S T A T E O F N E W Y O R K

338

2009-2010 Regular Sessions

I N S E N A T E

(PREFILED)

January 7, 2009

Introduced by Sen. KRUGER -- read twice and ordered printed, and when printed to be committed to the Committee on Insurance

AN ACT to amend the insurance law, in relation to the licensing of agents of authorized title insurance companies

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Paragraph 4 of subsection (a) of section 2101 of the insurance law, as amended by chapter 687 of the laws of 2003, is amended to read as follows:

(4) any [agent or other representative of any] EMPLOYEE OF AN AUTHORIZED title insurance company OR LICENSED TITLE INSURANCE AGENT WHO DEVOTES SUBSTANTIALLY ALL OF HIS SERVICE TO THE SOLICITATION OF TITLE INSURANCE BUSINESS FROM THE INSURING PUBLIC AND WHO RECEIVES FOR THE SOLICITATION OF SUCH TITLE INSURANCE COMPENSATION IN THE FORM OF SALARY OR COMMISSION;

S 2. Section 2101 of the insurance law is amended by adding a new subsection (v) to read as follows:

(V) IN THIS ARTICLE, AN "AGENT OF AN AUTHORIZED TITLE INSURANCE COMPANY" MEANS ANY PERSON, FIRM OR CORPORATION AUTHORIZED IN WRITING BY AN AUTHORIZED TITLE INSURANCE COMPANY TO PERFORM AND WHO ACTUALLY PERFORMS THE FOLLOWING SERVICES:

(1) ISSUE COMMITMENTS TO INSURE OR REPORTS OF TITLE BASED UPON A SEARCH OR EXAMINATION OF TITLE.

(2) DETERMINE INSURABILITY IN ACCORDANCE WITH UNDERWRITING RULES AND STANDARDS PRESCRIBED BY THE TITLE INSURANCE COMPANY; AND, IN ADDITION, PERFORMS, IN SUBSTANTIAL PART, THE FOLLOWING:

(A) COLLECTS PREMIUMS;

(B) CLOSES OR SETTLES TITLE; AND

(C) RECORDS CLOSING DOCUMENTS.

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

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S 3. Paragraphs 10 and 11 of subsection (g) of section 2103 of the insurance law, paragraph 10 as amended and paragraph 11 as added by chapter 687 of the laws of 2003, are amended to read as follows:

(10) in the discretion of the superintendent, as to all or any part of the written examination or the prerequisite minimum ninety hour course specified in subparagraph (B) of paragraph two of subsection (f) of this section, of any individual seeking to be named a licensee or sublicensee, upon whom has been conferred the Chartered Property Casualty Underwriter (C.P.C.U.) designation by the American Institute for Property and Liability Underwriters; [or]

(11) of any individual who applies for an insurance agent license in this state who was previously licensed for the same line or lines of authority in another state, provided, however, that the applicant's home state grants non-resident licenses to residents of this state on the same basis. Such individual shall also not be required to complete any prelicensing education. This exemption is only available if the person is currently licensed in that state or if the application is received within ninety days of the date of 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 is or was licensed in good standing for the line of authority requested. An individual or entity licensed in another state who moves to this state shall make an application within ninety days of establishing legal residence to become a resident licensee. No prelicensing education or examination shall be required of that person to obtain any line of authority previously held in the prior state except where the superintendent determines otherwise by regulation[.]; OR

S 4. Subsection (g) of section 2103 of the insurance law is amended by adding two new paragraphs 12 and 13 to read as follows:

(12) OF ANY APPLICANT SEEKING TO OBTAIN A LICENSE AS AN AGENT OF AN AUTHORIZED TITLE INSURANCE COMPANY, WHEN SUCH APPLICANT IS A LICENSED ATTORNEY AT LAW OF THIS STATE; OR

(13) IN THE DISCRETION OF THE SUPERINTENDENT, AS TO ALL OR ANY PART OF THE WRITTEN EXAMINATION OR THE PREREQUISITE MINIMUM NINETY-HOUR COURSE SPECIFIED IN SUBPARAGRAPH (B) OF PARAGRAPH TWO OF SUBSECTION (F) OF THIS SECTION, OF ANY PERSON, FIRM OR CORPORATION SEEKING TO BE LICENSED AS AN AGENT OF AN AUTHORIZED TITLE INSURANCE COMPANY IF THE SUPERINTENDENT IS SATISFIED THAT THE APPLICANT POSSESSES THE REQUISITE KNOWLEDGE AND EXPERIENCE WITH RESPECT TO THE SUBJECT MATTER OF THE PART OF THE EXAMINATION BEING WAIVED.

S 5. Subsection (j) of section 2103 of the insurance law is amended by adding a new paragraph 14 to read as follows:

(14) NOTWITHSTANDING ANY OTHER PROVISIONS OF THIS SECTION, THERE SHALL BE PAID TO THE SUPERINTENDENT FOR A TITLE INSURANCE AGENT'S LICENSE AN INITIAL FEE OF TWO HUNDRED DOLLARS AND A RENEWAL FEE OF TWO HUNDRED DOLLARS. THE TERM FOR SUCH LICENSE SHALL BE A MAXIMUM OF TWENTY-FOUR MONTHS. ALL SUCH LICENSES SHALL EXPIRE ON JUNE THIRTIETH OF EACH EVEN NUMBERED YEAR, AND THE SUPERINTENDENT SHALL HAVE AUTHORITY TO PRORATE THE LICENSING FEE.

S 6. Subsection (n) of section 2103 of the insurance law, as amended by chapter 687 of the laws of 2003, is amended to read as follows:

(n) Any insurance agent licensed pursuant to subsection (b) of this section, EXCEPT AN AGENT OF AN AUTHORIZED TITLE INSURANCE COMPANY, is

hereby authorized while so licensed, to act in the sale, solicitation or negotiation for an insurance contract providing solely for disability benefits written to meet minimum requirements of article nine of the workers' compensation law.

S 7. Section 2103 of the insurance law is amended by adding a new subsection (p) to read as follows:

(P) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION, THE SUPERINTENDENT SHALL ISSUE A LICENSE TO ANY PERSON, FIRM OR CORPORATION, AUTHORIZING SUCH LICENSEE TO ACT AS AN AGENT OF AN AUTHORIZED TITLE INSURANCE COMPANY, WHEN SUCH PERSON, FIRM OR CORPORATION:

(1) FILES IN THE OFFICE OF THE SUPERINTENDENT, ON OR BEFORE JUNE FIRST, TWO THOUSAND NINE, OR WITHIN NINETY DAYS AFTER THE SUPERINTENDENT HAS PROMULGATED APPLICATION FORMS, WHICHEVER DATE IS LATER AN APPLICATION FOR SUCH LICENSE, IN SUCH FORM AND CONTAINING SUCH INFORMATION AS THE SUPERINTENDENT PRESCRIBES;

(2) PAYS TO THE SUPERINTENDENT AN APPLICATION FEE OF TWO HUNDRED DOLLARS;

(3) DEMONSTRATES TO THE SATISFACTION OF THE SUPERINTENDENT THAT SUCH APPLICANT HAS REGULARLY AND CONTINUOUSLY ACTED AS AN AGENT OF AN AUTHORIZED TITLE INSURANCE COMPANY FOR A PERIOD OF AT LEAST THREE YEARS IMMEDIATELY PRECEDING THE FILING OF SUCH APPLICATION AND IS COMPETENT AND TRUSTWORTHY TO ACT AS A TITLE INSURANCE AGENT; AND

(4) IS EIGHTEEN YEARS OF AGE OR OVER AT THE TIME OF THE ISSUANCE OF SUCH LICENSE. SUCH LICENSE SHALL BE FOR A TERM EXPIRING ON JUNE THIRTIETH, TWO THOUSAND ELEVEN, AND RENEWALS THEREOF SHALL BE ISSUED PURSUANT TO PARAGRAPH TWO OF SUBSECTION (J) OF THIS SECTION.

S 8. Paragraph 1 of subsection (a) of section 2115 of the insurance law, as amended by chapter 418 of the laws of 2000, is amended to read as follows:

(1) No insurer doing business in this state, and no agent or other representative thereof, except as provided in subsection (b) [hereof] OF THIS SECTION, shall pay any commission or other compensation to any person, firm, association or corporation for acting as insurance agent in this state, except to a licensed insurance agent of such insurer or to a person described in paragraph two [or four] of subsection (a) of section two thousand one hundred one of this article or except as provided in subsection (c) of this section. For the purposes of this section, "acting as insurance agent" shall not include the referral of a person to a licensed insurance agent or broker that does not include a discussion of specific insurance policy terms and conditions and where the compensation for referral is not based upon the purchase of insurance by such person.

S 9. The section heading and subsections (a) and (b) of section 2115 of the insurance law, paragraph 1 of subsection (a) as amended by chapter 805 of the laws of 1984 and subsection (b) as amended by chapter 540 of the laws of 1996, are amended to read as follows:

Property/casualty insurance agents; AGENTS OF TITLE INSURANCE COMPANIES; commissions. (a) (1) No insurer doing business in this state, and no agent or other representative thereof, except as provided in subsection (b) [hereof] OF THIS SECTION, shall pay any commission or other compensation to any person, firm, association or corporation for acting as insurance agent in this state, except to a licensed insurance agent of such insurer or to a person described in paragraph two [or four] of subsection (a) of section two thousand one hundred one of this article or except as provided in subsection (c) of this section.

(2) The term "licensed insurance agent" as used in this subsection includes any agent authorized to act as such by a license issued and in force pursuant to the provisions of subsection (b) of section two thousand one hundred three of this article or authorized to act as such in connection with contracts for disability benefits pursuant to the provisions of subsection (n) of such section.

(b) This section shall not apply to any life insurance company, fraternal benefit society, accident and health insurance company, health maintenance organization[, title insurance company] nor to any agent or representative of any such insurer, society or health maintenance organization, acting as such.

S 10. Section 2120 of the insurance law is amended by adding a new subsection (e) to read as follows:

(E) AGENTS OF TITLE INSURANCE COMPANIES SHALL TREAT ALL FUNDS TAKEN FOR THE ACCOUNT OF OTHERS, INCLUDING PREMIUMS COLLECTED BY THEM, IN CONNECTION WITH ANY TITLE INSURANCE TRANSACTION AS FIDUCIARY FUNDS.

S 11. Within 120 days immediately after the effective date of this act, the superintendent of insurance shall promulgate application forms for persons, firms and corporations seeking to obtain a license as an agent of an authorized title insurance company.

S 12. Each person, firm or corporation who has filed an application for a license as an agent of an authorized title insurance company on or before 90 days immediately after the superintendent of insurance has promulgated application forms for such a license pursuant to section eleven of this act, may act as such an agent without a license issued pursuant to section 2103 of the insurance law until the superintendent of insurance has finally determined the application for such license filed by such person, firm or corporation.

S 13. This act shall take effect immediately, provided, however, that sections 2103 and 2115 of the insurance law, as amended by sections three, four, eight and nine of this act, shall not be applicable to agents of authorized title insurance companies until the one hundred eightieth day after this act shall have become a law or the ninetieth day after the superintendent of insurance has promulgated application forms pursuant to section eleven of this act, whichever date is later, and provided further, however, that the amendments made to paragraph 1 of subsection (a) of section 2115 of the insurance law by section eight of this act shall be deemed repealed on the same date as section 5 of chapter 418 of the laws of 2000, as amended, when upon such date the provisions of section nine of this act shall take effect.