

STATE OF NEW YORK

5805

2017-2018 Regular Sessions

IN SENATE

May 1, 2017

Introduced by Sen. SEWARD -- (at request of the Department of Financial Services) -- 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 foreign insurers deemed to be domestic insurers (Part A); and to amend the insurance law and the tax law, in relation to the national association of registered agents and brokers; and to repeal certain provisions of the insurance law thereto (Part B)

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. This act enacts into law major components of legislation
2 relating to foreign insurers deemed to be domestic insurers, assess-
3 ments, distribution of assets, insurers deemed to be in a hazardous
4 financial condition, the national association of registered agents and
5 brokers, and technical amendments. Each component is wholly contained
6 within a Part identified as Parts A through B. The effective date for
7 each particular provision contained within such Part is set forth in the
8 last section of such Part. Any provision in any section contained within
9 a Part, including the effective date of the Part, which makes a refer-
10 ence to a section "of this act", when used in connection with that
11 particular component, shall be deemed to mean and refer to the corre-
12 sponding section of the Part in which it is found. Section three of this
13 act sets forth the general effective date of this act.

14 PART A

15 Section 1. Subsection (d) of section 1501 of the insurance law, as
16 added by chapter 380 of the laws of 1989, is amended to read as follows:

17 (d) For the purposes of this article only, every foreign life insurer
18 which is authorized to do business in this state [~~which is controlled by~~
19 ~~a person not authorized to do an insurance business in this state, and~~]

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

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1 which, during its three preceding fiscal years taken together, or during
2 any lesser period of time if it has been licensed to transact its busi-
3 ness in New York only for such lesser period of time, has written an
4 average of more gross premiums in the state of New York than it has
5 written in its state of domicile during the same period, and such gross
6 premiums written constitute twenty percent or more of its total gross
7 premiums written everywhere in the United States for such three year or
8 lesser period, as reported in its three most recent annual statements,
9 shall be deemed a domestic insurer, provided written notice of the
10 applicability of this subsection is given to such company by the super-
11 intendent prior to this article being applicable.

12 § 2. Subsection (a) of section 1502 of the insurance law is amended to
13 read as follows:

14 (a) Notwithstanding any other provision of this article the following
15 shall not be deemed a holding [~~companies~~] company:

16 (1) [~~authorized insurers~~] any domestic insurer, [~~including alien~~
17 ~~insurers transacting business in this state through United States~~
18 ~~branches~~] except an insurer deemed to be a domestic insurer pursuant to
19 subsection (d) of section one thousand five hundred one of this article,
20 or [~~their subsidiaries~~] any subsidiary of such a domestic insurer; or

21 (2) the United States, a state or any political subdivision, agency or
22 instrumentality thereof, or any corporation wholly owned directly or
23 indirectly by one or more of the foregoing.

24 § 3. Subsection (a) of section 1506 of the insurance law, as amended
25 by chapter 238 of the laws of 2013, is amended to read as follows:

26 (a) No person, other than [~~an authorized~~] a domestic insurer that is
27 not an insurer deemed to be a domestic insurer pursuant to section one
28 thousand five hundred one of this article, shall acquire control of any
29 domestic insurer, whether by purchase of its securities or otherwise,
30 unless:

31 (1) it gives twenty days written notice to the insurer, or such short-
32 er period of notice as the superintendent permits, of its intention to
33 acquire control, provided that the notice shall include an agreement by
34 the person seeking to acquire control that the person will provide the
35 annual report specified in section one thousand five hundred three of
36 this article for so long as control exists; and

37 (2) it receives the superintendent's prior approval.

38 § 4. Subsection (a) of section 1603 of the insurance law, as amended
39 by chapter 238 of the laws of 2013, is amended to read as follows:

40 (a) A domestic insurer shall not acquire control of any [~~other domes-~~
41 ~~tic insurer~~] institution, whether by purchase of its securities or
42 otherwise, unless:

43 (1) a notice of intention of such proposed acquisition shall have been
44 filed with the superintendent not less than ninety days, or such shorter
45 period as may be permitted by the superintendent, in advance of such
46 proposed acquisition; and

47 (2) the insurer receives the superintendent's prior approval.

48 § 5. This act shall take effect immediately.

49

PART B

50 Section 1. Subsection (a) of section 110 of the insurance law, as
51 amended by chapter 238 of the laws of 2013, is amended to read as
52 follows:

53 (a) In order to assist in the performance of the superintendent's
54 duties under this chapter, the superintendent:

1 (1) may share documents, materials or other information, including
2 confidential and privileged documents, materials or information with
3 other state, federal, and international regulatory agencies, with the
4 National Association of Insurance Commissioners, its affiliates or
5 subsidiaries, with the national association of registered agents and
6 brokers and with state, federal, and international law enforcement
7 authorities, including members of any supervisory college described in
8 section three hundred two of this chapter, provided that the recipient
9 has the authority and agrees to maintain the confidentiality and privi-
10 leged status of the document, material or other information; provided,
11 however, that this paragraph shall not be construed as limiting access
12 to records pursuant to article six of the public officers law;

13 (2) may receive documents, materials or information, including other-
14 wise confidential and privileged documents, materials or information,
15 from the National Association of Insurance Commissioners, its affiliates
16 or subsidiaries, the national association of registered agents and
17 brokers, and from regulatory and law enforcement officials of other
18 foreign or domestic jurisdictions, including members of any supervisory
19 college described in section three hundred two of this chapter, and
20 shall maintain as confidential or privileged any document, material or
21 information received with notice or the understanding that it is confi-
22 dential or privileged under the laws of the jurisdiction that is the
23 source of the document, material or information; and

24 (3) may enter into agreements governing sharing and use of documents,
25 materials or information consistent with this subsection.

26 § 2. Paragraph 2 of subsection (a) of section 2101 of the insurance
27 law, as amended by chapter 687 of the laws of 2003, is amended to read
28 as follows:

29 (2) [~~employees~~] an employee of [~~insurers~~] an insurer, fraternal bene-
30 fit [~~societies~~] society or health maintenance [~~organizations~~] organiza-
31 tion or [~~organizations~~] an organization employed by [~~insurers~~] an insur-
32 er, fraternal benefit [~~societies~~] society, or health maintenance
33 [~~organizations~~] organization who [~~are~~] is engaging in the inspection,
34 rating or classification of risks, or in the supervision of the training
35 of licensed insurance producers and who [~~are~~] is not individually
36 engaged in the sale, solicitation or negotiation of insurance;

37 § 3. Subparagraphs (C), (D), and (E) of paragraph 1 of subsection (g)
38 of section 2101 of the insurance law, as amended by chapter 301 of the
39 laws of 2008, are amended to read as follows:

40 (C) any officer, director or regular salaried employee of [~~an article~~
41 ~~fifteen~~] a holding company as defined in article fifteen of this chap-
42 ter, or a controlled person within such holding company system providing
43 administrative services within that holding company, any officer, direc-
44 tor or regular salaried employee of a domestic insurer subject to arti-
45 cle sixteen of this chapter or a subsidiary of the domestic insurer
46 providing administrative services within that article sixteen system, or
47 any officer, director, or regular salaried employee of a parent corpo-
48 ration subject to article seventeen of this chapter or a subsidiary of
49 the parent corporation providing administrative services within that
50 article seventeen system, or any manager thereof, individual or corpo-
51 rate, when the claim to be adjusted is submitted for payment under a
52 health benefit plan that is issued or administered by a health insurer
53 or health maintenance organization within that same [~~holding company~~]
54 system;

55 (D) any officer, director or regular salaried employee of an author-
56 ized insurer that is licensed to write the kind of insurance to be

1 adjusted, or any manager thereof, individual or corporate, when the
2 claim to be adjusted is pursuant to a policy that is issued or adminis-
3 tered by another insurer within the same holding company system, as
4 defined in article fifteen of this chapter, or within the same system
5 under article sixteen or seventeen of this chapter, as the authorized
6 insurer adjusting the claim, unless acting as an auto body repair esti-
7 mator as defined in subsection (j) of this section;

8 (E) any officer, director or regular salaried employee of an author-
9 ized life insurance company, or any manager thereof, individual or
10 corporate, or the manager, agent or general agent of any department
11 thereof, individual or corporate, when the claim to be adjusted is
12 submitted under an insurance contract issued by another insurer and the
13 claim: (i) is within the scope of a contract of reinsurance between the
14 two insurers for all of the underlying risks and none of the underlying
15 risks are later reinsured back to the ceding insurer or an affiliate,
16 parent or subsidiary of the ceding insurer; and (ii) relates to a kind
17 of insurance that the authorized life insurance company adjusting the
18 claim is licensed to write;

19 § 4. Subsections (l), (m), (n), (o), and (w) of section 2101 of the
20 insurance law, subsections (l), (m), (n), and (o) as added by chapter
21 687 of the laws of 2003 and subsection (w) as added by section 4 of part
22 I of chapter 61 of the laws of 2011, are amended and a new subsection
23 (z) is added to read as follows:

24 (l) In this article, "home state" means [~~the District of Columbia or~~]
25 any state [~~or territory of the United States~~] in which an insurance
26 producer maintains his, her or its principal place of residence or prin-
27 cipal place of business and is licensed to act as an insurance producer.
28 For the purposes of this definition:

29 (1) "principal place of business" means the state in which:

30 (A) an insurance producer maintains the insurance producer's headquar-
31 ters and, in the case of a business entity, where high-level officers of
32 the entity direct, control, and coordinate the business activities of
33 the business entity; or

34 (B) if an insurance producer maintains the insurance producer's head-
35 quarters and, in the case of a business entity, the entity's high-level
36 officers of the entity direct, control, and coordinate the business
37 activities of the business entity, in more than one state or outside the
38 United States, then the state listed in the address section of the
39 insurance producer's licensing application; and

40 (2) "principal place of residence" means the state in which an insur-
41 ance producer resides for the greatest number of days during a calendar
42 year.

43 (m) In this article, "negotiate" or "negotiation" means the act of
44 conferring directly with or offering advice directly to a purchaser or
45 prospective purchaser of a particular contract of insurance concerning
46 any of the substantive benefits, terms or conditions of the contract,
47 provided that the person engaged in that act either sells insurance or
48 obtains insurance from [~~licensed insurers~~] an insurer, a fraternal bene-
49 fit [~~societies~~] society, or a health maintenance [~~organizations~~] organ-
50 ization for purchasers.

51 (n) In this article, "sell" or "sale" means to exchange a contract of
52 insurance by any means, for money or its equivalent, on behalf of [~~a~~
53 licensed] an insurer, fraternal benefit society or health maintenance
54 organization.

55 (o) In this article, "solicit" or "solicitation" means attempting to
56 sell insurance or asking or urging a person to apply for a particular

1 kind of insurance from a particular [~~licensed~~] insurer, fraternal bene-
2 fit society or health maintenance organization.

3 (w) In this article, "state" means the District of Columbia or any
4 state, commonwealth, or territory of the United States.

5 (z) In this article, "national association" means the national associ-
6 ation of registered agents and brokers, and any successor, as estab-
7 lished pursuant to 15 U.S.C. § 6751 et. seq.

8 § 5. Paragraphs 6 and 7 of subsection (r) of section 2101 of the
9 insurance law, as added by chapter 687 of the laws of 2003, are amended
10 to read as follows:

11 (6) mortgage guaranty: insurance coverage providing protection against
12 financial loss by reason of nonpayment of any sum required to be paid
13 under the terms of any instrument of indebtedness secured by a lien on
14 real estate;

15 (7) personal lines: property/casualty insurance coverage sold to indi-
16 viduals and families for primarily noncommercial purposes; and

17 [~~(7)~~] (8) in a regulation promulgated by, and at the discretion of,
18 the superintendent, any other [line] kind of insurance or sub-class of a
19 kind of insurance permitted pursuant to this chapter.

20 § 6. Subsections (a) and (b) of section 2103 of the insurance law, as
21 amended by chapter 687 of the laws of 2003, are amended to read as
22 follows:

23 (a) The superintendent may issue a license to any person, firm or
24 corporation who or [~~which~~] that has complied with the requirements of
25 this chapter, authorizing [~~such~~] the licensee to act as an insurance
26 agent with respect to the lines of authority for life [~~insurance~~], vari-
27 able life and variable annuity products, [~~or~~] accident and health
28 [~~insurance and~~] or sickness credit, as provided under subparagraph (A)
29 of paragraph two of subsection (r) of section two thousand one hundred
30 one of this article, or any other line of authority deemed to be similar
31 by the superintendent, including, for this purpose, health maintenance
32 organization contracts, legal services insurance, or with respect to any
33 combination of the above, as specified in [~~such~~] the license, on behalf
34 of any insurer, fraternal benefit society, or health maintenance organ-
35 ization[~~, which~~] that is authorized to do such kind or kinds of insur-
36 ance or health maintenance organization business in this state.

37 (b) The superintendent may issue a license to any person, firm, asso-
38 ciation or corporation who or [~~which~~] that has complied with the
39 requirements of this chapter, authorizing the licensee to act as agent
40 of any authorized insurer, other than an insurer specified in subsection
41 (b) of section two thousand one hundred fifteen of this article, with
42 respect to the lines of authority for accident and health or sickness,
43 property, casualty, personal lines [~~or~~], mortgage guaranty, credit, as
44 provided under paragraph six of subsection (r) of section two thousand
45 one hundred one of this article, crop, any other line of authority
46 granted other than life, and variable life and variable annuity
47 products, [~~which-such~~] or any other line of authority the superintendent
48 determines to be similar thereto, that the insurer is authorized to do
49 in this state.

50 § 7. Subparagraphs (A) and (B) of paragraph 2 of subsection (f) of
51 section 2103 of the insurance law, as amended by chapter 687 of the laws
52 of 2003, are amended to read as follows:

53 (A) (i) For individuals seeking to qualify to obtain a license under
54 subsection (a) of this section, [~~one examination adapted to test the~~
55 ~~qualifications for a life insurance agent's license, another adapted to~~
56 ~~test the qualifications for an accident and health insurance agent's~~

1 ~~license and another adapted to test the qualifications for a legal~~
2 ~~services insurance license~~ examinations adapted to test the qualifica-
3 tions for the lines of authority subject to such subsection. Each such
4 individual shall be required to pass the type or types of examination
5 prescribed by the superintendent for the line or lines of authority, as
6 specified in subsection (a) of this section, for which the license is
7 sought.

8 (ii) No individual shall be deemed qualified to take the examination
9 or examinations unless ~~he shall have~~ the individual has successfully
10 completed a course or courses, approved as to method and content by the
11 superintendent, covering the principal branches and contracts of life
12 insurance, annuity contracts, disability insurance, and accident and
13 health insurance ~~and related insurance~~ and requiring not less than
14 forty hours of classroom work or the equivalent in correspondence work
15 or similar instruction, provided, however, that, at the discretion of
16 the superintendent, insurance subject material may be eliminated from
17 course content, with a corresponding reduction in course hours, if an
18 insurer is not authorized to transact such kind or kinds of insurance in
19 this state.

20 [~~Such~~] (iii) The course or courses either shall have been given by a
21 degree conferring college or university [~~which has~~] that had, when
22 [~~such~~] the course [~~is~~] was taken by [~~such~~] the individual, a curriculum
23 or curricula registered with the state education department, whether
24 [~~such~~] the course be given as part of any such curricula or separately,
25 or by any other institution or life or accident and health insurer
26 [~~which~~] that maintains equivalent standards of instruction, and [~~which~~
27 ~~shall have~~] that has been approved for such purpose by the superinten-
28 dent.

29 (B) For individuals seeking to qualify to obtain a license under
30 subsection (b) of this section, ~~not more than six types of examina-~~
31 ~~tions, each adapted to test the qualifications of an individual with~~
32 ~~respect to the kinds of insurance business specified in such classifica-~~
33 ~~tion~~ examinations adapted to test the qualifications for the lines of
34 authority subject to such subsection. Every [~~such~~] individual shall be
35 required to pass the type or types of examination prescribed by the
36 superintendent for the line or lines of authority for which the license
37 is sought. No individual shall be deemed qualified to take the examina-
38 tion unless ~~he~~ the individual shall have successfully completed a
39 course or courses, approved as to method and content by the superinten-
40 dent, covering the principal branches of the insurance business and
41 requiring not less than ninety hours of classroom work[7] in, or the
42 equivalent in correspondence work or similar instruction offered by,
43 institutions of learning meeting the standards prescribed by paragraph
44 one of subsection (a) of section two thousand one hundred four of this
45 article; provided, however, with respect to a license issued pursuant to
46 subsection (b) of this section for a personal line of authority, there
47 shall be required not less than forty hours of such classroom work.

48 § 8. Paragraphs 1, 9, and 10 of subsection (g) of section 2103 of the
49 insurance law, paragraphs 9 and 10 as amended by chapter 687 of the laws
50 of 2003, are amended to read as follows:

51 (1) as a prerequisite to the issuance of a [~~baggage or accident and~~
52 ~~health insurance~~] travel insurance agent's license to any ticket selling
53 agent or representative of a railroad company, steamship company, carri-
54 er by air, [~~or~~] public bus carrier, or other common carrier, who shall
55 act [~~thereunder~~] as an insurance agent only in reference to [~~the issu-~~
56 ~~ance of~~] insurance coverage for trip cancellation, trip interruption,

1 baggage [~~or~~], accident [~~insurance tickets primarily for the purpose of~~
2 ~~covering risk of travel~~] and health, disability and personal effects,
3 when limited to a specific trip and sold in connection with transporta-
4 tion provided by the common carrier;

5 (9) in the discretion of the superintendent, as to all or any part of
6 the written examination or the prerequisite minimum forty hour pre-li-
7 ensing course specified in subparagraph (A) of paragraph two of
8 subsection (f) of this section, of any individual seeking to be named a
9 licensee or sub-licensee, upon whom has been conferred the Chartered
10 Life Underwriter (C.L.U.) [~~or Chartered Life Underwriter Associate~~
11 ~~designation~~], Chartered Financial Consultant (Ch.F.C.), or the Master of
12 Science in Financial Services (M.S.F.S.) designations by [~~The~~] the Amer-
13 ican College of Financial Services, or any other designation that the
14 superintendent determines is acceptable pursuant to a regulation;

15 (10) in the discretion of the superintendent, as to all or any part of
16 the written examination or the prerequisite minimum ninety hour pre-li-
17 ensing course specified in subparagraph (B) of paragraph two of
18 subsection (f) of this section, of any individual seeking to be named a
19 licensee or sublicensee, upon whom has been conferred the Chartered
20 Property Casualty Underwriter (C.P.C.U.) designation by the American
21 Institute for Chartered Property [~~and Liability~~] Casualty Underwriters,
22 or any other designation that the superintendent determines is accepta-
23 ble pursuant to a regulation; or

24 § 9. Paragraph 10 of subsection (j) of section 2103 of the insurance
25 law is REPEALED.

26 § 9-a. Paragraphs 11, 12, and 13 of subsection (j) of section 2103 of
27 the insurance law are renumbered paragraphs 10, 11, and 12, and para-
28 graph 9, as amended by section 2 of part F of chapter 59 of the laws of
29 2005, is amended to read as follows:

30 (9) In addition to any examination fee required by subsection (f) of
31 this section, there shall be paid to the superintendent for each indi-
32 vidual license applicant and each proposed sub-licensee the sum of
33 [~~forty~~] forty-five dollars for each year or fraction of a year in which
34 a license shall be valid. If, however, the license applicant or a
35 proposed sub-licensee should withdraw the application or the superinten-
36 dent should deny the application before the license applied for is
37 issued, then the superintendent may refund the fee paid by the applicant
38 for the license applied for with the exception of any examination fees
39 required pursuant to subsection (f) of this section.

40 § 10. Paragraph 1 of subsection (c) of section 2104 of the insurance
41 law, as amended by chapter 505 of the laws of 2000, is amended to read
42 as follows:

43 (1) Every individual applicant for such license and every proposed
44 sub-licensee shall be of the age of eighteen years or over at the time
45 of the issuance of such license. No individual shall be deemed qualified
46 to obtain such license or to be named as sub-licensee therein unless
47 [~~he~~] the individual shall comply with the requirements of subparagraph
48 (A), (B) or (C) following:

49 (A) [~~He~~] The individual shall have successfully completed a course or
50 courses, approved as to method and content by the superintendent, cover-
51 ing the principal branches of the insurance business and requiring, in
52 the case of a license under subparagraph (B) of paragraph one of
53 subsection (b) of this section, not less than ninety hours, and in the
54 case of a license under subparagraph (A) of paragraph one of subsection
55 (b) of this section, not less than forty hours of classroom work or the
56 equivalent thereof in correspondence work. [~~Such~~] The course or courses

1 either were given by a degree conferring college or university which
2 [~~has~~ had, when [~~such~~ the course [~~is~~ was taken by such individual, a
3 curriculum or curricula registered with the state education department,
4 whether [~~such~~ the course [~~be~~ was given as a part of any such curric-
5 ulum or separately, [~~or were given by the The College of Insurance,~~] or
6 by any other institution [~~which~~ that maintains equivalent standards of
7 instruction[~~, which has been continuously in existence for not less than~~
8 ~~five years prior to the taking of such course by such individual,~~] and
9 [~~which shall have been~~ was approved for such purpose by the superinten-
10 dent.

11 (B) [~~He~~ The individual shall have been regularly employed by an
12 insurance company or an insurance agent or an insurance broker, for a
13 period or periods aggregating not less than one year during the three
14 years next preceding the date of application, in the case of a license
15 under subparagraph (B) of paragraph one of subsection (b) of this
16 section, in responsible insurance duties relating to the underwriting or
17 adjusting of losses in any one or more of the following branches of
18 insurance: fire, marine, liability and workers' compensation, and fidel-
19 ity and surety; in the case of a license under subparagraph (A) of para-
20 graph one of subsection (b) of this section in responsible insurance
21 duties relating to the use of life insurance, accident and health insur-
22 ance and annuity contracts in the design and administration of plans for
23 estate conservation and distribution, employee benefits and business
24 continuation; and [~~he~~ the individual shall submit with his or her
25 application a statement subscribed and affirmed as true under the penal-
26 ties of perjury by such employer or employers stating facts [~~which~~ that
27 show compliance with this requirement.

28 (C) [~~He~~ The individual shall have been regularly employed by an
29 insurance company or an insurance agent or an insurance broker, for a
30 period or periods aggregating not less than one year, during the three
31 years next preceding the date of entrance into the service of the armed
32 forces of the United States or immediately following [~~his~~ the individ-
33 ual's discharge therefrom, in the case of a license under subparagraph
34 (B) of paragraph one of subsection (b) of this section, in responsible
35 insurance duties relating to the underwriting or adjusting of losses in
36 any one or more of the following branches of insurance: fire, marine,
37 liability and workers' compensation, and fidelity and surety; in the
38 case of a license under subparagraph (A) of paragraph one of subsection
39 (b) of this section in responsible insurance duties relating to the use
40 of life insurance, accident and health insurance and annuity contracts
41 in the design and administration of plans for estate conservation and
42 distribution, employee benefits and business continuation; provided the
43 application for such license is filed within one year from the date of
44 discharge; and [~~he~~ the licensee shall submit with his or her applica-
45 tion a statement subscribed and affirmed as true under the penalties of
46 perjury by such employer or employers stating facts [~~which~~ that show
47 compliance with this requirement.

48 § 11. Subparagraph (B) of paragraph 1 of subsection (e) of section
49 2104 of the insurance law, as amended by chapter 505 of the laws of
50 2000, is amended to read as follows:

51 (B) An exemption may be granted, at the discretion of the superinten-
52 dent, as to all or any part of the written examination or the prerequi-
53 site course specified in subparagraph (A) of paragraph one of subsection
54 (c) of this section, of any individual seeking to be named a licensee or
55 sub-licensee, upon whom has been conferred, in the case of a license
56 under subparagraph (B) of paragraph one of subsection (b) of this

1 section, the Chartered Property Casualty Underwriter (C.P.C.U.) designation by the American Institute for Chartered Property [~~and Liability~~]
2 Casualty Underwriters, or any other designation that the superintendent
3 determines is acceptable pursuant to a regulation, or on whom has been
4 conferred, in the case of a license under subparagraph (A) of paragraph
5 one of subsection (b) of this section, the Chartered Life Underwriter
6 (C.L.U.), Chartered Financial Consultant (Ch.F.C.) or the Master of
7 Science in Financial Services (M.S.F.S.) designations by the American
8 College of Financial [~~Service Professionals~~] Services, or any other
9 designation that the superintendent determines is acceptable pursuant to
10 a regulation.

11
12 § 12. Paragraph 2 of subsection (g) of section 2104 of the insurance
13 law is REPEALED and paragraphs 3, 4 and 5 are renumbered paragraphs 2, 3
14 and 4.

15 § 12-a. Paragraph 1 of subsection (f) of section 2104 of the insurance
16 law, as amended by section 3 of part F of chapter 59 of the laws of
17 2005, is amended to read as follows:

18 (1) At the time of application for every such license, and for every
19 biennial renewal thereof, there shall be paid to the superintendent for
20 each individual applicant and for each proposed sub-licensee the sum of
21 [~~forty~~] forty-five dollars for each year or fraction of a year in which
22 a license shall be valid. If, however, the applicant or a proposed sub-
23 licensee should withdraw his, her, or its application or the superinten-
24 dent should deny his, her, or its application before the license applied
25 for is issued, then the superintendent may refund the fee paid by the
26 applicant for the license applied for, excepting any examination fees
27 required pursuant to subsection (e) of this section.

28 § 13. Paragraph 1 of subsection (a) of section 2107 of the insurance
29 law is amended to read as follows:

30 (1) The superintendent may issue an insurance consultant's license to
31 any person, firm, association or corporation who or [~~which~~] that has
32 complied with the requirements of this chapter with respect to either:
33 life insurance, meaning all of those kinds of insurance authorized in
34 paragraphs one, two [~~and~~], three, and thirty-one of subsection (a) of
35 section one thousand one hundred thirteen of this chapter, or any kind
36 of insurance that the superintendent determines to be substantially
37 similar thereto pursuant to paragraph thirty-two of subsection (a) of
38 section one thousand one hundred thirteen of this chapter; or general
39 insurance, meaning all of those kinds of insurance authorized in para-
40 graphs four through [~~twenty-three~~] thirty of such subsection, or any
41 kind of insurance that the superintendent determines to be substantially
42 similar thereto pursuant to paragraph thirty-two of subsection (a) of
43 section one thousand one hundred thirteen of this chapter, as specified
44 in such license.

45 § 14. Paragraph 2 of subsection (c) of section 2107 of the insurance
46 law is amended to read as follows:

47 (2) The superintendent may accept, in lieu of any part or all of such
48 examination, the result of any previous written examination given by the
49 superintendent, [~~The~~] the American College of Financial Services, the
50 American [~~College of~~] Institute for Chartered Property [~~and Liability~~]
51 Casualty Underwriters, the Society of Actuaries, the Casualty Actuarial
52 Society, the American Academy of Actuaries or any similar organization
53 [~~which~~] that administers professional examinations.

54 § 15. Section 2110 of the insurance law, as amended by chapter 687 of
55 the laws of 2003, the section heading, subsections (a) and (b) as
56 amended by chapter 499 of the laws of 2009, paragraph 15 of subsection

1 (a) as added and paragraphs 16 and 17 of subsection (a) as renumbered by
2 chapter 546 of the laws of 2013, is amended to read as follows:

3 § 2110. Revocation or suspension of license or authorization of insur-
4 ance producer, insurance consultant, adjuster, course provider, or life
5 settlement broker. (a) The superintendent may refuse to renew, revoke,
6 or may suspend for a period the superintendent determines the license or
7 authorization of any insurance producer, insurance consultant, adjuster,
8 course provider authorized under section two thousand one hundred
9 forty-one of this chapter, or life settlement broker, if, after notice
10 and hearing, the superintendent determines that the licensee or any
11 sub-licensee or the course provider has:

12 (1) violated any insurance laws, [~~or violated~~] any regulation, subpoe-
13 na or order of the superintendent or of another state's insurance
14 commissioner, [~~or has violated~~] any standard of the national associ-
15 ation, or any law in the course of his [~~or~~], her, or its dealings in
16 such capacity;

17 (2) provided materially incorrect, materially misleading, materially
18 incomplete or materially untrue information in the license application,
19 provider organization application, or course submission application;

20 (3) obtained or attempted to obtain a license or authorization through
21 misrepresentation or fraud;

22 (4)(A) used fraudulent, coercive or dishonest practices;

23 (B) demonstrated incompetence;

24 (C) demonstrated untrustworthiness; or

25 (D) demonstrated financial irresponsibility in the conduct of business
26 in this state or elsewhere;

27 (5) improperly withheld, misappropriated or converted any monies or
28 properties received in the course of business in this state or else-
29 where;

30 (6) intentionally misrepresented the terms of an actual or proposed
31 insurance contract, life settlement contract or application for insur-
32 ance;

33 (7) has been convicted of a felony;

34 (8) admitted or been found to have committed any insurance unfair
35 trade practice or fraud;

36 (9) had an insurance producer license, a life settlement broker
37 license, or its equivalent, denied, suspended or revoked in any other
38 state, province, district, commonwealth, or territory or by the national
39 association;

40 (10) forged [~~another's~~] another person's name to an application for
41 insurance or life settlement contract or to any document related to an
42 insurance or life settlement transaction;

43 (11) improperly used notes or any other reference material to complete
44 an examination for an insurance license or life settlement broker
45 license;

46 (12) knowingly accepted insurance business from an individual who is
47 not licensed;

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

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

52 (15) while acting as a public adjuster, the licensee has failed to act
53 on behalf and in the best interests of the insured when negotiating for
54 or effecting the settlement of an insurance claim for such insured or
55 otherwise acting as a public adjuster, or has failed to make the disclo-

1 sures required by paragraph two of subsection (s) of section two thou-
2 sand one hundred eight of this article;

3 (16) while acting as a life settlement broker, failed to protect the
4 privacy of the insured or owner or other person for whom the life
5 settlement broker was required to provide protection pursuant to article
6 seventy-eight of this chapter; or

7 (17) ceased to meet the requirements for licensure or authorization
8 under this chapter.

9 (b) Before revoking or suspending the license of any insurance produc-
10 er, life settlement broker or other licensee pursuant to the provisions
11 of this article, the superintendent shall, except when proceeding pursu-
12 ant to subsection (f) of this section, give notice to the licensee,
13 course provider, and to every sub-licensee and shall hold, or cause to
14 be held, a hearing not less than ten days after the giving of such
15 notice.

16 (c) If an insurance producer's license or other licensee's license or
17 course provider's authorization pursuant to the provisions of this arti-
18 cle is revoked or suspended by the superintendent, [~~he~~] then the super-
19 intendent shall forthwith give notice to the licensee.

20 (d) The revocation or suspension of any insurance producer's license
21 or other licensee's license or course provider's authorization pursuant
22 to the provisions of this article shall terminate forthwith such produc-
23 er's license or other licensee's license or course provider's authori-
24 zation, and the authority conferred thereby upon all sub-licensees.

25 (e) (1) No individual, corporation, firm or association whose license
26 as an insurance producer or other licensee or course provider subject to
27 subsection (a) of this section has been revoked, and no firm or associ-
28 ation of which such individual is a member, and no corporation of which
29 such individual is an officer or director, shall be entitled to obtain
30 any license or authorization under the provisions of this chapter for a
31 period of [~~one-year~~] three years after such revocation, or, if such
32 revocation be judicially reviewed, for [~~one-year~~] three years after the
33 final determination thereof affirming the action of the superintendent
34 in revoking such license or authorization.

35 (2) If any such license or authorization held by a firm, association
36 or corporation be revoked, no member of such firm or association and no
37 officer or director of such corporation shall be entitled to obtain any
38 license or authorization, or to be named as a sub-licensee in any such
39 license, for the same period of time, unless the superintendent deter-
40 mines, after notice and hearing, that such member, officer or director
41 was not personally at fault in the matter on account of which such
42 license or authorization was revoked.

43 (f) (1) As used in this subsection, "non-resident insurance producer's
44 license or sub-license" means a license or sub-license in such capacity
45 issued pursuant to paragraph five of subsection (g) of section two thou-
46 sand one hundred three or subsection (e) of section two thousand one
47 hundred four of this article.

48 (2) A non-resident insurance producer's license or sub-license may be
49 summarily revoked in the event that the licensee's license as an agent,
50 broker, adjuster or in any other capacity under the insurance law of the
51 licensee's home state of domicile or the standards of the national asso-
52 ciation, or such license of the firm or association of which the licen-
53 see is a member, employee or sub-licensee, or such license of the corpo-
54 ration of which the licensee is an officer, director, employee or
55 sub-licensee, has been suspended or revoked, or renewal thereof denied,
56 in the licensee's home state of domicile or by the national association

1 by a procedure affording to the licensee or it a statutory right to a
2 hearing, for action or conduct which, if it had been established upon a
3 hearing before the superintendent, would have constituted grounds for
4 revocation of a license under subsection (a) of this section.

5 (3) Before revoking the license of any non-resident insurance producer
6 in accordance with this section, the superintendent shall give ten days'
7 notice in writing to such producer of the action proposed to be taken,
8 which notice shall be given in accordance with the applicable provisions
9 of subsections (a) and (d) of former section three hundred three of this
10 chapter.

11 (4) Upon submission to the superintendent of satisfactory proof that a
12 suspension or revocation of a license issued by a home state or the
13 national association to act as an insurance agent, insurance broker,
14 adjuster or in another licensed capacity under the insurance law of such
15 other state or standards of the national association, or a denial of
16 renewal thereof, has been duly withdrawn, set aside, reversed or voided,
17 the superintendent shall thereupon reinstate and restore any and all
18 licenses revoked in accordance with the provisions of this subsection.

19 (g) If any licensed insurance producer or any person aggrieved shall
20 file with the superintendent a verified complaint setting forth facts
21 tending to show sufficient ground for the revocation or suspension of
22 any insurance producer's license, or if any licensed adjuster or any
23 person aggrieved files with the superintendent a verified complaint
24 setting forth facts showing sufficient grounds for the suspension or
25 revocation of any adjuster's license, the superintendent shall, after
26 notice and a hearing, determine whether such license shall be suspended
27 or revoked.

28 (h) The superintendent shall retain the authority to enforce the
29 provisions of and impose any penalty or remedy authorized by this chap-
30 ter against any person or entity who is under investigation for or
31 charged with a violation of this chapter, even if the person's or enti-
32 ty's license [~~or~~], registration, or authorization has been surrendered,
33 or has expired or has lapsed by operation of law.

34 (i) A licensee or course provider subject to this article shall report
35 to the superintendent any administrative action taken against the licen-
36 see or course provider in another jurisdiction or by another govern-
37 mental agency in this state within thirty days of the final disposition
38 of the matter. This report shall include a copy of the order, consent to
39 order or other relevant legal documents.

40 (j) Within thirty days of the initial pretrial hearing date, a licen-
41 see or course provider subject to this article shall report to the
42 superintendent any criminal prosecution of the licensee or course
43 provider taken in any jurisdiction. The report shall include a copy of
44 the initial complaint filed, the order resulting from the hearing and
45 any other relevant legal documents.

46 § 16. Paragraphs 3 and 4 of subsection (b) and paragraph 1 of
47 subsection (c) of section 2132 of the insurance law, paragraphs 3 and 4
48 of subsection (b) as amended by section 13 of part V of chapter 57 of
49 the laws of 2014, and paragraph 1 of subsection (c) as added by chapter
50 656 of the laws of 1992, are amended and a new paragraph 5 is added to
51 subsection (b) to read as follows:

52 (3) for purposes of the continuing education requirements for life
53 settlements, an insurance producer with a life line of authority who is
54 acting as a life settlement broker pursuant to section two thousand one
55 hundred thirty-seven of this article; [~~or~~]

1 (4) for purposes of a title insurance agent license, an attorney
2 licensed to practice law in this state, provided that such attorney is
3 in good standing with the New York state office of court adminis-
4 tration[+]; or

5 (5) an insurance producer who is a member of the national association,
6 provided the insurance producer complies with the continuing education
7 requirements of the insurance producer's home state and of the national
8 association.

9 (1) Any person holding a license issued pursuant to this article and
10 not exempt under subsection (b) of this section shall, during each full
11 biennial licensing period, satisfactorily complete courses or programs
12 of instruction or attend seminars as may be approved by the superinten-
13 dent equivalent to [~~fifteen~~] twenty-four credit hours of instruction, of
14 which three credit hours shall be in an approved ethics course.

15 § 17. Subsection (i) of section 2132 of the insurance law is REPEALED
16 and subsection (j) is relettered subsection (i).

17 § 18. Paragraph 2 of subsection (d) of section 2137 of the insurance
18 law, as added by chapter 499 of the laws of 2009, is amended to read as
19 follows:

20 (2) [~~The superintendent may require any individual named in the appli-~~
21 ~~cation for such license to submit a set of fingerprints, unless such~~
22 ~~applicant is licensed as an insurance producer with a life line of~~
23 ~~authority. Such fingerprints shall be submitted to the division of crim-~~
24 ~~inal justice services for a state criminal history record check, as~~
25 ~~defined in subdivision one of section three thousand thirty five of the~~
26 ~~education law, and may be submitted to the federal bureau of investi-~~
27 ~~gation for a national criminal history record check. All such criminal~~
28 ~~history records sent to the superintendent pursuant to this paragraph~~
29 ~~shall be confidential pursuant to the applicable federal and state laws,~~
30 ~~rules and regulations, and shall not be published or in any way~~
31 ~~disclosed to persons other than the superintendent, unless otherwise~~
32 ~~authorized by law. The superintendent shall provide such applicant with~~
33 ~~a copy of his or her criminal history record, if any, together with a~~
34 ~~copy of article twenty-three-A of the correction law, and inform such~~
35 ~~applicant of his or her right to seek correction of any incorrect infor-~~
36 ~~mation contained in such record pursuant to regulations and procedures~~
37 ~~established by the division of criminal justice services. All determi-~~
38 ~~nations to grant or deny clearance for licensure pursuant to this~~
39 ~~section shall be in accordance with subdivision sixteen of section two~~
40 ~~hundred ninety six of the executive law and article twenty-three A of~~
41 ~~the correction law.] When the superintendent denies an application,
42 written notice of such determination shall be given to the prospective
43 applicant who shall be afforded notice and the right to be heard and
44 offer proof in opposition to such determination.~~

45 § 19. Subparagraph (D) of paragraph 1 of subsection (f) of section
46 2137 of the insurance law, as added by chapter 499 of the laws of 2009,
47 is amended to read as follows:

48 (D) in the discretion of the superintendent, as to all or any part of
49 the written examination or the prerequisite course specified in
50 subsection (e) of this section, of any individual seeking to be named a
51 licensee or sub-licensee, upon whom has been conferred the Chartered
52 Life Underwriter (C.L.U.) [~~or Chartered Life Underwriter Associate~~
53 ~~designation~~], Chartered Financial Consultant (Ch.F.C.), or the Master of
54 Science in Financial Services (M.S.F.S.) designations by [~~The~~] the Amer-
55 ican College of Financial Services, or any other designation that the
56 superintendent determines is acceptable pursuant to a regulation; or

1 § 20. The insurance law is amended by adding a new section 2140 to
2 read as follows:

3 § 2140. Fingerprint requirement. (a)(1) Except as provided in
4 subsection (b) of this section, the superintendent may require any indi-
5 vidual named in an application for a license under this article or under
6 article sixty-five or sixty-eight of this chapter, to submit a set of
7 fingerprints. Such fingerprints shall be submitted to the division of
8 criminal justice services for a state criminal history record check, and
9 may be submitted to the federal bureau of investigation for a national
10 criminal history record check. All such criminal history records made
11 available to the superintendent pursuant to this section shall be confi-
12 dential pursuant to the applicable federal and state laws, rules and
13 regulations, and shall not be published or in any way disclosed to
14 persons other than the superintendent, unless otherwise authorized by
15 law.

16 (2) The superintendent shall inform such applicant that he or she may
17 obtain a copy of his or her criminal history record maintained by the
18 division of criminal justice services, if any, and may challenge the
19 completeness or accuracy of the information contained in such record,
20 pursuant to regulations and procedures established by the division of
21 criminal justice services.

22 (3) All determinations to grant or deny clearance for licensure pursu-
23 ant to this section shall be in accordance with subdivision sixteen of
24 section two hundred ninety-six of the executive law and article twenty-
25 three-A of the correction law. When the superintendent denies an appli-
26 cation, written notice of such determination shall be given to the
27 prospective applicant who shall be afforded notice and the right to be
28 heard and offer proof in opposition to such determination.

29 (b) The superintendent shall waive the fingerprinting requirement for
30 a nonresident producer license applicant as provided in section two
31 thousand one hundred thirty-six of this article.

32 § 21. The insurance law is amended by adding a new section 2141 to
33 read as follows:

34 § 2141. Course providers. (a) Any entity eligible to provide courses,
35 programs of instruction, or seminars in accordance with this article
36 shall file for authorization by the superintendent on a biennial basis,
37 to conform with its area of instruction, a provider organization appli-
38 cation and a course submission application for each course, program and
39 seminar.

40 (b) The provider organization application shall include the names of
41 all instructors to be used during the contract period, and instructors
42 may be added during the period by notifying the superintendent and
43 paying the appropriate filing fees.

44 (c) The completed application shall be returned in a timely manner, as
45 specified by the superintendent, with a non-refundable filing fee of two
46 hundred dollars per organization, fifty dollars per course, program and
47 seminar, and fifty dollars per instructor.

48 § 22. The insurance law is amended by adding a new section 2142 to
49 read as follows:

50 § 2142. National association of registered agents and brokers. (a)(1)
51 A nonresident insurance producer that is a member of the national asso-
52 ciation and that pays the licensing fee set by this state for any line
53 of authority and type of insurance producer license specified in the
54 home state license of the insurance producer shall be deemed to be an
55 insurance producer for the purpose of this chapter. If the home state of

1 the insurance producer does not specify separate licenses for an insur-
2 ance agent and insurance broker, then:

3 (A) if the insurance producer is appointed by an insurer as its agent,
4 then the insurance producer shall pay the licensing fee for insurance
5 agent and shall be subject to all of the requirements of this chapter
6 applicable to insurance agents when acting in such capacity; and

7 (B) if the insurance producer is not acting as agent for the insurer,
8 then the insurance producer shall pay the licensing fee for insurance
9 broker and shall be subject to all of the requirements of this chapter
10 applicable to insurance brokers when acting in such capacity.

11 (2) A nonresident insurance consultant that is a member of the
12 national association and that pays the licensing fee set by this state
13 for any line of authority specified in the home state license of the
14 insurance consultant shall be deemed to be an insurance consultant for
15 the purpose of this chapter.

16 (b) Membership in the national association shall:

17 (1)(A) authorize a nonresident insurance producer to sell, solicit, or
18 negotiate insurance in this state for which the insurance producer pays
19 the licensing fee set by this state for any line of authority and type
20 of insurance producer license specified in the home state license of the
21 insurance producer, and exercise all such incidental powers as shall be
22 necessary to carry out such activities, including claims adjustment and
23 settlement to the extent permissible under this article, risk manage-
24 ment, employee benefits advice, retirement planning, and any other insu-
25 rance-related consulting activities;

26 (B) authorize an insurance consultant to examine, appraise, review, or
27 evaluate any insurance policy, annuity or pension contract, plan or
28 program, or make recommendations or give advice with regard to any of
29 the foregoing for any line of authority specified in the home state
30 license of the insurance consultant;

31 (2) be the equivalent of a:

32 (A) nonresident insurance producer license for purpose of authorizing
33 the insurance producer to engage in the activities described in subpara-
34 graph (A) of paragraph one of this subsection in this state if the
35 insurance producer pays the licensing fee set by this state; and

36 (B) nonresident insurance consultant license for purpose of authoriz-
37 ing the insurance consultant to engage in the activities described in
38 subparagraph (B) of paragraph one of this subsection in this state if
39 the insurance producer pays the licensing fee set by this state; and

40 (3) be the equivalent of a nonresident insurance producer license for
41 the purpose of subjecting an insurance producer to this chapter and
42 regulations promulgated thereunder and be the equivalent of a nonresi-
43 dent insurance consultant license for the purpose of subjecting an
44 insurance consultant to this chapter and regulations promulgated there-
45 under, concerning refusal to renew, revocation, suspension, or any other
46 enforcement action related to the ability of an insurance producer or
47 insurance consultant to engage in any activity within the scope of
48 authority granted under this subsection and to all state laws, regu-
49 lations, provisions, and actions preserved under 15 U.S.C. § 6753(e)(5).

50 (c) A nonresident insurance producer that is a member of the national
51 association and that pays the licensing fee set by this state for any
52 line of authority and type of insurance producer license specified in
53 the home state license of the insurance producer, or a nonresident
54 insurance consultant that is a member of the national association and
55 that pays the licensing fee set by this state for any line of authority
56 specified in the home state license of the insurance consultant, shall

1 be subject to all applicable laws of this state, except that such an
2 insurance producer or insurance consultant shall be exempt from any law,
3 regulation, provision, or other action that is inconsistent with the
4 provisions of 15 U.S.C. § 6751 et. seq. related to market entry for
5 nonresident insurance producers or nonresident insurance consultants,
6 and then only to the extent of the inconsistency.

7 § 23. Section 6505 of the insurance law is REPEALED.

8 § 24. Subsection (d) of section 7803 of the insurance law, as added by
9 chapter 499 of the laws of 2009, is amended to read as follows:

10 (d) The superintendent may require an applicant for such license to
11 submit a set of fingerprints. Such fingerprints shall be submitted to
12 the division of criminal justice services for a state criminal history
13 record check[, ~~as defined in subdivision one of section three thousand~~
14 ~~thirty-five of the education law~~], and may be submitted to the federal
15 bureau of investigation for a national criminal history record check.
16 All such criminal history records [~~sent~~ made available] to the super-
17 intendent pursuant to this paragraph shall be confidential pursuant to
18 the applicable federal and state laws, rules and regulations, and shall
19 not be published or in any way disclosed to persons other than the
20 superintendent, unless otherwise authorized by law. The superintendent
21 shall [~~provide~~ inform] such applicant [~~with~~ that he or she may obtain]
22 a copy of his or her criminal history record maintained by the division of
23 criminal justice services, if any, [~~together with a copy of article~~
24 ~~twenty-three-A of the correction law~~], and [~~inform such applicant of his~~
25 ~~or her right to seek correction of any incorrect~~] may challenge the
26 completeness or accuracy of the information contained in such record
27 pursuant to regulations and procedures established by the division of
28 criminal justice services. All determinations to grant or deny clear-
29 ance for licensure pursuant to this section shall be in accordance with
30 subdivision sixteen of section two hundred ninety-six of the executive
31 law and article twenty-three-A of the correction law. When the super-
32 intendent denies an application, written notice of such determination
33 shall be given to the prospective applicant who shall be afforded notice
34 and the right to be heard and offer proof in opposition to such determi-
35 nation.

36 § 25. Subsection (f) of section 7804 of the insurance law, as added by
37 chapter 499 of the laws of 2009, is amended to read as follows:

38 (f) The superintendent may require an applicant for such registration
39 to submit a set of fingerprints. Such fingerprints shall be submitted to
40 the division of criminal justice services for a state criminal history
41 record check[, ~~as defined in subdivision one of section three thousand~~
42 ~~thirty-five of the education law~~], and may be submitted to the federal
43 bureau of investigation for a national criminal history record check.
44 All such criminal history records [~~sent~~ made available] to the super-
45 intendent pursuant to this paragraph shall be confidential pursuant to
46 the applicable federal and state laws, rules and regulations, and shall
47 not be published or in any way disclosed to persons other than the
48 superintendent, unless otherwise authorized by law. The superintendent
49 shall [~~provide~~ inform] such applicant [~~with~~ that he or she may obtain]
50 a copy of his or her criminal history record maintained by the division of
51 criminal justice services, if any, [~~together with a copy of article~~
52 ~~twenty-three-A of the correction law~~], and [~~inform such applicant of his~~
53 ~~or her right to seek correction of any incorrect~~] may challenge the
54 completeness or accuracy of the information contained in such record
55 pursuant to regulations and procedures established by the division of
56 criminal justice services. All determinations to grant or deny clear-

1 ance for registration pursuant to this section shall be in accordance
2 with subdivision sixteen of section two hundred ninety-six of the execu-
3 tive law and article twenty-three-A of the correction law. When the
4 superintendent denies an application, written notice of such determi-
5 nation shall be given to the prospective applicant who shall be afforded
6 notice and the right to be heard and offer proof in opposition to such
7 determination.

8 § 26. Paragraph 1 of subsection (d) of section 2118 of the insurance
9 law, as amended by section 13 of part I of chapter 61 of the laws of
10 2011, is amended to read as follows:

11 (1) Where this state is the insured's home state, a person, firm,
12 association or corporation licensed pursuant to the provisions of
13 section two thousand one hundred five of this article shall pay to the
14 superintendent a sum equal to three and six-tenths percent of the gross
15 premiums charged the insureds by the insurers for insurance procured by
16 such licensee pursuant to such license, less the amount of such premiums
17 returned to such insureds. Where the insurance covers property or risks
18 located or resident both in and outside of the United States and the
19 insured's home state is this state, the sum payable shall be computed on
20 that portion of the gross premiums allocated to the risks located or
21 resident in the United States pursuant to subsection (b) of section nine
22 thousand one hundred two of this chapter less the amount of gross premi-
23 ums allocated to the risks located or resident in the United States and
24 returned to the insured.

25 § 27. Section 9102 of the insurance law, as amended by section 14 of
26 part I of chapter 61 of the laws of 2011, is amended to read as follows:

27 § 9102. Allocation of premiums. [~~It~~] (a) Except as provided in
28 subsection (b) of this section, in determining the amount of direct
29 premiums taxable in this state, all such premiums written, procured, or
30 received in this state shall be deemed written on property or risks
31 located or resident in this state, except such premiums properly allo-
32 cated and reported as taxable premiums of any other state or states.

33 (b)(1) In determining the amount of gross premiums taxable in this
34 state pursuant to paragraph one of subsection (d) of section two thou-
35 sand one hundred eighteen of this chapter, where a placement of excess
36 line insurance covers property or risks located or resident both in the
37 United States and outside the United States and the insured's home state
38 is this state, the sum paid to the superintendent shall be computed on
39 that portion of the policy premium that is attributable to property or
40 risks located or resident in the United States, as determined by refer-
41 ence to an allocation schedule prescribed by the superintendent in a
42 regulation.

43 (2) If the allocation schedule does not identify a classification
44 appropriate to the property or risk being insured, an alternative method
45 of equitable allocation shall be used for such coverage. In that circum-
46 stance, documented evidence of the underwriting bases and other criteria
47 used by the insurer shall be given significant weight by the superinten-
48 dent.

49 (3) The licensee shall report the method of allocation utilized in a
50 form and in a manner prescribed by the superintendent in a regulation.
51 Where the licensee bases the allocation on an alternative method of
52 equitable allocation, the licensee shall provide additional information
53 in support of the allocation as the superintendent may require.

54 (4) If the superintendent reasonably determines that the information
55 provided is insufficient to substantiate the method of allocation or
56 that the method used is incorrect, the superintendent shall determine

1 the sum to be paid in accordance with the method prescribed by the
2 superintendent in the regulation. The superintendent's determination of
3 the sum to be paid shall finally and irrevocably fix the tax unless,
4 within thirty days of notification of the superintendent's determi-
5 nation, the licensee requests a hearing to dispute the determination.

6 § 28. Section 1552 of the tax law, as amended by section 18 of part I
7 of chapter 61 of the laws of 2011, is amended to read as follows:

8 § 1552. Allocation. [~~Where~~] (a) Except as provided in subdivision (b)
9 of this section, where the taxable insurance contract covers risks
10 located or resident both within and without this state and the taxpay-
11 er's home state is New York, one hundred percent of premiums shall be
12 allocable to this state.

13 (b) Where the insurance covers property or risks located or resident
14 both in and outside of the United States and the taxpayer's home state
15 is New York, the sum payable shall be computed on that portion of the
16 gross premiums allocated to the risks located or resident in the United
17 States less the amount of gross premiums allocated to the risks located
18 or resident in the United States and returned to the insured. The
19 amount of premiums allocable to risks resident or located within the
20 United States shall be determined in a manner consistent with the rules
21 and regulations promulgated by the superintendent of financial services
22 pursuant to subsection (b) of section nine thousand one hundred two of
23 the insurance law.

24 § 29. This act shall take effect immediately, provided, however, that:

25 (1) the provisions of sections eighteen, twenty, twenty-four and twen-
26 ty-five of this act shall take effect on the one hundred eightieth day
27 after it shall have become a law;

28 (2) the license of each person, firm, association or corporation that
29 is licensed as a mortgage guaranty insurance agent as of the effective
30 date of this act shall expire one year after the enactment of this act
31 and each such person, firm, association or corporation that wishes to
32 remain licensed shall submit a renewal application in accordance with
33 section 2103 of the insurance law;

34 (3) the provisions of sections twenty-six, twenty-seven and twenty-
35 eight of this act shall apply to insurance contracts that have an effec-
36 tive date on or after July 21, 2011; and

37 (4) effective immediately, the superintendent of financial services
38 may repeal, amend, or promulgate any rules and regulations necessary for
39 the implementation of the provisions of this act on its effective date.

40 § 2. Severability clause. If any clause, sentence, subparagraph, para-
41 graph, subsection, section, or part of this act shall be adjudged by any
42 court of competent jurisdiction to be invalid, such judgment shall not
43 affect, impair, or invalidate the remainder thereof, but shall be
44 confined in its operation to the clause, sentence, subparagraph, para-
45 graph, subsection, section, or part thereof directly involved in the
46 controversy in which such judgment shall have been rendered. It is here-
47 by declared to be the intent of the legislature that this act would have
48 been enacted even if such invalid provisions had not been included ther-
49 ein.

50 § 3. This act shall take effect immediately, provided, however, that
51 the applicable effective date of Parts A through B of this act shall be
52 as specifically set forth in the last section of such Parts.