisor in Insurance" (AAI);

(ii) "Associate in Risk Management" (ARM);

(iii) "Certified Insurance Counselor" (CIC); or

(d) Has worked continuously in the property and casualty insurance industry for the preceding five years.

(3) The provider must demonstrate that an individual applying to instruct life insurance courses has met at least one of the following criteria:

(a) Received a bachelor's or associate's degree in insurance from an accredited institution;

(b) Holds a current and valid designation of "Chartered Life Underwriter" (CLU);

(c) Has worked continuously in the life insurance industry for the preceding three years and currently holds one of the following designations;

(i) "Chartered Financial Consultant" (ChFC);

(ii) "Fellow of the Life Management Institute" (FLMI);

(iii) "Life Underwriter Training Council Fellow" (LUTCF);

(iv) "Certified Insurance Counselor" (CIC);

(v) "Certified Financial Planner" (CFP); or

(d) Has worked continuously in the life insurance industry for the preceding five years.

(4) The provider must demonstrate that an individual applying to instruct accident and health insurance courses has met at least one of the following criteria:

(a) Received a bachelor's or associate's degree in insurance from an accredited institution;

(b) Has worked continuously in the accident and health insurance industry for the preceding three years and holds one of the following designations:

(i) "Registered Health Underwriter" (RHC);

(ii) "Certified Employee Benefit Specialist" (CEBS);

(iii) "Registered Employee Benefits Consultant" (REBC);

(iv) "Health Insurance Associate" (HIA); or

(c) Has worked continuously in the accident and health insurance industry for the preceding five years.

(5) The provider must demonstrate that an individual applying to instruct surety bail bond insurance courses has met at least one of the following criteria:

(a) Received a bachelor's or associate's degree in insurance from an accredited institution;

(b) Has been licensed as a surety bail bond agent continuously for the preceding four years; or

(c) Has worked in the surety bail bond industry continuously for the preceding five years.

(H) Provider operations

(1) Course instruction shall be based on the content outlines for the topics and subtopics listed in the most recent edition of the Ohio superintendent of insurance licensing information bulletin or any supplements at the time the course was held.

(2) A provider shall provide each registered student with the following information and documentation prior to course attendance:

(a) The most recent edition of the Ohio superintendent of insurance licensing information bulletin, and any supplements;

(b) Course method and subject matter category the student is registered to take;

(c) Location of the course or examination and any relevant information pertaining to the date and time of the course or examination as well as the name of any scheduled instructors;

(d) For courses that have a classroom component, each student shall receive the name, author, and edition of all textbooks used;

(e) For self-study courses, each student shall receive information as to what date the study material was purchased and the provider's exam delivery method;

(f) Any fees charged by the provider and an explanation of what those fees cover;

(g) The provider's refund policy; and

(h) Written receipt of payment for the course.

(3) A provider must obtain written verification from each registered student that they have received and understand the information required pursuant to paragraph (H)(2) of this rule.

(4) A provider cannot advertise, offer, or conduct courses in a method or subject matter category for

which the provider has not received written approval from the superintendent.

(5) The authorized provider official shall notify the superintendent, in writing, of any change to the provider application or renewal application, including but not limited to, the identity of the authorized provider official or authorized provider personnel, provider address, provider telephone number, provider name, or changes in the ownership or control of the provider. The notification shall be made within fifteen days of the effective date of the change. Any change to instructor qualifications, the types of course subject matter categories or course methods to be offered and require approval in accordance with paragraph (E)(2) of this rule.

(6) Instructors must be qualified in accordance with paragraph (F) of this rule and may instruct only those subject matter categories of insurance for which they are approved and for which the provider is approved.

(7) A course must be in session on the date(s) scheduled, during the specified hours and at the designated location unless cancelled or notification of any change is provided to the superintendent.

(8) If a course is cancelled, or if a student cancels in advance of the date of the course, the provider must refund all fees in full within forty-five days of the cancellation unless a different refund policy has been provided to the student.

(9) A provider must issue written notification to all individuals who are scheduled to attend a course of any change in the course location, date, time, or refund policy prior to the course offering or examination. If a course is postponed to a later date or moved to a location that is different and is more than ten miles from the original course location, the provider must offer each student who is scheduled to attend the class or take the provider's self-study examination the option of a full refund in lieu of attending the class or taking the examination.

(10) A provider must comply with the Equal Employment Opportunity Act and the Americans with Disabilities Act.

(11) Facilities must be large enough to comfortably accommodate all attendees and instructors and must be conducive to the education process.

(12) The authorized provider official must supply and maintain an accurate email address which will be used as the primary source of communication with the provider.

(13) Providers shall submit all applications, schedules and rosters electronically, using a system prescribed by the superintendent, unless the superintendent has authorized other submission methods.

(14) A provider shall not offer any guarantee or represent that there is any guarantee that a student will pass any required examination offered by the provider.

(15) A provider shall not offer any guarantee to a student that the completion of their program of insurance education guarantees the student will pass the state insurance license examination.

(16) Providers shall not permit any of their instructors to take a state insurance license examination for any license type or line of authority if the instructor holds an active license for that license type or line of

authority.

(17) In advertising or promoting itself or any of its courses, a provider shall not make any representation or statement, or cause or permit another to make any representation or statement which is false, deceptive or misleading.

(I) Certificates of course completion

(1) The authorized provider official shall provide a completed certificate of pre-licensing course completion form to each student that certifies that the student completed the course. A provider shall issue a certificate of course completion only after a student has met the minimum completion requirements pursuant to paragraph (F)(1)(e), (F)(2)(a), or (F)(3)(f) of this rule.

(2) The certificate shall be on a form prescribed by the superintendent and shall be provided to each student within three days after the student completes the course. The certificate shall not be valid unless it contains the original signatures of the instructor or authorized provider personnel and the student. The back of the certificate shall contain an evaluation form for the student to complete.

(3) The certificate of pre-licensing course completion is valid for one hundred eighty calendar days from the completion of the course or passing of provider's self study proctored examination. If the one hundred eighty day period expires before the student passes the licensing examination, the student will not be eligible to sit for another licensing examination for that type of license until the student completes another approved pre-licensing insurance education course for that license type.

(4) At the time a student registers with the testing service designated by the superintendent, the student must provide the provider's identification number as it appears on the certificate of pre-licensing course completion.

(5) A student shall not be permitted to sit for a licensing examination unless the student has an original and valid certificate of pre-licensing course completion form or a notice of pre-license education waiver from the superintendent.

(6) The student shall submit two forms of identification, to the examination monitor, one of which shall be a photo identification.

(J) Audit and records retention

(1) A provider shall maintain proof that each registered student received all documents required pursuant to paragraph (H)(3) of this rule for four years after completion of a course.

(2) A provider shall keep copies of all certificates of course completion for four years after completion of a course.

(3) A provider shall keep a copy of all proctored self study exams for four years after completion of a course.

(4) A provider shall keep a copy of the affidavits signed by the self-study proctors and students for four years after the completion of a course.

(5) A provider shall keep a copy of the rosters submitted to the superintendent for four years after completion of a course.

(6) A provider shall keep copies of all other records required by this rule for a minimum of four years.

(7) A provider's records are subject to inspection and audit by the superintendent at any time without prior notice.

(8) The superintendent may enter and observe a course at any time without prior notice.

(K) 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, and the remaining paragraphs, terms and provisions shall be and shall continue in full force and effect.

Effective: 01/01/2011

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

Promulgated Under: 119.03

Statutory Authority: 3901.041, 3905.486

Rule Amplifies: 3905.04, 3905.041, 3905.484

Prior Effective Dates: 12/31/1993, 9/22/2005, 7/1/2007

## **3901-5-08 License renewal procedures.**

### **(A) Purpose**

The purpose of this rule is to set forth the conversion schedule for changing insurance agent licensing from a perpetual license structure to a biennial license renewal, changing limited line license renewal periods, the methodology for establishing renewal periods for newly licensed agents and transitioning the continuing education ("CE") requirements to coincide with the renewal periods.

### **(B) Authority**

This rule is issued pursuant to the authority vested in the superintendent under sections 3901.041 and 3905.12 of the Revised Code.

(C) Biennial license renewal conversion for individual resident insurance agent license with a major line of authority or title license currently assigned to December 31, 2010 or December 31, 2011 compliance period.

(1) Individual resident insurance agents who have a compliance period due date of December 31, 2010, shall renew their license by the last day of their birth month in the year two thousand eleven. Agents born in the months of January, February, March, April or May will have a delayed initial renewal date of June 30, 2011. On-going renewal periods for all agents shall be the last day of their birth month every two years thereafter. Resident individual agents should have their twenty "CE" credits (ten credits for title agents) completed by December 31, 2010. Any resident agent who did not have their required "CE" credits completed by December 31, 2010, have until their renewal date in which to complete the credits, but will be charged a one-hundred dollar extension fee in addition to any other required fees. All "CE" credits must be completed prior to license renewal. After the two thousand eleven license renewal, resident agents will be required to complete twenty-four "CE" credits (three of which must be approved as ethics credits) (title agents must complete the number of "CE" credits set forth in rule 3901-5-01 of the Administrative Code), if required, prior to renewal of the license.

(2) Individual resident insurance agents who have a compliance period due date of December 31, 2011, shall renew their license by the last day of their birth month in the year two thousand twelve. On-going renewal periods shall be the last day of their birth month every two years thereafter. Resident individual agents should have their twenty-four "CE" credits (three of which must be approved as ethics credits) (title agents must complete the number of "CE" credits set forth in rule 3901-5-01 of the Administrative Code) completed by the last day of their birth month in the year two thousand twelve. All "CE" credits must be completed prior to license renewal.

(D) Biennial license renewal conversion for individual non-resident insurance agent licenses with a major line of authority or title license issued prior to December 31, 2009.

(1) Individual non-resident insurance agents who were licensed in Ohio in an even numbered year prior to the year two thousand ten, shall renew their license by the last day of their birth month in the year two thousand eleven. Agents born in the months of January, February, March, April or May will have a delayed initial renewal date of June 30, 2011. On-going renewal periods for all agents shall be the last day of their birth month every two years thereafter.

(2) Individual non-resident insurance agents who were licensed in Ohio in an odd numbered year prior to the year two thousand ten, shall renew their license by the last day of their birth month in the year two thousand twelve. On-going renewal periods shall be the last day of their birth month every two years thereafter.

(E) Biennial license renewal conversion for individual resident and non-resident insurance agent licenses with a major line of authority or title license issued on or after January 1, 2010.

Individual resident and non-resident insurance agents who are issued a license with a major line of authority or title on or after January 1, 2010, shall renew their license by the last day of their birth month. No transition period shall be less than eighteen months nor more than twenty-nine months from license issuance date. On-going renewal periods shall be the last day of their birth month every two years thereafter. Resident individual agents have a "CE" credit requirement of twenty-four credits (three of which must be approved as ethics credits) (title agents must complete the number of "CE" credits set forth in rule 3901-5-01 of the Administrative Code) that must be completed prior to license renewal.

(F) Biennial license renewal conversion for individual resident and non-resident insurance agent with an active limited line of authority license active or issued on or after September 1, 2010.

Resident and non-resident insurance agents who hold an active license with a limited line of authority as of September 1, 2010 or after, shall renew their license by the last day of their birth month. No transition period shall be less than eighteen months nor more than twenty-nine months from license issuance date. On-going renewal periods shall be the last day of their birth month every two years thereafter. (Exception: If an individual also holds another active license with a major line of authority, the renewal cycle established by the major line of authority.)

(G) Biennial license renewal conversion for business entity licenses resident and non-resident with major line of authority, limited line of authority or title license.

(1) Non-resident business entities:

Non-resident business entities shall renew by the last day of September in odd numbered years.

(a) The initial renewal date of any non-resident business entity with an active license as of December 31, 2010 shall be September 30, 2011. On-going renewal dates shall be the last day of September every two years thereafter.

(b) The initial renewal date of any non-resident business entity license issued on or after January 1, 2011 shall be September thirtieth of the next odd numbered year. On-going renewal dates shall be the last day of September every two years thereafter.

(2) Resident business entities:

Resident business entities shall renew by the last day of September in even numbered years.

(a) The initial renewal date of any resident business entity with an active license as of December 31, 2010 shall be September 30, 2012. On-going renewal dates shall be the last day of September every two years thereafter.

(b) The initial renewal date of any resident business entity license issued on or after January 1, 2011 shall be September thirtieth of the next even numbered year. On-going renewal dates shall be the last day of September every two years thereafter.

(H) License renewal transition for individual resident surety bail bond agents.

(1) Resident surety bail bond agents who have a current compliance period due date of December 31, 2010, shall renew their license by the last day of February in year two thousand eleven. Resident surety bail bond agents should have their fourteen surety bail bond specific "CE" credits completed by December 31, 2010. Any resident surety bail bond agent who did not have their required "CE" credits completed by December 31, 2010 has until the last day of February in the year two thousand eleven in which to complete the credits, but will be charged a one-hundred dollar extension fee in addition to any other required fees. All "CE" credits must be completed prior to license renewal. After the year two thousand eleven license renewal, resident surety bail bond agents will be required to complete six surety bail bond specific "CE" credits and one ethics specific "CE" credit prior to renewal of the license each year by the last day of February.

(2) Resident surety bail bond agents who have a current compliance period due date of December 31, 2011, shall renew their license by the last day of February in the year two thousand eleven. Resident surety bail bond agents will be required to complete six surety bail bond specific "CE" credits and one ethics specific "CE" credit prior renewing their surety bail bond license by the last day of February in the year two thousand eleven. Resident surety bail bond agents will be required to complete six surety bail bond specific "CE" credits and one ethics specific "CE" credit prior to renewal of the license by the last day of February each year thereafter.

(3) Resident surety bail bond agents who were issued a license on or after January 1, 2010, shall renew their surety bail bond license by the last day of February each year. Resident surety bail bond agents must complete six surety bail bond specific "CE" credits and one ethics specific "CE" credit prior to renewing their surety bail bond license each year. Resident surety bail bond agents shall be exempt from completing surety bail bond "CE" requirements for their first renewal cycle if the agent was initially issued a surety bail bond license in January or February of the same calendar year of their first renewal cycle.

(I) 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: 08/02/2010

R.C. 119.032 review dates: 08/13/2014

Promulgated Under: 119.03

Statutory Authority: 3901.041, 3905.12

Rule Amplifies: 3905.12, 3905.481

## **3901-5-09 Agent licensing and appointments.**

### **(A) Purpose**

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

### **(B) Authority**

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

### **(C) Definitions**

For purposes of this rule:

(1) "Insurer" and "insurance company" shall have the same meaning in this rule as "insurer" does in section 3901.32 of the Revised Code.

(2) "Clearance letter" is the certification to another state of an agent's license status when moving out of Ohio.

### **(D) Resident individual agent licensing**

(1) An applicant must comply with the requirements contained in sections 3905.05 and 3905.06 of the Revised Code for the appropriate line of authority.

(2) An individual applying for a resident insurance agent license shall do all of the following:

(a) The applicant shall complete any pertinent pre-licensing education for the lines of authority listed below unless the applicant is exempt pursuant to paragraph (D) of rule 3901-5-07 of the Administrative Code:

(i) Life: twenty hours;

(ii) Accident and health: twenty hours;

(iii) Property: twenty hours;

(iv) Casualty: twenty hours;

(v) Personal lines: twenty hours;

(vi) Surety bail bonds: twenty hours;

(b) Pass any required licensing examination as set forth in division (B) of section 3905.04 of the Revised Code;

(c) Request a criminal records check as set forth in section 3905.051 of the Revised Code;

(d) Submit a completed producer application form;

(e) Pay any required fees.

(3) A completed application may not be submitted until the applicant has passed any required licensing examination, but must be submitted within one hundred eighty calendar days of the applicant's passing that examination.

(4) An applicant is not eligible for a license until the superintendent or the superintendent's designee, as determined by the superintendent, receives a completed application including the completed application form, the criminal records check, any other information required by the superintendent and any required fees. An incomplete application cannot be processed by the superintendent and may be returned to the applicant.

(5) A license shall be deemed issued on the date the application is approved by the superintendent.

(6) A license shall be issued in the legal name of the applicant.

(7) If an agent has active appointments at the time the agent's licenses are inactivated by agent request, canceled, non-renewed, suspended, revoked or surrendered, the superintendent shall notify the appointing companies of the inactivation, cancellation, non-renewal, suspension, revocation or surrender.

(8) An agent must report to the superintendent all demographic changes (i.e. name, resident address, business address, mailing address, email address, etc.) within thirty days of the change.

(E) Nonresident individual agent licensing

(1) An individual applying for a nonresident insurance agent license shall do all of the following:

(a) Complete the uniform application;

(b) Comply with the requirements set forth in section 3905.07 of the Revised Code; and

(c) Pay any required fees.

(2) Upon satisfying the requirements of this rule, a nonresident agent license shall be issued to the applicant granting the applicant the same scope of authority as the applicant has under the license issued by the applicant's home state.

(3) If the applicant's home state does not issue nonresident insurance agent licenses to residents of this state, then the applicant must complete any licensing requirements that are imposed upon residents of this state.

(4) A nonresident license shall be deemed issued on the date and the application is approved by the superintendent.

(5) A nonresident agent who applies for a line of authority for which he is not licensed in his home state must fulfill the requirements for an Ohio resident agent license for that type of authority.

(6) An agent must report to the superintendent all demographic changes (i.e. name, resident address, business address, mailing address, email address, etc.) within thirty days of the change.

(7) A nonresident must maintain an active resident license in another state in order to maintain the nonresident Ohio license. Failure to maintain an active resident license is grounds for the revocation of an Ohio non-resident license. It is the agent's responsibility to notify the superintendent of a change in the agent's resident license state.

(F) Limited lines licenses

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

(a) Submitted a completed producer application form or other form and means prescribed by the superintendent;

(b) Pay any required fees;

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

(d) Resident applicants must comply with the requirements set forth in sections 3905.05 and 3905.06 of the Revised Code. Nonresident applicants must comply with the requirements contained in section 3905.07 of the Revised Code.

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

(a) Credit insurance products as defined in division (G) of section 3905.01 of the Revised Code;

(b) Rental car insurance in accordance with rule 3901-5-10 of the Administrative Code;

(c) Crop insurance providing protection against damage to crops from unfavorable weather conditions, fire, or lightning, flood, hail, insect infestation, disease or other yield-reducing conditions or perils provided by the private insurance market, or that is subsidized by the federal crop insurance corporation, including multi-peril crop insurance;

(d) Funeral expense insurance sold to provide for payment of funeral or burial goods and services in accordance with sections 3905.45 and 3905.451 of the Revised Code so long as the agent is also a licensed funeral director in this state.

(e) Travel insurance coverage for trip cancellation, trip interruption, baggage, life, sickness and accident, disability, and personal effects when limited to a specific trip and sold in connection with transportation provided by a common carrier;

(f) Title insurance marketing representative as provided in paragraph (G) of this rule;

(g) Any limited lines insurance agent license as required by section 3905.072 of the Revised Code.

(3) No pre-licensing education, licensing examination or continuing education is required for a limited lines license.

(4) Limited lines licenses are subject to section 3905.14 of the Revised Code and all other requirements for agents, except as provided in this rule.

(5) A license shall be deemed issued on the date the application is approved by the superintendent.

(6) A license shall be issued in the legal name of the applicant.

(7) Upon satisfying the requirements of this rule, a nonresident limited line agent license shall be issued to the applicant granting the applicant the same scope of authority as the applicant has under the license issued by the applicant's home state.

(8) If the applicant's home state does not issue nonresident limited line insurance agent licenses to residents of this state, then the applicant must complete any licensing requirements that are imposed upon residents of this state.

(9) A nonresident agent who applies for a line of authority for which the agent is not licensed in the home state must fulfill the requirements for an Ohio resident agent license for that type of authority.

(10) A nonresident must maintain an active resident limited line license in another state in order to maintain his nonresident Ohio license. Failure to maintain an active resident license is grounds for the revocation of an Ohio nonresident license. It is the agent's responsibility to notify the superintendent of a change to the agent's resident license state.

(11) The holder of a limited lines license may not sell, solicit, or negotiate insurance on behalf of any insurer unless appointed to represent that insurer.

(12) If an agent has active appointments at the time the agent's licenses are inactivated by agent request, canceled, non-renewed, suspended, revoked or surrendered, the superintendent shall notify the appointing companies of the inactivation, cancellation, non-renewal, suspension, revocation or surrender.

(13) An agent must report to the superintendent all demographic changes (i.e. name, resident address, business address, mailing address, email address, etc.) within thirty days of the change.

(14) The superintendent has discretion to investigate the suitability of an applicant for a limited lines license and may suspend, revoke, refuse to issue, or renew a limited lines license for any of the reasons that the superintendent may refuse to issue a full-lines agent's license.

(G) Title insurance marketing representative

(1) Persons who market goods and services associated with the issuance of title insurance shall obtain a limited lines license as a title insurance marketing representative. A title insurance marketing representative shall be appointed by a licensed title agent. A title insurance marketing representative

may solicit and perform marketing services only on behalf of the appointing agent. A title insurance marketing representative who holds a limited lines license may not do any of the following:

- (a) Quote filed title insurance rates or premiums;
- (b) Discuss insurance coverages, benefits or limits except that the marketing representative may, in general terms, explain the basic differences between an owner's policy and a lender's policy;
- (c) Make recommendations, provide advice about, or negotiate title insurance;
- (d) Execute or issue a title insurance policy, binder or commitment;
- (e) Determine insurability;
- (f) Holds oneself out as a representative of a title insurance company.

(2) A title agent who appoints a title insurance marketing representative shall be responsible for the acts and omissions of the title insurance marketing representative. Violations of the insurance laws in Title 39 of the Revised Code that are committed by a title insurance marketing representative will be attributed to the appointing title agent as well as to the marketing representative and will subject the appointing licensed title agent to a civil forfeiture in an amount not to exceed ten thousand dollars for each violation, unless the violation is reported by the title agent to the superintendent promptly upon discovery and the title agent takes appropriate remedial action.

(3) Any written materials used or distributed by a title insurance marketing representative must be pre-approved by the licensed title agent that appointed the title insurance marketing representative.

(4) No pre-licensing education, licensing examination or continuing education is required for a person who holds a limited lines license as a title insurance marketing representative.

(5) No person who is prohibited under division (B) of section 3953.21 of the Revised Code from acting as an agent for a title insurance company shall be licensed as a title insurance marketing representative.

(6) A license as a title insurance marketing representative is valid and authorizes the holder to act as a title insurance marketing representative to the extent permitted by law only so long as the person is appointed by a licensed title insurance agent.

(7) A title marketing representative may be appointed by only one title agent at any given time.

(H) Resident business entity licenses

(1) A business entity that is either domiciled in Ohio or maintains a principal place of business in Ohio may be licensed as an insurance agent in this state if it satisfies all of the following conditions:

(a) Completes a business entity application and provides any other information required by the superintendent;

(b) Complies with division (B) of section 3905.05 of the Revised Code and division (A)(2) of section

3905.06 of the Revised Code;

(c) Is authorized to do business in the state of Ohio by the Ohio secretary of state if so required by section 1703.03, 1705.54, or 1775.64 of the Revised Code.

(2) A resident business entity agent license shall be deemed issued on the date and the application is approved by the superintendent.

(3) A resident business entity agent must maintain at least one designated licensed individual insurance agent who will be responsible for the business entity's compliance with the insurance law of this state. Failure to maintain a licensed agent is grounds for revocation of the business entity's license.

(4) If the resident business entity ceases to exist as a corporate or other legal entity, its agent license shall be subject to revocation.

(5) A business entity agent must report any change in its name, address, email address, licensed agents, officers, directors, and members or owners with ten per cent or more voting interest in the licensed entity to the superintendent within thirty days of such change.

(6) In addition to the requirements in paragraph (H)(5) of this rule, a business entity title agent must notify the superintendent of any change in its ownership or in the ownership of any business entity holding an ownership interest in the business entity title agent within thirty days and must include an organizational chart that shows all owners and their percentages of ownership of both the business entity title agent and business entities having ownership interests.

(7) A resident business entity applicant must apply for licensure under the legal name of the applicant as registered with the Ohio secretary of state. The superintendent may deny the use of a name that is too similar to a name already in use by another business entity or a name that may be misleading to the public.

(I) Nonresident business entity licenses

(1) A business entity domiciled in another state or whose principal place of business is in another state may be licensed as an insurance agent in this state if it satisfies all of the following conditions:

(a) Complete a business entity application;

(b) Comply with the provisions of section 3905.07 of the Revised Code.

(2) Upon satisfying the requirements of this rule, a nonresident business entity license shall be issued to the applicant granting the applicant the same scope of authority as the applicant has under the license issued by the applicant's home state.

(3) A nonresident business entity agent license shall be deemed issued on the date and the application is approved by the superintendent.

(4) A nonresident business entity agent must maintain at least one individual insurance agent licensed in Ohio who will be responsible for the business entity's compliance with the insurance laws of this state.

Failure to maintain an Ohio licensed agent is grounds for revocation of the business entity's license.

(5) Nonresident business entities should contact the Ohio secretary of state to verify if registration is required in order to do business in the state of Ohio. Registration with the Ohio secretary of state may be required pursuant to section 1703.03, 1705.54, or 1775.64 of the Revised Code.

Registration with the Ohio secretary of state is not a license prerequisite, but the superintendent of insurance shall verify if the business entity is registered. If not registered, a notification letter will be sent to the applicant and to the Ohio secretary of state indicating that an insurance license was issued without registration.

(6) A business entity agent must report any change in its name, address, email address, licensed agents, officers, directors, and members or owners with ten per cent or more voting interest in the licensed entity to the superintendent within thirty days of such change.

(7) A business entity title agent must notify the superintendent of any change in its ownership or in the ownership of any business entity holding an ownership interest in the business entity title agent within thirty days and must include an organizational chart that shows all owners and their percentage of ownership of both the business entity title agent and business entities having ownership interests.

(8) A nonresident business entity applicant must apply for licensure under the legal name of the applicant. The superintendent may deny the use of a name that is too similar to a name already in use by another business entity or a name that may be misleading to the public.

#### (J) License renewal

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

(1) Complete a renewal application;

(2) Comply with the renewal requirements set forth in section 3905.06, 3905.07, or 3905.85 of the Revised Code; and

(3) Pay any required fees.

(a) License renewal fee as set forth in section 3905.40 or 3905.85 of the Revised Code;

(b) In addition to the license renewal fee, the fee for filing a renewal application during the late renewal period is one hundred dollars; or

(c) In addition to the license renewal fee, the fee for filing a renewal application during the reinstatement period is three hundred dollars.

#### (K) Appointments

(1) Within thirty days after the date the agency contract is executed or the first insurance application is submitted, each insurer shall file a notice of appointment with the superintendent regarding all agents who were newly appointed to represent the insurer. Additionally, within thirty days of a termination,

each insurer shall notify the superintendent of any agents whose appointments were terminated by the insurer. The insurer shall specify the effective date of appointment or termination for each agent. The insurer shall identify each agent by the full name that appears on the agent's insurance license, national producer number or other such identification number as requested by the superintendent, and such other information as the superintendent may require.

(2) All individual and business entity agent appointments and terminations must be submitted to the superintendent electronically.

(a) An insurer that annually appoints and/or terminates twenty-five or fewer agents may make non-electronic appointments and terminations.

(b) Any insurer that annually appoints and/or terminates more than twenty-five agents but that is unable to process electronic appointments and terminations must provide adequate documentation explaining its inability to comply.

(3) Appointments will renew automatically on the first day of July each year unless the insurer terminates the appointment prior to the renewal date.

(4) No appointment shall be effective unless the appointee is licensed for that line of authority.

(5) The superintendent will bill insurers for the initial and renewal appointment and for termination fees. If an agent holds both a property and casualty appointment with an insurer, a single appointment/termination fee will be billed for those appointments/terminations that are processed at the same time.

(6) If the termination of an appointment is for any of the reasons set forth in division (B) of section 3905.14 of the Revised Code, the insurer shall provide a detailed statement of the facts and the reasons for the termination to the superintendent within thirty days of the effective date of the termination. Insurers who provide such statements shall be immune from liability to the extent provided in section 3905.211 of the Revised Code.

(L) Inactive status

(1) An agent may request inactive status by submitting a form prescribed by the superintendent and such other information as the superintendent may request. The agent must attest that the conditions in paragraph (L)(2) of this rule are met.

(2) An agent may be eligible for inactive status only if and so long as all of the following conditions are met at the time of the inactivation request:

(a) The agent is not employed or engaged, full or part-time, in any capacity for which an agent's license is required and does not engage in or in any way participate in or assist with any activity for which an agent's license is required in this state. This does not apply to clerical or ministerial acts;

(b) The agent must be out of the insurance industry in relation to any duties or activities that would require an agent's license for at least the next twenty-four months;

- (c) The agent must be in compliance with their continuing education requirements ;
  - (d) The agent must be in good standing with the superintendent;
  - (e) The agent is a natural person and holds an active resident major line of authority, title, or surety bail bond license in this state at the time of inactivation request; and
  - (f) The request for inactivation was received by the superintendent prior to the expiration date of the license.
- (3) If the superintendent is satisfied that the agent is eligible for inactive status, the superintendent shall notify the agent and all appointing insurers and agents about the inactive status.
- (4) A person who has been granted inactive status must notify each insurer with which he or she is appointed no later than ten days after inactive status is granted. Failure to do so is grounds to terminate the inactive status. All appointments held by an agent who has been granted inactive status shall be void as of the date inactive status is granted.
- (5) If an agent is granted inactive status and subsequently engages in, participates or assists in any way in any conduct or activity for which a license is required, excluding clerical or ministerial acts, such agent's license(s) may be suspended or revoked or the superintendent may impose a civil penalty in an amount not to exceed twenty-five thousand dollars.
- (6) When an agent is granted inactive status, the inactive status affects all licenses and appointments held by that agent except surety bail bond and title which may be maintained independent of the inactivation of other licenses.
- (7) An agent who has been granted inactive status is exempt from the continuing education requirements of this state.
- (8) An agent who has been inactive two years or more may return to active status upon the following conditions:
- (a) The agent notifies the superintendent using the form and means prescribed by the superintendent and provides any other information requested by the superintendent;
  - (b) The agent has completed approved continuing education credits based on the license type being activated or has completed a pre-licensing education course for the particular type of license being reactivated, within the preceding six months of the reactivation application;
  - (i) An agent who held resident major line of authority license must complete twenty-four hours of approved continuing education, three of which must be approved as ethics;
  - (ii) An agent who held a title license must complete twelve credits, ten of which must be approved as title specific and two of which must be approved as ethics;
  - (iii) An agent who held a surety bail bond license must complete fourteen credits, twelve of which must be approved as surety bail bond specific and two of which must be approved as ethics.

(c) The person has paid a reactivation fee of fifty dollars;

(d) The person, if requesting the reactivation of a surety bail bond license, has paid an additional fee of one hundred fifty dollars; and

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

(9) A person who has been inactive less than two years must comply with paragraph (D) of this rule as a new applicant.

(10) The licenses of a person who has been granted inactive status may be subject to suspension, revocation or any other disciplinary action for questionable conduct occurring before or after the inactive status was granted.

(11) Inactive status applies prospectively.

(M) Surrender

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

(2) A surrender will be effective immediately after the superintendent receives the request or at a date chosen by the agent but in no case shall the surrender be effective prior to the date of receipt by the superintendent or more than thirty days after receipt of the surrender request.

(3) The surrender of an agent's license for any line of authority voids all appointments held by the agent for that line of authority.

(4) The superintendent shall notify each appointing company and agent when an agent's licenses are surrendered.

(5) An agent who has surrendered a license or licenses and who wants to obtain a license as an agent must comply with the pre-licensing education and examination requirements as if the person had never been licensed, if otherwise eligible and suitable to be an agent. This provision shall apply to a license previously surrendered even when the agent still has a license of another type.

(6) A person who has been granted inactive status may surrender all or some licenses if the person is otherwise eligible to surrender licenses.

(7) A clearance letter request acts as a voluntary surrender of all licenses. Once a clearance is issued an individual may reactivate the Ohio licenses if the following requirements are met:

(a) The individual requested reactivation within ninety days of the effective date of surrender by clearance request, and

(b) The individual did not obtain a resident license in another state.

(8) When a person reactivates Ohio licenses pursuant to paragraph (M)(7) of this rule, the person's continuing education requirements and license renewal date continue as if a clearance letter had not been requested.

(N) Compensation

(1) Commissions or other compensation paid by an insurer to a person for any activity that requires a license must be paid in the legal name of the licensee as that name appears on the superintendent's records or a trade name registered in accordance with section 3905.11 of the Revised Code.

(2) An agent who is appointed with the issuing insurance company may pay commissions to another agent who is licensed for that line of business but who is not appointed with the issuing insurance company.

(3) A licensed agent may assign commissions lawfully earned to a non-licensed person or entity pursuant to a written agreement and for a purpose that is not otherwise a pretext for the unlawful payment or split of commissions or the payment of an unlawful lead fee to the assignee.

(4) An agent or insurer may pay an unlicensed person or organization for administrative services actually rendered by that person or organization in connection with an insurance program offered to the members or customers of the unlicensed person or organization. Such payment shall be negotiated in an arms-length transaction. The amount of payment may not be calculated as a percentage of premium or any other measure of sales production. The amount of payment must be reasonable in relation to the services actually rendered. This paragraph does not prohibit the payment of a flat fee per transaction or service.

(5) An agent or insurance company may pay an unlicensed person or organization for an endorsement in favor of the agent, insurance company or a product. Such payment shall be a flat fee per member or customer or shall be in the amount of actual costs incurred by the unlicensed person or organization in making the endorsement. In no event shall the payment be calculated as a percentage of premium or any other measure of sales production.

(6) For purposes of this rule, an "endorsement" means a communication by an unlicensed person in any medium that introduces or mentions the availability of a general type of insurance coverage, identifies a particular insurer or agent, explains the method for obtaining additional information, and contains the words "endorse," "endorsed by," "sponsor," or "sponsored by," if all of the following conditions apply:

(a) The communication does not contain any comparison to other insurance products, insurers or agents;

(b) The communication does not contain any specific information or details about the benefits provided by the insurance;

(c) The communication does not indicate the rates or cost of the insurance;

(d) The communication does not contain any statement or suggestion that the recipient needs, or should

apply for or buy the insurance.

(O) Severability

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

Effective: 01/01/2011

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

Promulgated Under: 119.03

Statutory Authority: 3901.041, 3905.04, 3905.12, 3905.20

Rule Amplifies: 3905.04, 3905.06, 3905.07, 3905.20

Prior Effective Dates: 10/12/1998, 9/26/2002, 9/22/2005, 7/1/2007

## **3901-1-24 Public insurance adjusters.**

### (A) Purpose

This rule is adopted pursuant to Chapter 3951 and Section 3901.041 of the Revised Code, and its purpose is to safeguard the interest of the public by regulating the conduct of public insurance adjusters.

### (B) Prohibited Activities

No public insurance adjuster or public insurance agent shall:

- (1) engage in any manner or degree, for compensation of any kind, in the business of repairing, remodeling, or replacing damaged or destroyed property, real or personal, which damage or destruction is covered by a policy of insurance; nor have any direct or indirect interest in, nor receive compensation of any kind from any person, firm, association, partnership, or corporation which is engaged in such business;
- (2) attempt in any manner to solicit a loss during the progress of a fire or while the fire department or any of its representatives are in any manner engaged at the damaged premises; nor in any way interfere with the performance of the duties of an investigator of the State Fire Marshal's Office, an investigator of any fire department, or a law enforcement official of this State or of any political subdivision thereof;
- (3) give or offer to give to an insured or his representative any portion of the adjuster's fee or anticipated settlement of the claim for loss or damage as an inducement to secure a contract for the adjustment of a loss;
- (4) represent himself to be an adjuster for or a representative of any insurance company, a fire investigator, or a person connected with any fire department or law enforcement agency;
- (5) compensate any person to act on his behalf in the solicitation, negotiation, or settlement of a claim unless such person is licensed as a public insurance adjuster or a public insurance adjuster agent;
- (6) make an inventory or estimate of loss or damage other than that which is fair and honest;
- (7) own or acquire any direct or indirect financial interest in any property, real or personal, which is the subject of a loss adjusted by him; nor have any direct or indirect financial interest in the sale of any salvage of any property which is the subject of a loss adjusted by him.

### (C) Records of Adjuster

Every public insurance adjuster shall keep a full record of his transaction as an adjuster for the previous three years and such records shall be open at all times to the inspection of the Superintendent of Insurance or his representative. Such records shall show for each loss adjusted by him:

- (1) the name of the insured;

- (2) the date, location, and the public insurance adjuster's estimate of the amount of loss;
- (3) the name of the insurer or insurers which issued any policy covering the loss which was the subject of the adjustment;
- (4) the amount of coverage, the expiration date, and the number of each policy of insurance covering such loss;
- (5) an itemized statement of all recoveries by the insured from all sources with regard to such loss;
- (6) the names and addresses of any person or persons soliciting the adjustment on behalf of the public insurance adjuster and the date and time when solicited;
- (7) the total compensation received by the public insurance adjuster for the adjustment of the loss;
- (8) copies of any agreements between the public insurance adjuster and the insured;
- (9) names and addresses of all contractors who performed or contracted to perform work of any kind on the damaged or destroyed property prior to settlement of the claim.

(D) Contract Requirements

- (1) No public insurance adjuster shall use in his business as a public insurance adjuster a contract whereby an insured engages or employs the public insurance adjuster to perform the functions specified in 3951.01(A) until thirty days after the form of such contract has been filed with the Superintendent of Insurance, unless within such time the Superintendent gives the public insurance adjuster written approval for the use of such form. If the Superintendent finds within such thirty-day period that the form filed contains any language which is prohibited by any law of this State, including any rule of the Superintendent, or that it is inconsistent, ambiguous, misleading, deceptive, or likely to mislead an insured, the Superintendent will give written notice of such finding to the public insurance adjuster who filed the form, and the public insurance adjuster shall thereafter not use such form.
- (2) Every such contract must conspicuously set out the fee of the public insurance adjuster for the adjustment services to be rendered the insured pursuant to the contract.

(E) Restriction on Insurers

- (1) No insurer authorized to issue the types of insurance policies set forth in Section 3951.01(A) of the Revised Code shall:
  - (a) recognize a public insurance adjuster as a party interested in the proceeds of any insurance settlements arising from such policies or negotiate an insurance settlement with a public insurance adjuster representing an insured unless such public insurance adjuster has been duly licensed as a public insurance adjuster by the Department of Insurance.
  - (b) negotiate an insurance settlement with a representative of an insured, other than a licensed public insurance adjuster, unless such representative has been duly appointed as such by a court of law or is one of those persons enumerated in Section 3951.01(D) of the Revised Code.

(2) Each insurance company referred to in subparagraph (1) above shall keep a record of each insurance loss and/or settlement wherein the insured was represented by a public insurance adjuster. Such record shall include a copy of the public insurance adjuster's certificate of authority.

(F) Separability

Each section of this rule and every part of each section is an independent section and part of a section, and the holding of any section or a part thereof to be unconstitutional, void, or ineffective for any cause does not affect the validity or constitutionality of any other section or part thereof.

(G) Suspension or Revocation

The Superintendent of Insurance may suspend, revoke, or refuse to renew the license of a public insurance adjuster or public insurance adjuster agent found to be in violation of this rule. Such suspension, revocation, or refusal to renew shall be in addition to, not a substitution for the penalties provided in Section 3951.99 of the Revised Code.

(H) Effective Date

This rule shall take effect on the 1st day of August, 1972.

R.C. 119.032 review dates: 12/29/2006 and 12/29/2011

Promulgated Under: 119.03

Statutory Authority: RC Ch. 3951, RC 3901.041

Rule Amplifies: RC Ch. 3951

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