

CHAPTER 215
FORMERLY
SENATE BILL NO. 116
AS AMENDED BY
SENATE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 17 OF TITLE 18 OF THE DELAWARE CODE RELATING TO THE LICENSING OF INSURANCE PROFESSIONALS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend Section 1702 of Title 18 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 1702. Definitions

(a) "Adjuster" means a licensee of the Department who, as an independent contractor or on behalf of an independent contractor, insurer, self-insurer, producer or managing general agent, investigates and/or negotiates settlement of claims arising under insurance contracts.

(b) "Agent of the insurer" means a licensed producer of the Department appointed by an insurer to sell, solicit or negotiate applications for policies of insurance on its behalf and, if authorized to do so by the insurer, to issue conditional receipts.

(c) "Appraiser" means a licensee of the Department who assesses property damage to motor vehicles.

(d) "Apprentice" means a licensee of the Department who is qualified in all respects as an adjuster or appraiser, except as to experience, education and/or training.

(e) "Broker of insured" means a licensed producer of the Department who for compensation negotiates on behalf of others contracts for insurance from companies to whom he or she is not appointed.

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

(g) "Fraternal representative" means a licensee of the Department who is appointed or authorized to act for a society or fraternal organization to sell, solicit or negotiate, or make a life insurance, accident, or health insurance or annuity contract for no compensation except as specifically exempted from this requirement by § 6233 of this title.

(h) "Home state" means the District of Columbia or any state or territory of the United States in which an insurance producer, adjuster or appraiser maintains his or her principal place of residence or principal place of business and is licensed to act as an insurance producer, adjuster or appraiser.

(i) "Insurance producer" means a person required to be licensed under the laws of this State to sell, solicit or negotiate contracts of insurance or annuity or the lines of authority authorized within the scope of such license. For the purposes of this title the terms "insurance agent," "insurance broker," and "insurance consultant" shall be used interchangeably with the term "insurance producer."

(j) "License" means a document issued by this State's Insurance Commissioner authorizing a person to act as an insurance producer, adjuster or appraiser for the lines of authority specified in the document. The license itself does not create any authority, actual, apparent or inherent, in the holder to represent or commit an insurance carrier.

(k) "Licensee" means any person issued a license pursuant to this Chapter.

~~(l)~~ (l) "Limited line credit insurance" includes credit life, credit disability, credit property, credit unemployment, involuntary unemployment, mortgage life, mortgage guaranty, mortgage disability, guaranteed automobile protection (gap) insurance and any other form of insurance offered in connection with an extension of credit that is limited to partially or wholly extinguishing that credit obligation that the Insurance Commissioner determines should be designated a form of limited line credit insurance.

~~(m)~~ (m) "Limited line credit insurance producer" means a person who sells, solicits or negotiates 1 or more forms of limited line credit insurance coverage to individuals through a master, corporate, group or individual policy.

~~(n)~~ (n) "Limited lines insurance" means those lines of insurance defined in § 1707(b) of this title or any other line of insurance that the Insurance Commissioner deems necessary to recognize for the purposes of complying with § 1708(e) of this title.

~~(o)~~ (o) "Limited lines producer" means a person authorized by the Insurance Commissioner to sell, solicit or negotiate limited lines insurance.

~~(p)~~ (p) "Negotiate" means the act of conferring directly with or offering advice directly to a purchaser or prospective purchaser of a particular contract of insurance concerning any of the substantive benefits, terms or conditions of the contract, provided that the person engaged in that act either sells insurance or obtains insurance from insurers for purchasers.

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

~~(r)~~ (r) "Portable electronics insurance" has the meaning set forth in § 2051 of this title.

~~(s)~~ (s) "Revocation" means recalling or taking back an insurance license or licenses for a minimum period of 12 months. Any insurer appointments of such license shall likewise be revoked. No individual whose license is revoked shall be issued another license without first complying with all requirements of § 1706 of this title.

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

~~(u)~~ (u) "Solicit" means attempting to sell insurance or asking or urging a person to apply for a particular kind of insurance from a particular company.

~~(v)~~ (v) "Suspension" means to bar temporarily the privileges of an insurance license or licenses granted under Chapter 17 of this title, for a maximum of 12 months. A suspension shall also include a suspension of the appointment of such licensee. Upon the expiration of the suspension period and upon satisfactory completion of such terms and conditions as the Commissioner has imposed pursuant to the suspension, all licenses and appointments shall be reinstated.

~~(w)~~ (w) "Termination" means the cancellation of the relationship between ~~an insurance producer~~ a licensee and the insurer or the termination of a ~~producer's licensee's~~ licensee's authority to transact insurance.

(x) "Transact" shall have the meaning set forth in § 103 of this title and, for purposes of this Chapter 17 shall include negotiating, selling and soliciting insurance and settling and/or adjusting claims under policies.

~~(y)~~ (y) "Travel Insurance" means insurance coverage for personal risks incident to planned travel, including but not limited to:

- (1) Interruption or cancellation of trip or event;
- (2) Loss of baggage or personal effects;
- (3) Damages to accommodations or rental vehicles; or
- (4) Sickness, accident, disability or death occurring during travel.

Travel insurance does not include major medical plans, which provide comprehensive medical protection for travelers with trips lasting six (6) months or longer, including, for example, those working overseas as an ex-patriot or military personnel being deployed.

Section 2. Amend Section 1703 of Title 18 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 1703. License required.

A person shall not ~~sell, solicit or negotiate~~ transact insurance in this State for any class or classes of insurance unless the person is licensed as an insurance producer, adjuster or appraiser for that line of authority in accordance with this chapter.

Section 3. Amend Section 1704(a) of Title 18 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 1704. Exceptions to licensing.

(a) Nothing in this chapter shall be construed to require an insurer to obtain ~~an insurance producer a~~ license pursuant to this chapter. In this section, the term "insurer" does not include an insurer's officers, directors, employees, subsidiaries or affiliates.

Section 4. Amend Section 1705(a) of Title 18 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 1705. Application for examination.

(a) A resident individual applying for an ~~insurance producer~~ license shall pass a written examination unless exempt pursuant to § 1709 of this title. The examination shall test the knowledge of the individual concerning the lines of authority for which application is made, the duties and responsibilities of an insurance producer, adjuster or appraiser, as applicable, general insurance knowledge, insurance ethics as established by the Commissioner, and the insurance laws and regulations of this State.

Section 5. Amend Section 1706 of Title 18 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 1706. Application for license

(a) A person applying for a resident ~~insurance producer~~ license shall make application to the Insurance Commissioner on the Uniform Application or on forms prescribed by the Commissioner for license types and lines of authority not available on the Uniform Application and declare under penalty of refusal, suspension or revocation of the license that the statements made in the application are true, correct and complete to the best of the individual's knowledge and belief. Before approving the application, the Insurance Commissioner shall find that the individual:

- (1) Is at least 18 years of age;
- (2) Has not committed any act that is a ground for denial, suspension or revocation set forth in § 1712 of this title;
- (3) Has paid the fees set forth in Chapter 7 of this title; and
- (4) Has successfully passed the examinations for the lines of authority for which the person has applied, unless specifically exempted from such examination by this chapter.

(b) Each resident application shall further contain a statement of the applicant's criminal history, which the applicant shall obtain from the Delaware State Bureau of Identification pursuant to § 8513(a)(2) of Title 11. Each resident applicant and non-resident applicant that has declared Delaware to be his or her home state shall also provide a federal criminal history report from the Federal Bureau of Investigation.

(c) Every applicant for a license as an apprentice adjuster or apprentice property damage appraiser must file with the Commissioner a certification from one holding a license as an adjuster or property damage appraiser in which said holder of the license assumes responsibility for the applicant's training and for all actions undertaken by the applicant pursuant to the requested license.

(d) Every applicant for a license as an insurance producer for the line of variable annuity must hold a license as a life insurance agent and must be registered with the National Association of Security Dealers.

(e) All premiums, return premiums or other funds received in any manner by a ~~producer licensee~~ or a surplus lines broker shall be held in a fiduciary capacity and shall be accounted for by such ~~producer licensee~~ or surplus lines broker. The ~~producer licensee~~ or surplus lines broker shall, in the ordinary course of business, pay the funds to the insured or the insured's assignee, insurer, insurance premium finance company or agent entitled to the payment.

(f) A business entity acting as an insurance producer, adjuster or appraiser is required to obtain an ~~insurance producer~~ license pursuant to this chapter. Application shall be made using the Uniform Business Entity Application or on forms prescribed by the Commissioner for license types and lines of authority not available on the Uniform Business Entity Application. Before approving the application, the Insurance Commissioner shall find that:

- (1) The business entity has paid the fees set forth in Chapter 7 of this title; and
- (2) The business entity has designated a licensed producer, adjuster or appraiser, as applicable, responsible for the business entity's compliance with the insurance laws, rules and regulations of this State. If the license of a business entity's designated responsible licensee is no longer active (whether due to expiration, suspension, revocation or otherwise), the license of such business entity shall be immediately suspended until such time as a designated responsible licensee in good standing is designated as such business entity's responsible producer, adjuster or appraiser, as applicable.

(g) The Insurance Commissioner may require any documents reasonably necessary to verify the information contained in an application.

(h) Each insurer that sells, solicits or negotiates any form of limited line credit insurance shall provide to each individual whose duties will include selling, soliciting or negotiating limited line credit insurance a program of instruction that may be approved by the Insurance Commissioner.

(i) No resident of Canada may be licensed as an adjuster pursuant to this section or may designate Delaware as the adjuster's home state, unless such person has successfully passed the adjuster examination and has complied with other applicable portions of this section.

(j) A business entity applying for a license as an adjuster for portable electronic insurance claims shall submit such application on a form as prescribed by the Commissioner. The Commissioner is authorized, at all times, to require the applicant to disclose the names and addresses of all executive officers and directors of the applicant and of all executive officers and directors of entities owning and any individuals owning, directly or indirectly, 51% or more of the outstanding voting securities of the applicant. The Commissioner is further authorized, at all times, to require the applicant to obtain their criminal histories from their state of residence. The Commissioner may, in the exercise of his or her discretion, refuse to issue a license to the applicant if not satisfied that their conduct meets the standards of this chapter. Any nonresident business entity applicant whose home-state requirements comply with all of these provisions of this subsection shall not be required to submit this material.

Section 6. Amend Section 1707 of Title 18 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 1707. License

(a) Unless denied licensure pursuant to § 1712 of this title, persons who have met the requirements of §§ 1705 and 1706 of this title shall be issued ~~an insurance producer~~ license. An insurance producer may receive qualification for a license in 1 or more of the following lines of authority:

(1) Life insurance coverage on human lives, including benefits of endowment and annuities, and may include benefits in the event of death or dismemberment by accident and benefits for disability income as defined in § 902 of this title.

(2) Accident and health or sickness insurance coverage for sickness, bodily injury or accidental death, and may include benefits for disability income as defined in § 903 of this title.

(3) Property insurance coverage for the direct or consequential loss or damage to property of every kind as defined in § 904 of this title.

(4) Casualty insurance coverage against legal liability, including that for death, injury or disability or damage to real or personal property as defined in § 906 of this title.

(5) Variable life and variable annuity products insurance coverage provided under variable life insurance contracts and variable annuities.

(6) Personal lines property and casualty insurance coverage sold to individuals and families for noncommercial purposes.

(7) Fidelity and surety, as defined in § 905 of this title.

(8) Marine and transportation insurance, as defined in § 907 of this title.

(9) Title insurance, as defined in § 908 of this title.

(10) Any other line of insurance permitted under state laws or regulations.

(b) Limited lines producer may be qualified and licensed and a qualified producer may hold 1 or more of the following limited lines of authority:

(1) Credit insurance lines.

(2) Life insurance or annuity products used solely to fund a pre-arranged funeral program.

(3) Travel insurance.

(4) Bail agent as provided for in Chapter 43 of this title.

(5) Automobile club where its activities are limited to those specified in § 908A of this title.

(6) Any other limited line of insurance permitted under state laws or regulations.

(c) A property damage appraiser's license shall convey authority for the appraisal of damage to motor vehicles as defined in § 101 of Title 21.

(d) An adjuster's license shall convey authority to investigate and negotiate settlement of claims on behalf of licensed agents, brokers, self-insurers, or insurers in 1 or more of the following lines of insurance:

- (1) Property insurance.
- (2) Casualty insurance.
- (3) Fidelity and surety insurance.
- (4) Automobile insurance.
- (5) Marine and transportation insurance.
- (6) Crop insurance.
- (7) Workers compensation insurance.

(e) No adjuster's license shall be required for any of the following:

(1) An adjuster sent into this State on behalf of an insurer for the investigation of a particularly unusual or extraordinary loss, or series of losses, resulting from a catastrophe common to all such losses; provided that such adjuster shall furnish to the Commissioner written notice within 10 calendar days of any such catastrophic insurance adjustment work.

(2) An individual who, in regards to portable electronics insurance claims, collects claim information from, or furnishes claim information to, insureds or claimants, and who conducts data entry including entering data into an automated claims adjudication system, provided that the individual is an employee of a licensed independent adjuster or its affiliate where no more than 25 such persons are under the supervision of 1 licensed independent adjuster or licensed producer. A producer who is acting as a supervisor and adjusting claims pursuant to this paragraph is not required to be licensed as an adjuster. For purposes of this section, "automated claims adjudication system" means a preprogrammed computer system designed for the collection, data entry, calculation and final resolution of portable electronics insurance claims which:

- a. Is only utilized by a licensed independent adjuster, licensed producer, or supervised individuals operating pursuant to this paragraph;
- b. Complies with all claims payment requirements of the insurance code; and
- c. Is certified as compliant with this section by a licensed independent adjuster that is an officer of a licensed business entity under this chapter.

(f) ~~An insurance producer~~ license issued pursuant to this Chapter 17 shall remain in effect unless revoked or suspended as long as the fee set forth in Chapter 7 of this title is paid and education requirements for resident ~~individual producers~~ licensees are met by the due date. Notwithstanding anything to the contrary in this Chapter 17, a licensee's failure to pay the fees set forth in Chapter 7 of this title or meet the education requirements established by the Commissioner shall result in the lapse by operation of law of the license issued to such licensee, without any notice required to be sent by the Department of Insurance to the licensee.

(g) An individual ~~insurance producer~~ licensee who fails to timely renew and, as a result, allows his or her license to lapse may, within 12 months from the due date of the renewal fee or due date for the completion of the education requirements, as applicable, reinstate reapply for the same license without the necessity of passing a written examination. However, a penalty in the amount of double the unpaid renewal fee shall be required for any renewal fee received after the due date and within the first grace period of 6 months from the due date of the renewal fee; and may be subject to a civil fine of not less than \$200 and not more than \$1,000 within the second grace period of 6 months after the due date of the first grace period. Prior to any such license being re-issued, the licensee shall provide evidence of compliance with all continuing education requirements for the relevant renewal period. Licensees who do not intend to renew their licenses must, on or prior to the due date of the renewal fee or due date for the completion of the education requirements, as applicable, submit to the Department a notice of voluntary surrender of their license in a form approved by the Department. Licensees who fail to timely renew within the grace period set forth in this subsection (g) and do not otherwise submit a timely notice of voluntary surrender shall be subject to the same civil fine imposed on those licensees who renew within the second grace period referenced above, with such fine to be payable prior to being able to reapply for a Delaware license.

(h) A ~~licensed insurance producer~~ licensee who is unable to comply with license renewal procedures due to military service or some other extenuating circumstance (e.g., a long-term medical disability) may request a waiver of those procedures. The ~~producer licensee~~ may also request a waiver of any examination requirement or any other fine or sanction imposed for failure to comply with renewal procedures.

(i) The license shall contain the licensee's name, address, and personal identification number, and the date of issuance, the lines of authority, the expiration date and any other information the Insurance Commissioner deems necessary.

(j) Licensees shall inform the Insurance Commissioner by any means acceptable to the Insurance Commissioner of a legal name change or a change of physical mailing address or electronic mail address within 30 days of the change. Failure to timely inform the Insurance Commissioner of a change in legal name or address as required by this § 1707(j) shall result in a penalty pursuant to § 1712(a) and/or § 1712(d) of this title.

(k) The Commissioner may issue a new license for any lost, stolen or destroyed license issued pursuant to this chapter upon written request from the licensee and payment of appropriate fees for such duplicate license. In order to assist in the performance of the Insurance Commissioner's duties, the Insurance Commissioner may contract with nongovernmental entities, including the National Association of Insurance Commissioners (NAIC) or any affiliates or subsidiaries that the NAIC oversees, to perform any ministerial functions, including the collection of fees, related to producer, adjuster and appraiser licensing that the Insurance Commissioner and the nongovernmental entity may deem appropriate.

(l) The Commissioner may participate, in whole or in part, with the NAIC, or any affiliates or subsidiaries the NAIC oversees, in a centralized ~~producer~~ license registry where insurance producer licenses, adjuster licenses, appraiser licenses and appointments may be centrally or simultaneously effected for all states that require an insurance producer license, adjuster license or appraiser license and participate in such centralized ~~producer~~ license registry. If the Commissioner finds that participation in such a centralized ~~producer~~ license registry is in the public interest, the Commissioner may adopt by rule any uniform standards and procedures as necessary to participate in the registry. This includes the central collection of all fees for licenses or appointments that are processed through the registry.

(m) Records. -- The licensee shall maintain at his or her principal place of business the license issued by the Commissioner, together with such records as may be reasonably required by the Commissioner. Such records shall show, (1) with respect to insurance producers, for each policy or contract placed or countersigned by or through the licensee, names of the insurers, insureds, policy number, expiration date thereof, premium payable under the terms of the policy or contract, and such other information as the Commissioner may, from time to time, require, (2) with respect to adjusters, for each claim settled or adjusted, names of the insurers, insureds, policy number, the amount for which the claim was adjusted or settled, and such other information as the Commissioner may, from time to time, require, and (3) with respect to appraisers, for each appraisal submitted, the names of the insured and the person for whom the appraisal was completed, a copy of the written appraisal, and such other information as the Commissioner may, from time to time, require. Records shall be retained and available for inspection by the Commissioner for a period of 3 years.

Section 7. Amend Section 1708 of Title 18 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 1708. Nonresident licensing.

(a) Unless denied licensure pursuant to § 1712 of this title, a nonresident person shall receive a nonresident ~~producer~~ license if:

(1) The person is currently licensed as a resident and in good standing in that person's home state; and
(2) The person has submitted the proper request for licensure and has paid the fees required by Chapter 7 of this title; and

(3) The person has submitted or transmitted to the Insurance Commissioner the application for licensure that the person submitted to his or her home state, or in lieu of the same, a completed Uniform Application or forms

prescribed by the Commissioner for license types and lines of authority not available on the Uniform Application; and

(4) The person's home state awards nonresident ~~producer~~ licenses to residents of this State on the same basis.

Non-resident adjusters whose home states (including designated home states) do not have examination requirements for adjusters shall be required to satisfy this State's examination requirements prior to licensure.

Except where prohibited by state or federal law, by submitting an application for license, the applicant shall be deemed to have appointed the Commissioner as the agent for service of process on the applicant in any action or proceeding arising in this State out of or in connection with the exercise of the license. Such appointment of the Commissioner as agent for service of process shall be irrevocable during the period within which a cause of action against the applicant may arise out of transactions with respect to subjects of insurance in this State. Process shall be served upon the Commissioner or any Deputy Insurance Commissioner or such other person or persons as the Commissioner shall designate by rule or regulation.

(b) The Insurance Commissioner may verify the ~~producer's~~ licensee's licensing status through the Producer Database maintained by the National Association of Insurance Commissioners, its affiliates or subsidiaries. If a non-resident licensee's license in his or her home state is no longer in good standing (whether as a result of suspension, revocation or other action by the home state regulator), such licensee's non-resident license shall, thirty (30) days after the final action taken with respect to the home state license, lapse by operation of law, without any notice required to be sent by the Department of Insurance to the licensee.

(c) A nonresident ~~producer licensee~~ who moves from 1 state to another state or a resident ~~producer licensee~~ who moves from this State to another state shall file a change of address and provide certification from the new resident state within 30 days of the change of legal residence. No license fee or license application is required.

(d) Notwithstanding any other provision of this chapter, a person licensed as a surplus lines producer in his or her home state shall receive a nonresident surplus lines producer license pursuant to subsection (a) of this section. Except as to subsection (a) of this section, nothing in this section otherwise amends or supercedes any provision of Chapter 19 of this title.

(e) Notwithstanding any other provision of this chapter, a person licensed as a limited line credit insurance or other type of limited lines producer in that person's home state shall receive a nonresident limited lines producer license, pursuant to subsection (a) of this section, granting the same scope of authority as granted under the license issued by the producer's home state. For the purposes of this subsection, limited line insurance is any authority granted by the home state which restricts the authority of the license to less than the total authority prescribed in the associated major lines pursuant to § 1707(a)(1) through (6) of this title.

(f) Insurance for an insurer authorized to do business in Delaware which is permitted as a limited line of insurance in a Delaware nonresident producer's home state and is not described in this section shall have the same scope of authority as granted under the limited license issued by the producer's resident state, which shall be briefly described on the license issued.

Section 8. Amend Section 1709 of Title 18 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 1709. Exemption from examination.

(a) An individual who applies for an ~~insurance producer~~ license in this State who was previously licensed for the same lines of authority in another state shall not be required to complete any prelicensing education or examination. This exemption is only available if the person is currently licensed in that state or if the application is received within 90 days of the cancellation of the applicant's previous license and if the prior state issues a certification that, at the time of cancellation, the applicant was in good standing in that state or the state's Producer Database records maintained by the National Association of Insurance Commissioners, its affiliates or subsidiaries indicate that the ~~producer individual~~ is or was licensed in good standing for the line of authority requested.

(b) A person licensed as an insurance producer, adjuster or appraiser in another state who moves to this State shall make application within 90 days of establishing legal residence to become a resident licensee pursuant to §

1706 of this title. No preclicensing education or examination shall be required of that person to obtain any line of authority previously held in the prior state except where the Insurance Commissioner determines otherwise by regulation.

(c) ~~Every~~ An applicant for a license as a producer for title insurance who is an attorney licensed to practice law in this State shall not be required to complete any preclicensing education or examination.

(d) ~~Every~~ An applicant for a license as a travel insurance licensee shall not be required to complete any preclicensing education or examination.

(e) ~~Every~~ An applicant for a license as an automobile club licensee shall not be required to complete any preclicensing education or examination.

Section 9. Amend Section 1710 of Title 18 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 1710. Assumed names.

~~An insurance producer~~ A licensee doing business under any name other than the ~~producer's~~ licensee's legal name is required to notify and receive the approval of the Insurance Commissioner prior to using the assumed name. Such notification shall include proof that the licensee has registered the assumed name with the appropriate state authority.

Section 10. Amend Section 1711 of Title 18 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 1711. Temporary licensing.

(a) The Insurance Commissioner may issue a temporary ~~insurance producer~~ license for a period not to exceed 180 days without requiring an examination if the Insurance Commissioner deems that the temporary license is necessary for the servicing of an insurance business in the following cases:

(1) To the surviving spouse or court-appointed personal representative of a ~~licensed insurance producer licensee~~ who dies or becomes mentally or physically disabled to allow adequate time for the sale of the insurance business owned by the ~~producer licensee~~ or for the recovery or return of the ~~producer licensee~~ to the business or to provide for the training and licensing of new personnel to operate the ~~producer's licensee's~~ business;

(2) To a member or employee of a business entity licensed as an insurance producer, adjuster or appraiser, upon the death or disability of an individual designated in the business entity application or the license;

(3) To the designee of a ~~licensed insurance producer licensee~~ entering active service in the armed forces of the United States of America; or

(4) In any other circumstance where the Insurance Commissioner deems that the public interest will best be served by the issuance of this license.

(b) The Insurance Commissioner may by order limit the authority of any temporary licensee in any way deemed necessary to protect insureds and the public. The Insurance Commissioner may require the temporary licensee to have a suitable sponsor who is a licensed producer, adjuster, appraiser or insurer, as applicable, and who assumes responsibility for all acts of the temporary licensee and may impose other similar requirements designed to protect insureds and the public. The Insurance Commissioner may by order revoke a temporary license if the interest of insureds or the public are endangered. A temporary license may not continue after the owner or the personal representative disposes of the business.

Section 11. Amend Section 1712 of Title 18 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 1712. License denial, nonrenewal or revocation.

(a) The Insurance Commissioner may place on probation, suspend, revoke or refuse to issue or renew ~~an insurance producer's~~ license or may levy a penalty in accordance with subsection (d) of this section or any combination of actions, for any 1 or more of the following causes:

(1) Providing incorrect, misleading, incomplete or materially untrue information in the ~~license~~ application or presenting, causing to be presented, preparing, assisting, abetting, soliciting or conspiring with another to prepare

any document in the conduct of the licensee's business that contains false, incomplete or misleading information concerning any fact material to such document;

(2) Violating any insurance laws, or violating any regulation, subpoena or order of the Insurance Commissioner or of another state's Insurance Commissioner;

(3) Obtaining or attempting to obtain a license through misrepresentation or fraud;

(4) Improperly withholding, misappropriating or converting any moneys or properties received in the course of doing insurance business;

(5) Intentionally misrepresenting the terms of an actual or proposed insurance contract or application for insurance;

(6) Having been convicted of a felony;

(7) Having admitted or been found to have committed any insurance unfair trade practice or fraud;

(8) Using fraudulent, coercive or dishonest practices, or demonstrating incompetence, untrustworthiness or financial irresponsibility in the conduct of business in this State or elsewhere;

(9) Having an insurance producer, adjuster or appraiser license or its equivalent, denied, suspended or revoked in any other state, province, district or territory;

(10) Forging another's name to an application for insurance or to any document related to an insurance transaction;

(11) Improperly using notes or any other reference material to complete an examination for an insurance license;

(12) Knowingly accepting insurance business from an individual who is not licensed;

(13) Failing to comply with an administrative or court order imposing a child support obligation; ~~or~~

(14) Failing to pay state income tax or comply with any administrative or court order directing payment of state income tax; ~~or~~

(15) Failing to provide preliminary substantive responses to inquiries from the Department regarding violations of this title within 21 calendar days of such inquiry.

(b) In the event that the action by the Insurance Commissioner is to nonrenew or to deny an application for a license, the Insurance Commissioner shall notify the applicant or licensee and advise, in writing, the applicant or licensee of the reason for the denial or nonrenewal of the applicant's or licensee's license. The applicant or licensee may make written demand upon the Insurance Commissioner within 10 days for a hearing before the Insurance Commissioner to determine the reasonableness of the Insurance Commissioner's action. The hearing shall be held ~~within 20 days and shall be held~~ pursuant to the Administrative Procedures Act, Chapter 101 of Title 29, and such additional implemented regulations as may be published by the Commissioner.

(c) The license of a business entity may be suspended, revoked or refused if the Insurance Commissioner finds, after hearing, that an individual licensee's violation was known or should have been known by 1 or more of the partners, officers or managers acting on behalf of the ~~partnership or corporation~~ business entity and the violation was neither reported to the Insurance Commissioner nor was corrective action taken.

(d) In addition to or in lieu of any applicable denial, suspension or revocation of a license, a person may, after hearing, be subject to a fine of not less than \$200 and not more than \$20,000 for each such violation. The Commissioner's order shall specify the date upon which such fine shall be paid and shall revoke the license of any licensee failing to comply with such order. The date on which payment shall be due shall be not less than 30 days following the date of the Commissioner's order unless otherwise specified in the order. The Commissioner may institute a civil action to recover fines so levied and shall pay over all fines paid and recovered to the State Treasurer.

(e) The Insurance Commissioner shall retain the authority to enforce the provisions of and impose any penalty or remedy authorized by this chapter and this title against any person who is under investigation for or charged with a violation of this chapter or this title even if the person's license or registration has been surrendered or has lapsed by operation of law. The Commissioner may, upon the Commissioner's discretion, reinstate a suspended license at

any time, and may impose as conditions upon the reinstatement such terms and conditions as the Commissioner determines appropriate.

(f) The Commissioner may place any individual or business entity on probation for a period of 1 year for violation of any insurance laws, rules, regulations and orders. The probationary period will not exceed 1 year.

(g) ~~Until such person shall qualify for licensing in accordance with the applicable provisions of this title.~~ A person whose license has been revoked or suspended on 2 occasions shall not again be licensed under this title.

(h) An applicant whose license application was denied for one or more of the causes set forth in § 1712(a) of this title shall be ineligible to re-apply for a license under this chapter for a period of one (1) year following the date of the denial of the application.

Section 12. Amend Section 1713 of Title 18 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 1713. Conservation of ~~producer~~ insurance business.

(a) If the Commissioner finds that the business of any ~~licensed producer~~ licensee in this State has become financially impaired or insolvent, or has been abandoned by the licensee, or has been conducted in such a manner as to require or justify revocation of the licenses of that licensee, and if the Commissioner further finds that the conservation and administration of the business of the licensee would be in the public interest, he or she shall file in the Court of Chancery in the county in which the ~~producer~~ insurance business is located a petition for the appointment of the Commissioner as conservator or receiver of such ~~producer's~~ licensee's business except by leave of the Court.

(b) The petition shall be verified by the Commissioner and shall set forth the facts and circumstances from which the existence of 1 or more of the grounds required under subsection (a) of this section may be determined; such petition may request that the licensee be required to show cause why the petition should not be granted.

(c) A copy of the petition and of the order to show cause, if they are issued, shall be served upon the licensee in the same manner as provided by law of this State for service of other legal process.

(d) Upon the filing of a petition and pending a hearing upon the order to show cause, the Court may, upon good cause shown and without notice to the other party, appoint the Commissioner as temporary conservator or receiver of the ~~producer's~~ licensee's business.

(e) The Commissioner shall, as conservator or receiver, be authorized and empowered to conduct and administer the affairs of the ~~producer~~ licensee's business in order to expeditiously terminate such business and, to the extent reasonably possible, to provide services and an accounting for funds to all persons previously insured and to insurers who have previously been doing business through such ~~producer~~ licensee. Subject to the Court's order, the Commissioner shall have the power to collect funds owed to the ~~producer~~ licensee on account of insurance business transacted by him or her, and to account for and make payment of those funds to such persons as are entitled to them.

(f) The Commissioner may delegate the actual conduct and administration of the business of the ~~producer~~ licensee and no charges for services so rendered shall be made against the funds or assets of the ~~producer~~ licensee business except by leave of the Court.

(g) Except as expressly herein provided, receivership or conservatorship shall be subject to the applicable laws of this State and to the order of any court of competent jurisdiction.

Section 13. Amend Section 1714 of Title 18 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

(g) An unlicensed person who refers a customer or potential customer to an insurer or insurance producer and who does not discuss specific terms and conditions of a policy or give opinions or advice regarding insurance may be compensated for the referral, if the compensation:

(1) For each referral is:

(A) nominal;

(B) on a one-time basis; and

(C) fixed in amount by referral;

(2) Does not depend on whether the customer or potential customer purchases the insurance; and

(3) Is not contingent on the volume of insurance transacted.

The restrictions set forth in this provision shall not apply to commercial lines. Referral fees for commercial lines shall still be subject to Section 1714(d).

Section 14. Amend Section 1717(b) of Title 18 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

(b) A nonresident ~~producer's licensee's~~ licensee's satisfaction of that ~~producer's licensee's~~ licensee's home state's continuing education requirements for licensed insurance producers, adjusters or appraisers, as applicable, shall constitute satisfaction of this State's continuing education requirements if the nonresident ~~producer's licensee's~~ licensee's home state recognizes the satisfaction of its continuing education requirements imposed upon ~~producers licensees~~ licensees from this State on the same basis. Non-resident adjusters whose home states (including designated home states) do not have continuing education requirements for adjusters shall be required to satisfy this State's continuing education requirements.

Section 15. Amend Section 1718 of Title 18 of the Delaware Code by making insertions as shown by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 1718. Additional or continuing education.

In addition to meeting the standards prescribed in other sections of this chapter for the issuance of a license, the Commissioner may promulgate regulations and/or prerequisites which will establish reasonable standards and criteria for requiring additional or continuing education of licensees, in order to ensure the maintenance or improvement of a licensee's insurance skills and knowledge. Failure to provide proof of meeting continuing education requirements ~~may shall~~ result in ~~suspension of license or licenses~~ the automatic lapse of such licensee's license in accordance with Section 1707(f) of this title and may result in the imposition of monetary penalties in accordance with Sections 1707(g) and 1712(d) of this title.

Section 16. Amend Section 1719 of Title 18 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 1719. Reporting of actions.

(a) A ~~producer licensee~~ licensee shall report to the Insurance Commissioner any administrative action taken against the ~~producer licensee~~ licensee in another jurisdiction or by another governmental agency in this State within 30 days of the final disposition of the matter. This report shall include a copy of the order, consent to order or other relevant legal documents.

(b) Within 30 days of the initial pretrial hearing date, a ~~producer licensee~~ licensee shall report to the Insurance Commissioner any criminal prosecution of the ~~producer licensee~~ licensee taken in any jurisdiction. The report shall include a copy of the initial complaint filed, the order resulting from the hearing, and any other relevant legal documents.

Section 17. Amend Chapter 17 of Title 18 of the Delaware Code by deleting Section 1722 in its entirety and re-numbering Sections 1723 and 1724 as 1722 and 1723, respectively.

Section 18. This Act shall take effect immediately upon enactment.

Approved April 20, 2016