

AN ACT

*Codification
District of
Columbia
Official Code*

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IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To enact qualifications and procedures for the licensing of insurance producers; to require a report to the Commissioner of the termination of a producer by an insurer, whether with or without cause; and to repeal the Insurance Agents and Brokers Licensing Revision Act of 1996.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Producer Licensing Act of 2002".

New Chapter
10A,
Title 13

New
§ 31-1031.02

Sec. 2. Definitions.

For the purposes of this act, the term:

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

(2) "Commissioner" means the Commissioner of Insurance and Securities Regulation.

(3) "District" means the District of Columbia.

(4) "Home state" means the District of Columbia or any state or territory of the United States in which an insurance producer:

(A) Maintains his or her principal place of residence or principal place of business; and

(B) Is licensed as an insurance producer.

(5) "Insurance" means any of the lines of authority as enumerated in section 7.

(6) "Insurance producer" means a person required to be licensed in the District to sell, solicit, or negotiate insurance.

(7) "Insurer" means a company offering protection through the sale of an insurance policy to an insured.

(8) "License" means a document issued by the Commissioner authorizing a person to act as an insurance producer for the lines of authority specified in the document.

(9) "Limited line credit insurance" includes credit life, credit disability, credit property, credit unemployment, involuntary unemployment, mortgage life, mortgage guaranty,

mortgage disability, guaranteed automobile protection insurance, or any other form of insurance offered in connection with an extension of credit that is limited to partially or wholly extinguishing that credit obligation and that the Commissioner determines should be designated as a form of limited line credit insurance.

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

(11) "Limited lines insurance" means those lines of insurance that the Commissioner considers necessary to recognize for the purposes of complying with section 8(e).

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

(13) "NAIC" means the National Association of Insurance Commissioners.

(14) "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.

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

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

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

(18) "Terminate" means the cancellation of the relationship between an insurance producer and the insurer or the termination of a producer's authority to transact insurance.

(19) "Uniform Business Entity Application" means the current version of the NAIC Uniform Business Entity Application for resident and nonresident business entities.

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(20) "Uniform Application" means the current version of the NAIC Uniform Application for resident and nonresident producer licensing.

Sec. 3. License required.

A person shall not sell, solicit, or negotiate insurance in the District for any class of insurance unless the person is licensed for that line of authority in accordance with this act. The license itself shall not create any authority in the licensee to represent or commit an insurance carrier.

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Sec. 4. Exceptions to licensing.

(a) This act shall not require an insurer to obtain an insurance producer license. For the purposes of this section, the term "insurer" shall not include an insurer's officers, directors, employees, subsidiaries, or affiliates.

(b) The following persons shall not be required to be licensed as an insurance producer:

(1) An officer, director, or employee of an insurer or of an insurance producer; provided, that:

(A) The officer, director, or employee does not receive any commission on policies written or sold to insure risks residing, located, or to be performed in the District; and

(B)(i) The officer, director, or employee's activities are executive, administrative, managerial, clerical, or a combination of these, and are only indirectly related to the sale, solicitation, or negotiation of insurance;

(ii) The officer, director, or employee's function relates to underwriting, loss control, inspection, or the processing, adjusting, investigating, or settling of a claim on a contract of insurance; or

(iii) The officer, director, or employee is acting in the capacity of a special agent or agency supervisor assisting insurance producers, the person's activities are limited to providing technical advice and assistance to licensed insurance producers, and the person's activities do not include the sale, solicitation, or negotiation of insurance;

(2) If no commission is paid for the service, a person who:

(A) Secures and furnishes information for the purpose of:

(i) Selling group life insurance, group property and casualty insurance, group annuities, or group or blanket accident and health insurance;

(ii) Enrolling individuals under plans; or

(iii) Issuing certificates under plans or otherwise assisting in administering plans; or

(B) Performs administrative services related to mass-marketed property and casualty insurance;

(3) An employer or association, its officers, directors, employees, or the trustees of an employee trust plan, to the extent that the employers, officers, employees, directors, or trustees are engaged in the administration or operation of a program of employee benefits for the employer's or association's own employees or the employees of its subsidiaries or affiliates, which program involves the use of insurance issued by an insurer; provided, that the employers, associations, officers, directors, employees, or trustees are not in any manner compensated, directly or indirectly, by the company issuing the contracts;

(4) Employees of insurers or organizations employed by insurers who are:

(A) Engaging in:

(i) The inspection, rating, or classification of risks; or

(ii) The supervision of the training of insurance producers; and

(B) Are not individually engaged in the sale, solicitation, or negotiation of insurance;

(5) A person whose activities in the District are limited to advertising, without

the intent to solicit insurance in the District, through communications in printed publications or other forms of electronic mass media; provided, that the person does not sell, solicit, or negotiate insurance that would insure risks of persons residing in, located in, or activities to be performed in the District;

(6) A person who is not a resident of the District who sells, solicits, or negotiates a contract of insurance for commercial property and casualty risks to an insured with risks located in more than one state insured under that contract; provided, that the person is otherwise licensed as an insurance producer to sell, solicit, or negotiate that insurance in the state where the insured maintains its principal place of business and the contract of insurance insures risks located in that state; or

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(7) A salaried full-time employee who counsels or advises his or her employer relative to the insurance interests of the employer or of the subsidiaries or business affiliates of the employer; provided, that the employee does not sell or solicit insurance or receive a commission.

Sec. 5. Application for examination.

(a) A resident individual applying for an insurance producer license shall pass a written examination unless exempt under section 9. 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, and the insurance laws and regulations of the District. Examinations required by this section shall be developed and conducted under rules and regulations promulgated by the Commissioner.

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(b) The Commissioner may make arrangements, including contracting with an outside testing service, for administering examinations and collecting a nonrefundable fee for the examination.

(c) Each individual applying for an examination shall remit a nonrefundable fee for the examination as prescribed by the Commissioner.

(d) An individual who fails to appear for the examination as scheduled or fails to pass the examination shall reapply for an examination and remit all required fees and forms before being rescheduled for another examination.

Sec. 6. Application for license.

(a) A person applying for an insurance producer license shall make application to the Commissioner 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 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 section 12;

- (3) If required by the Commissioner, has completed a pre-licensing course of study for the lines of authority for which the person has applied;
- (4) Has paid the fees prescribed by the Commissioner; and
- (5) Unless exempt under section 9, has successfully passed the examinations for the lines of authority for which the person has applied.

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(b) A business entity acting as an insurance producer shall obtain an insurance producer license. Application shall be made using the Uniform Business Entity Application. Before approving the application, the Commissioner shall find that the business entity has:

- (1) Paid the fees prescribed by the Commissioner; and
- (2) Designated a licensed producer responsible for the business entity's compliance with the insurance laws, rules, and regulations of the District.

(c) The Commissioner may require any documents reasonably necessary or appropriate to verify the information contained in an application.

(d) An 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 is approved by the Commissioner.

Sec. 7. License.

(a) Unless denied licensure under section 12, persons who have met the requirements of sections 5 and 6 shall be issued an insurance producer license. An insurance producer may receive qualification for a license in one or more of the following lines of insurance permitted under law or regulations:

- (1) Insurance coverage on human lives, including benefits of endowment and annuities, benefits in the event of death or dismemberment by accident, and benefits for disability income;
- (2) Insurance coverage for sickness, bodily injury, or accidental death, including benefits for disability income;
- (3) Insurance coverage for the direct or consequential loss or damage to property of every kind;
- (4) Insurance coverage against legal liability, including that for death, injury, or disability, or damage to real or personal property;
- (5) Insurance coverage provided under variable life insurance contracts and variable annuities;
- (6) Property and casualty insurance coverage sold to individuals and families for primarily noncommercial purposes; and
- (7) Limited line credit insurance.

(b) An insurance producer license shall remain in effect unless revoked or suspended; provided, that all fees prescribed by the Commissioner are paid and the education requirements

for resident individual producers are met.

(c) An individual insurance producer who allows his or her license to lapse may, within one year from the due date of the renewal fee, reinstate the same license without the necessity of passing a written examination; provided, that a penalty in the amount of twice the unpaid renewal fee shall be required.

New
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(d) An insurance producer who is unable to comply with license renewal procedures due to military service or some other extenuating circumstance may request a waiver of those procedures. The insurance producer may also request a waiver of any examination requirement or any other fine or sanction imposed for failure to comply with renewal procedures.

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

(f) A licensee shall inform the Commissioner by any means acceptable to the Commissioner of a change of address within 30 days of the change of address. Failure to timely inform the Commissioner of a change in legal name or address shall result in a fine as prescribed by the Commissioner.

(g) To assist in the performance of the Commissioner's duties, the Commissioner may contract with a third party, including the NAIC, or its affiliates or subsidiaries, to perform any ministerial functions, including the collection of fees, related to producer licensing that the Commissioner may consider appropriate.

Sec. 8. Nonresident licensing.

(a) Unless denied licensure under section 12 or granted licensure under the requirements of sections 5 and 6, a nonresident person shall receive a nonresident insurance producer license if:

(1) The person is currently licensed as a resident and in good standing in his or her home state;

(2) The person has submitted the proper request for licensure and has paid the fees as prescribed by the Commissioner.

(3) The person has submitted or transmitted to the 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; and

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

(b) The Commissioner may verify the insurance producer's licensing status through the producer database maintained by the NAIC, its affiliates, or subsidiaries.

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(c) A nonresident insurance producer who moves from one state to another state or a resident insurance producer who moves from the District of Columbia 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 fee or license application shall be required.

(d) Notwithstanding any other provision of this act, a person licensed as a surplus lines producer in his or her home state shall receive a nonresident surplus lines producer license under subsection (a) of this section. Except as provided in subsection (a) of this section, this section shall not amend or supersede any provision of sections 39 and 40 of the District of Columbia Fire and Casualty Act, approved October 9, 1940 (54 Stat. 1063; D.C. Official Code §§ 31-2502.39 and 31-2502.40).

(e) Notwithstanding any other provision of this act, a person licensed as a limited line credit insurance or other type of limited lines producer in his or her home state shall receive a nonresident limited lines producer license under 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, the term "limited line insurance" means 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 under section 7(a)(1) through (6).

Sec. 9. Exemption from examination.

(a) An individual who applies for an insurance producer license in the District shall not be required to complete any preclicensing education or examination if:

(1) The person is currently licensed for the same line of authority in another state;

or

(2)(A) The application is received within 90 days of the cancellation of the applicant's previous license for the same lines of authority in another state; and

(B)(i) The prior state issues a certification that, at the time of cancellation, the person was in good standing in that state; or

(ii) The state's producer database records, maintained by the NAIC, its affiliates, or subsidiaries, indicate that the producer is or was licensed in good standing for the line of authority requested.

(b) A person licensed as an insurance producer in another state who moves to the District shall make application within 90 days of establishing legal residence to become a resident licensee under section 6. No preclicensing education or examination shall be required of that person to obtain any line of authority previously held in the prior state unless the Commissioner determines otherwise by regulation.

(c) An applicant may apply to the Commissioner to take the examination for a license without any required preclicensing education if the applicant submits proof in a form acceptable to the Commissioner that the individual has attained equivalent knowledge through employment experience. If the Commissioner determines that the employment experience involved the performance of responsible insurance duties in connection with the kind of insurance for which the applicant has applied for a license, the Commissioner may waive such requirement. The

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applicant shall register for and attain a passing grade on the examination within one year of completion of the required employment experience.

(d) The Commissioner may waive the written examination if the applicant for a license as a property and casualty agent and broker furnishes proof to the satisfaction of the Commissioner that the applicant has successfully completed:

(1) All of the examinations prescribed by the Society of Chartered Property and Casualty Underwriters, Incorporated, and has satisfied all other requirements leading to the degree of a Chartered Property and Casualty Underwriter; or

(2) Other private examinations for special competency in property and casualty insurance which the Commissioner determines, by rule, have equivalent requirements and standards.

(e) The Commissioner may waive the written examination if the applicant for a license as a life insurance agent or broker furnishes proof to the satisfaction of the Commissioner that the applicant has successfully completed:

(1) All of the examinations prescribed by the Society of Chartered Life Underwriters of the American College of Life Underwriters, and has satisfied all other requirements leading to the degree of Chartered life Underwriter; or

(2) Other private examinations for special competency in life insurance which the Commissioner determines, by rule, to have equivalent requirements and standards.

Sec. 10. Assumed names.

An insurance producer doing business under any name other than the producer's legal name shall notify the Commissioner prior to using the assumed name.

New
§ 31-1031.12

Sec. 11. Temporary licensing.

(a) The Commissioner may issue a temporary insurance producer license for a period not to exceed 180 days without requiring an examination if the Commissioner determines that the temporary license shall be necessary for the servicing of an insurance business for:

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

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

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

(4) Any other circumstance that the Commissioner determines that the public

interest will best be served by the issuance of the license.

(b) The Commissioner may, by order, limit the authority of a temporary licensee in any way which the Commissioner considers to be necessary to protect insureds and the public. The Commissioner may require the temporary licensee to have a suitable sponsor who is a licensed insurance producer or insurer 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 Commissioner may, by order, revoke a temporary license if the interests of the insureds or the public are endangered. A temporary license shall not continue after the owner or the personal representative disposes of the business.

Sec. 12. License denial, nonrenewal, or revocation.

(a) The Commissioner may place an insurance producer on probation; suspend, revoke, or refuse to issue or renew an insurance producer's license; may levy a civil penalty in accordance with subsection (f) of this section; or take any combination of these actions if an insurance producer:

- (1) Provides incorrect, misleading, incomplete, or materially untrue information in the license application;
- (2) Violates any insurance laws or any regulation, subpoena, or order of the Commissioner or of another state's insurance commissioner;
- (3) Obtains, or attempts to obtain, a license through misrepresentation or fraud;
- (4) Improperly withholds, misappropriates, or converts any monies or properties received in the course of doing insurance business;
- (5) Intentionally misrepresents the terms of an actual or proposed insurance contract or application for insurance;
- (6) Is convicted of a felony;
- (7) Admits committing, or is found to have committed, any insurance unfair trade practice or fraud;
- (8) Uses fraudulent, coercive, or dishonest practices, or demonstrates incompetence, untrustworthiness, or financial irresponsibility in the conduct of business in the District or elsewhere;
- (9) Has an insurance producer license, or its equivalent, denied, suspended, or revoked in any state or territory of the United States, province of Canada, or other foreign country;
- (10) Forges another's name to an application for insurance or to any document related to an insurance transaction;
- (11) Improperly uses notes or any other reference material to complete an examination for an insurance license;
- (12) Knowingly accepts insurance business from an individual who is not licensed;

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

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

(15) Is found to have been cheating on an examination for an insurance license.

(b)(1) If, under subsection (a) of this section, the Commissioner refuses to renew or denies an application for a license, the Commissioner shall notify the applicant or licensee and advise, in writing, the applicant or licensee of the reason for the nonrenewal of the license or the denial of the application. The applicant or licensee may make written demand upon the Commissioner within a reasonable time for a hearing before the Commissioner or his or her designee to determine the reasonableness of the Commissioner's action. The hearing shall be held within 30 days from the date of receipt of the Commissioner of the written demand by the applicant.

New § 31-1031.13

(2) In a hearing under this subsection, the Commissioner may administer oaths to witnesses. A witness testifying falsely under oath shall be subject to the penalties of perjury.

(3) A person affected by an order, ruling, proceeding, or action of the Commissioner, or any person acting on his behalf and at his instance, may contest the validity of the same in any court of competent jurisdiction by appeal or through any other appropriate proceedings. In any proceeding or appeal, the Commissioner shall not:

(A) Be taxed with any costs;

(B) Be required to give any supersedeas bond or security for costs or damages;

(C) Be liable to suit or action or for any judgment or decree for any damages, loss, or injury claimed by any person on any appeal taken; or

(D) Be required to make any deposit for costs or pay for any service to the clerks of any court or to any marshal of the United States, except as may be inconsistent with law.

New § 31-1031.14

(c) The license of a business entity may be suspended, revoked, or denied renewal if the Commissioner finds, after a hearing, that:

(1) The occurrence of a license violation was known or should have been known by one or more of the partners, officers, or managers acting on behalf of the business entity;

(2) The violation was not reported to the Commissioner; and

(3) Corrective action was not taken.

(d) In addition to or in lieu of any applicable denial of renewal, suspension, or revocation of a license, the Commissioner may, after a hearing, take any of the following actions:

(1) Impose a civil penalty not to exceed \$5,000; or

(2) Require restitution to any person who has suffered financial injury or damage as a result of the violation of the license.

New § 31-1031.15

(e) After the revocation, surrender, or lapse of a license registration, the Commissioner

may enforce the provisions of, and impose any penalty or remedy authorized by, this act or any other District law relating to insurance against any person who is under investigation for or charged with a violation of this act or any other District law relating to insurance.

Sec. 13. Commissions.

(a) An insurer or insurance producer shall not pay a commission, service fee, brokerage fee, or other valuable consideration to a person for selling, soliciting, or negotiating insurance in the District if that person is required to be licensed under this act and is not licensed.

(b) A person shall not accept a commission, service fee, brokerage fee, or other valuable consideration for selling, soliciting, or negotiating insurance in the District if that person is required to be licensed under this act and is not licensed.

(c) Renewal or other deferred commissions may be paid to a person for selling, soliciting, or negotiating insurance in the District if the person was required to be licensed under this act at the time of the sale, solicitation, or negotiation and was licensed at that time.

(d) An insurer or insurance producer may pay or assign commissions, service fees, brokerage fees, or other valuable consideration to an insurance agency or to persons who do not sell, solicit, or negotiate insurance in the District unless the payment would violate this act or any other District law relating to insurance.

Sec. 14. Appointments.

(a) An insurance producer shall not act as an agent of an insurer unless the insurance producer becomes an appointed agent of that insurer. An insurance producer who is not acting as an agent of an insurer shall not be required to become appointed.

(b) To appoint an insurance producer as its agent, the appointing insurer shall file, on a form prescribed by the Commissioner, a notice of appointment within 30 days from the date that the agency contract is executed or the first insurance application is submitted.

(c) Upon receipt of the notice of appointment, the Commissioner shall verify, within 10 days, that the insurance producer is eligible for appointment. If the insurance producer is determined to be ineligible for appointment, the Commissioner shall notify the insurer within 5 days of the determination.

(d) An insurer shall pay an appointment fee, in the amount and on or before the date prescribed by the Commissioner, for each insurance producer appointed by the insurer.

(e) An insurer shall pay a renewal appointment fee in the amount and on or before the date prescribed by the Commissioner.

Sec. 15. Notification to Commissioner of termination.

(a) An insurer, or authorized representative of the insurer, that terminates the appointment, employment, contract, or other insurance business relationship with an insurance producer shall notify the Commissioner within 30 days after the effective date of the termination,

on a form prescribed by the Commissioner, if the reason for termination is set forth in section 12 or the insurer has knowledge that the producer was found by a court, government body, or self-regulatory organization authorized by law to have engaged in any of the activities in set forth in section 12. Upon the written request of the Commissioner, the insurer shall provide additional information, documents, records, or other data pertaining to the termination or activity of the insurance producer.

(b) An insurer, or authorized representative of the insurer, that terminates the appointment, employment, or contract with an insurance producer for any reason not set forth in section 12, shall notify the Commissioner within 30 days after the effective date of the termination on a form prescribed by the Commissioner. Upon written request of the Commissioner, the insurer shall provide additional information, documents, records, or other data pertaining to the termination.

(c) The insurer, or the authorized representative of the insurer, shall promptly notify the Commissioner, on a form prescribed by the Commissioner, if, upon further review or investigation, the insurer discovers additional information that would have been reported to the Commissioner in accordance with subsection (a) of this section.

(d)(1) Within 15 days after making the notification required by subsections (a), (b), and (c) of this section, the insurer shall mail a copy of the notification to the insurance producer at his or her last known address. If the insurance producer is terminated for cause for any of the reasons set forth in section 12, the insurer shall provide a copy of the notification to the producer at his or her last known address by certified mail, return receipt requested, postage prepaid or by overnight delivery using a nationally recognized carrier.

(2) Within 30 days after the insurance producer has received the original or additional notification, the insurance producer may file written comments concerning the substance of the notification with the Commissioner. The insurance producer shall, by the same means, simultaneously send a copy of the comments to the reporting insurer. The comments shall become a part of the Commissioner's file and accompany every copy of a report distributed or disclosed for any reason about the insurance producer as permitted under subsection (f) of this section.

(e)(1) In the absence of actual malice, an insurer, the authorized representative of the insurer, an insurance producer, the Commissioner, an organization of which the Commissioner is a member and that compiles the information and makes it available to other insurance commissioners or regulatory or law enforcement agencies, or their agents or employees shall not be subject to civil liability as a result of:

(A) A statement or information required by or provided under this section or any information relating to any statement that may be requested in writing by the Commissioner from an insurer or an insurance producer; or

(B) A statement by a terminating insurer or insurance producer to an insurer or insurance producer limited solely and exclusively to whether a termination for cause under

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subsection (a) of this section was reported to the Commissioner; provided, that the propriety of a termination for cause under subsection (a) of this section is certified in writing by an officer or authorized representative of the insurer or insurance producer terminating the relationship.

(2) In an action brought against a person that may have immunity under paragraph (1) of this section for making any statement required by this section or providing any information relating to any statement that may be requested by the Commissioner, the party bringing the action shall prove actual malice with particularity.

New
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(3) Paragraph (1) or (2) of this section shall not abrogate or modify any existing statutory or common law privileges or immunities.

(f)(1) Any documents, materials, or other information in the control or possession of the Department of Insurance and Securities Regulation that is furnished by an insurer, an insurance producer, or an employee or agent thereof acting on behalf of the insurer or producer or obtained by the Commissioner in an investigation pursuant to this section shall be confidential and privileged, shall not be subject to the Freedom of Information Act of 1976, effective March 29, 1977 (D.C. Law 1-96; D.C. Official Code § 2-531 *et seq.*), shall not be subject to subpoena, and shall not be subject to discovery or admissible in evidence in a private civil action; provided, that the Commissioner may use the documents, materials, or other information in the furtherance of any regulatory or legal action brought as a part of the Commissioner's duties.

(2) The Commissioner or any person who received documents, materials, or other information while acting under the authority of the Commissioner shall not testify in a private civil action concerning any confidential documents, materials, or information subject to paragraph (1) of this section.

New
§ 31-1031.17

(3) To assist in the performance of the Commissioner's duties under this act, the Commissioner:

(A) May share documents, materials, or other information, including the confidential and privileged documents, materials, or information subject to paragraph (1) of this subsection, with other state, federal, and international regulatory agencies, with the NAIC, its affiliates, or subsidiaries, or with state, federal, and international law enforcement authorities; provided, that the recipient agrees to maintain the confidentiality and privileged status of the document, material, or other information;

New
§ 31-1031.18

(B) May receive documents, materials, or information, including otherwise confidential and privileged documents, materials, or information, from the NAIC, its affiliates, or subsidiaries or from regulatory and law enforcement officials of other foreign or domestic jurisdictions, and shall maintain as confidential or privileged any document, material, or information received with notice or the understanding that it is confidential or privileged under the laws of the jurisdiction that is the source of the document, material, or information; and

New
§ 31-1031.19

(C) May enter into agreements governing sharing and use of information consistent with this subsection.

(4) No waiver of any applicable privilege or claim of confidentiality in the

Repeal

documents, materials, or information shall occur as a result of disclosure to the Commissioner under this section or as a result of sharing as authorized in paragraph (3) of this subsection.

(5) This act shall not prohibit the Commissioner from releasing final, adjudicated actions, including terminations for cause that are open to public inspection under the Freedom of Information Act of 1976, effective March 29, 1977 (D.C. Law 1-96; D.C. Official Code § 2-531 *et seq.*), to a database or other clearinghouse service maintained by the NAIC, its affiliates, or subsidiaries.

(g) An insurer, the authorized representative of the insurer, or producer that fails to report as required under the provisions of this section or that is found to have reported with actual malice by a court of competent jurisdiction may, after notice and hearing, have its license or certificate of authority suspended or revoked and may be fined in accordance with section 12(d).

Sec. 16. Reciprocity.

(a) Except for the requirements imposed by section 8, the Commissioner shall waive any requirements for a nonresident license applicant with a valid license from his or her home state, if the applicant's home state awards nonresident licenses to residents of the District on the same basis.

(b) A nonresident insurance producer's satisfaction of his or her home state's continuing education requirements for licensed insurance producers shall constitute satisfaction of the District's continuing education requirements if the nonresident producer's home state recognizes the satisfaction of its continuing education requirements imposed upon insurance producers from the District on the same basis.

(c) An applicant may qualify for a license under this act as a nonresident only if he or she holds an equivalent license in his or her home state. A license issued to a nonresident of the District shall grant the same rights and privileges as a resident licensee.

Sec. 17. Reporting of actions.

(a) An insurance producer shall report to the Commissioner any administrative action taken against the insurance producer in another jurisdiction or by another governmental agency in the District within 30 days of the final disposition of the matter. The 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, an insurance producer shall report to the Commissioner any criminal prosecution of the insurance producer 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.

Sec. 18. Regulations.

The Commissioner may promulgate rules and regulations necessary to implement the

provisions of this act.

Sec. 19. Transition.

(a) A license to do business as an insurance agent or broker in the District issued prior to the effective date of this act shall be valid.

(b) This act shall not apply to any action, prosecution, or proceeding which is pending or may be initiated on the basis of facts and circumstances occurring before the effective date of this act.

Sec. 20. Repealer.

The Insurance Agents and Brokers Licensing Revision Act of 1996, effective April 9, 1997 (D.C. Law 11-227; D.C. Official Code § 31-801 *et seq.*), is repealed.

Sec. 21. Fiscal impact statement.

The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

Sec. 22. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of Congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December

24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.

Chairman

Council of the District of Columbia

Mayor
District of Columbia