
**Insurance, Financial Services &
Consumer Protection Committee**

HB 1533

Brief Description: Concerning persons selling, soliciting, or negotiating insurance.

Sponsors: Representatives Kirby, Simpson and Kenney; by request of Insurance Commissioner.

Brief Summary of Bill

- Modifies licensing provisions for persons selling, soliciting, or negotiating insurance.
- Creates one insurance producer license and licensing process instead of a separate license for agents and brokers.

Hearing Date: 2/15/07

Staff: Sarah Beznoska (786-7109).

Background:

The Office of the Insurance Commissioner (OIC) licenses and regulates insurance agents and brokers. An insurance agent is appointed by an insurer to solicit applications for insurance on behalf of the insurer. If authorized so to do, an agent may enter into insurance contracts and collect premiums on insurance.

An insurance broker is a person who, on behalf of an insured, for a fee, solicits, negotiates, or procures for insureds. An agent licensed as a broker for property and casualty insurance may receive a commission payment from the insurer or a fee payment from the insured, or both. If both are received, the full amount of compensation must be disclosed in writing to the insured by the agent-broker.

The license application process includes a requirement that both agents and brokers submit fingerprints. With some exemptions, examination requirements also apply.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Laws applying to insurance agents and to insurance brokers are different in some respects. The differences include the requirement for agents to be appointed by insurance companies. The agent's license is valid until suspended or revoked or until the appointment ceases.

Brokers differ from agents in that brokers must have at least two years of experience as an agent, or other position in the insurance industry. A broker's scope of licensing is either all lines, casualty-property, or life and disability. A broker must maintain a bond in favor of the people of the state of Washington in the amount of \$20,000. The broker's license is valid until suspended or revoked or until a period of time elapses, as determined by the OIC.

The OIC may issue a temporary license, for 90 days in a 12-month period, to surviving next of kin of a deceased licensee, if the survivor is otherwise qualified except for experience or the taking of the examination. The OIC may also issue a temporary license to a surviving member of a firm upon death of a licensee.

Reciprocity between licensees of Washington and those of other states applies subject to the same obligations, limitations and supervision as though the foreign licensee were a resident of this state.

The license application fee and the fee required every two years to renew a license is \$50.

The National Association of Insurance Commissioners (NAIC) has developed a model called producer licensing. The model replaces the name of licensees as agents and brokers with the term, producers, and has other provisions that vary from Washington law.

Summary of Bill:

Statutes related to the licensing of agents and brokers are changed to refer to the licensing of producers. Insurance producer is defined as a person required to be licensed under the laws of the state to sell, solicit, or negotiate insurance. Insurance producer does not include title insurance agents.

Producer Licensing

An insurance producer may obtain a license in or more of the following lines of authority: life, disability, property, casualty, variable life and variable annuity, personal lines, limited lines, surety, limited line credit insurance, travel, specialty lines, communications equipment or services, rental car, or any other line permitted under state law.

To obtain a resident insurance producer license, application must be made to the OIC on a uniform application. As under current law, applications must include a set of fingerprints.

General licensing requirements are similar to current law. To obtain a producer license, a person must meet the following requirements:

- be at least 18 years old;
- not commit any act that is a ground for denial, suspension, or revocation of license;
- complete pre-licensing study for the lines of authority applied for;
- pay applicable fees; and
- pass examinations for the lines of authority applied for.

A business entity acting as an insurance producer must obtain an insurance producer license by using the uniform business entity application.

The OIC may require documents to verify information in the application and may, from time to time, require production of information called for in a license application.

All licenses are valid for the time period specified by the OIC. Renewal provisions are similar to current law. However, a licensed producer who is unable to comply with renewal procedures due to military service or some other extenuating circumstance such as long-term medical disability may request a waiver of renewal procedures.

As under current law, if doing business in a name other than the producer's or the title insurance agent's legal name, the name must be registered with the Department of the Licensing and the OIC must be given notice.

Fees are raised \$10. The new fee is \$60.

All insurance producers must disclose their receipt of fees and commissions when selling all types of insurance.

Insurance Producers Appointed as an Agent

An insurance producer or title insurance agent must be appointed as an agent before acting as an agent. Specific time frames are included to appoint an agent. The insurer must file a notice of appointment within 15 days from the date the agency contract is executed or when the first insurance application is submitted, whichever is later. The OIC must verify within 30 days that the insurance producer or title insurance agent is eligible for appointment. If ineligible, the OIC must notify the insurer within 10 days of the determination.

New provisions are added related to the termination of an appointment. In these situations, the insurer must notify the OIC within 30 days, including information related to whether the termination was based on a violation of the law. The insurer has a continuing obligation to notify the OIC if the insurer discovers additional information related to a violation of the law. The insurance producer or title insurance agent must receive a copy of the notice and has 30 days to file comments with the OIC. Related immunity and confidentiality provisions are included.

Non-resident Producer License

New requirements are added related to non-resident licenses. A non-resident may obtain a non-resident producer license if the following requirements are met:

- the person is currently licensed as a resident and in good state in the person's home state;
- the person has submitted a proper request for licensure and paid applicable fees;
- the person has submitted to the OIC the application that the person submitted to the person's home state;
- the person's home state has reciprocity for non-resident producer licenses with residents of Washington;
- the person has submitted fingerprints for background check purposes (this requirement may be waived by the OIC if the home state requires submission of fingerprints for resident licensure).

The OIC may waive license application requirements for a non-resident of a state that has reciprocity with Washington.

Continuing education requirements for a licensed non-resident producer may be met by meeting continuing education requirements in the producer's home state if the home state has similar provisions for producers from Washington.

The OIC is authorized to verify a producer's licensing status through the NAIC producer database.

Temporary Licenses

Temporary licenses may be issued for 180 days without requiring an examination in certain situations and the OIC may limit the authority of any temporary licensee in any way deemed necessary to protect insureds and the public. A temporary license may be issued:

- to 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 insurance producer or for the recovery or return of the insurance producer to the business, or to provide for the training and licensing of new personnel to operate the insurance producer's business;
- to 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;
- to the designee of a licensed insurance producer entering active service in the armed forces of the United States; or
- in any other circumstance where the OIC deems that the public interest will best be served by the issuance of this license.

The OIC may require a suitable sponsor to assume responsibility for the temporary licensee.

Revocations and Suspensions

Provisions related to suspending, revoking, or refusing to issue a license are changed to include some additional reasons for suspending, revoking or refusing to issue. Those reasons are:

- providing incorrect, misleading, incomplete, or materially untrue information in the license application (current law requires willful misrepresentation);
- having an insurance producer license, or its equivalent, denied, suspended, or revoked in any other state, province, district, or territory;
- forging another's name to an application for insurance or to any document related to an insurance transaction;
- improperly using notes or any other reference material to complete an examination for an insurance license;
- knowingly accepting insurance business from a person who is required to be licensed and is not so licensed; or
- obtaining a loan from an insurance client that is not a financial institution and who is not related to the insurance producer by birth, marriage, or adoption, except the OIC may, by rule, define and permit reasonable arrangements.

A probation option is also created. The OIC may place a license in probation under reasonable terms. The OIC may require a licensee placed on probation to:

- report regularly on matters that are the basis of the probation;
- limit practice to a particular area; or
- continue or renew continuing education until the licensee attains a degree of skill satisfactory to the OIC in the area that is the basis of the probation.

Bond Requirements

Bond requirements are changed. A producer that is not appointed as an agent is subject to a \$2,500 bond requirement, or five percent of the premiums brokers in the previous calendar year, whichever is greater. This bond requirement is capped at \$100,000 total aggregate liability.

Authorized insurance producers of a business entity may meet the bond requirement with a bond in the name of the business entity. Insurance producers may meet the requirement with a bond in the name of an association in existence for five years, with common members, and formed for a reason other than obtaining a bond.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: The bill takes effect on July 1, 2009.