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:

Section 1. This act enacts into law major components of legislation relating to foreign insurers deemed to be domestic insurers, assessments, distribution of assets, insurers deemed to be in a hazardous financial condition, the national association of registered agents and brokers, and technical amendments. Each component is wholly contained within a Part identified as Parts A through B. The effective date for each particular provision contained within such Part is set forth in the last section of such Part. Any provision in any section contained within a Part, including the effective date of the Part, which makes a reference to a section "of this act", when used in connection with that particular component, shall be deemed to mean and refer to the corresponding section of the Part in which it is found. Section three of this act sets forth the general effective date of this act.

PART A

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

(d) For the purposes of this article only, every foreign life insurer which is authorized to do business in this state [~~which is controlled by 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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which, during its three preceding fiscal years taken together, or during any lesser period of time if it has been licensed to transact its business in New York only for such lesser period of time, has written an average of more gross premiums in the state of New York than it has written in its state of domicile during the same period, and such gross premiums written constitute twenty percent or more of its total gross premiums written everywhere in the United States for such three year or lesser period, as reported in its three most recent annual statements, shall be deemed a domestic insurer, provided written notice of the applicability of this subsection is given to such company by the superintendent prior to this article being applicable.

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

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

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

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

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

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

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

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

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

(a) A domestic insurer shall not acquire control of any [~~**other domestic insurer**~~] **institution**, whether by purchase of its securities or otherwise, unless:

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

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

§ 5. This act shall take effect immediately.

PART B

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

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

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

(2) may receive documents, materials or information, including otherwise confidential and privileged documents, materials or information, from the National Association of Insurance Commissioners, its affiliates or subsidiaries**, the national association of registered agents and brokers,** and from regulatory and law enforcement officials of other foreign or domestic jurisdictions, including members of any supervisory college described in section three hundred two of this chapter, 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

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

§ 2. Paragraph 2 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:

(2) [~~employees~~] **an employee** of [~~insurers~~] **an insurer**, fraternal benefit [~~societies~~] **society** or health maintenance [~~organizations~~] **organization** or [~~organizations~~] **an organization** employed by [~~insurers~~] **an insurer**, fraternal benefit [~~societies~~] **society,** or health maintenance [~~organizations~~] **organization** who [~~are~~] **is** engaging in the inspection, rating or classification of risks, or in the supervision of the training of licensed insurance producers and who [~~are~~] **is** not individually engaged in the sale, solicitation or negotiation of insurance;

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

(C) any officer, director or regular salaried employee of [~~an article fifteen~~] **a** holding company **as defined in article fifteen of this chapter,** or a controlled person within such holding company system providing administrative services within that holding company, **any officer, director or regular salaried employee of a domestic insurer subject to article sixteen of this chapter or a subsidiary of the domestic insurer providing administrative services within that article sixteen system, or any officer, director, or regular salaried employee of a parent corporation subject to article seventeen of this chapter or a subsidiary of the parent corporation providing administrative services within that article seventeen system,** or any manager thereof, individual or corporate, when the claim to be adjusted is submitted for payment under a health benefit plan that is issued or administered by a health insurer or health maintenance organization within that same [~~holding company~~] system;

(D) any officer, director or regular salaried employee of an authorized insurer that is licensed to write the kind of insurance to be

adjusted, or any manager thereof, individual or corporate, when the claim to be adjusted is pursuant to a policy that is issued or administered by another insurer within the same holding company system**, as defined in article fifteen of this chapter, or within the same system under article sixteen or seventeen of this chapter,** as the authorized insurer adjusting the claim, unless acting as an auto body repair estimator as defined in subsection (j) of this section;

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

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

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

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

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

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

(2) "principal place of residence" means the state in which an insurance producer resides for the greatest number of days during a calendar year.

(m) In this article, "negotiate" or "negotiation" 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 [~~licensed insurers~~] **an insurer**, **a** fraternal benefit [~~societies~~] **society,** or **a** health maintenance [~~organizations~~] **organization** for purchasers.

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

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

kind of insurance from a particular [~~licensed~~] insurer, fraternal benefit society or health maintenance organization.

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

(z) In this article, "national association" means the national association of registered agents and brokers, and any successor, as established pursuant to 15 U.S.C. § 6751 et. seq.

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

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

(7) personal lines: property/casualty insurance coverage sold to individuals and families for primarily noncommercial purposes; and

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

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

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

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

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

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

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

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

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

(B) For individuals seeking to qualify to obtain a license under subsection (b) of this section, [~~not more than six types of examinations, each adapted to test the qualifications of an individual with respect to the kinds of insurance business specified in such classification~~] examinations adapted to test the qualifications for the lines of authority subject to such subsection. Every [~~such~~] individual shall be required to pass the type or types of examination prescribed by the superintendent for the line or lines of authority for which the license is sought. No individual shall be deemed qualified to take the examination unless [~~he~~] the individual shall have successfully completed a course or courses, approved as to method and content by the superintendent, covering the principal branches of the insurance business and requiring not less than ninety hours of classroom work[~~,~~] in, or the equivalent in correspondence work or similar instruction offered by, institutions of learning meeting the standards prescribed by paragraph one of subsection (a) of section two thousand one hundred four of this article; provided, however, with respect to a license issued pursuant to subsection (b) of this section for a personal line of authority, there shall be required not less than forty hours of such classroom work.

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

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

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

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

(10) in the discretion of the superintendent, as to all or any part of the written examination or the prerequisite minimum ninety hour pre-licensing 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 Chartered Property [~~and Liability~~] Casualty Underwriters, or any other designation that the superintendent determines is acceptable pursuant to a regulation; or

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

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

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

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

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

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

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

(B) [~~He~~] The individual shall have been regularly employed by an insurance company or an insurance agent or an insurance broker, for a period or periods aggregating not less than one year during the three years next preceding the date of application, in the case of a license under subparagraph (B) of paragraph one of subsection (b) of this section, in responsible insurance duties relating to the underwriting or adjusting of losses in any one or more of the following branches of insurance: fire, marine, liability and workers' compensation, and fidelity and surety; in the case of a license under subparagraph (A) of paragraph one of subsection (b) of this section in responsible insurance duties relating to the use of life insurance, accident and health insurance and annuity contracts in the design and administration of plans for estate conservation and distribution, employee benefits and business continuation; and [~~he~~] the individual shall submit with his or her application a statement subscribed and affirmed as true under the penalties of perjury by such employer or employers stating facts [~~which~~] that show compliance with this requirement.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) violated any insurance laws, [~~or violated~~] any regulation, subpoena or order of the superintendent or of another state's insurance commissioner, [~~or has violated~~] **any standard of the national association, or** any law in the course of his [~~or~~], her**, or its** dealings in such capacity;

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

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

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

(B) demonstrated incompetence;

(C) demonstrated untrustworthiness; or

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

(5) improperly withheld, misappropriated or converted any monies or properties received in the course of business in this state or elsewhere;

(6) intentionally misrepresented the terms of an actual or proposed insurance contract, life settlement contract or application for insurance;

(7) has been convicted of a felony;

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

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

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

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

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

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

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

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

sures required by paragraph two of subsection (s) of section two thousand one hundred eight of this article;

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

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

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

(c) If an insurance producer's license or other licensee's license **or course provider's authorization** pursuant to the provisions of this article is revoked or suspended by the superintendent, [~~he~~] **then the superintendent** shall forthwith give notice to the licensee.

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

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

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

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

(2) A non-resident insurance producer's license or sub-license may be summarily revoked in the event that the licensee's license as an agent, broker, adjuster or in any other capacity under the insurance law of the licensee's home state of domicile or **the standards of the national association, or** such license of the firm or association of which the licensee is a member, employee or sub-licensee, or such license of the corporation of which the licensee is an officer, director, employee or sub-licensee**,** has been suspended or revoked**,** or renewal thereof denied**,** in the licensee's home state of domicile **or by the national association**

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

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

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

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

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

(i) A licensee **or course provider** subject to this article shall report to the superintendent any administrative action taken against the licensee **or course provider** in another jurisdiction or by another governmental agency in this state within thirty days of the final disposition of the matter. This report shall include a copy of the order, consent to order or other relevant legal documents.

(j) Within thirty days of the initial pretrial hearing date, a licensee **or course provider** subject to this article shall report to the superintendent any criminal prosecution of the licensee **or course provider** 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.

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

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

(4) for purposes of a title insurance agent license, an attorney licensed to practice law in this state, provided that such attorney is in good standing with the New York state office of court administration[~~.~~]; or

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

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

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

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

(2) [~~The superintendent may require any individual named in the application for such license to submit a set of fingerprints, unless such applicant is licensed as an insurance producer with a life line of authority. Such fingerprints shall be submitted to the division of criminal justice services for a state criminal history record check, as defined in subdivision one of section three thousand thirty-five of the education law, and may be submitted to the federal bureau of investigation for a national criminal history record check. All such criminal history records sent to the superintendent pursuant to this paragraph shall be confidential pursuant to the applicable federal and state laws, rules and regulations, and shall not be published or in any way disclosed to persons other than the superintendent, unless otherwise authorized by law. The superintendent shall provide such applicant with a copy of his or her criminal history record, if any, together with a copy of article twenty-three-A of the correction law, and inform such applicant of his or her right to seek correction of any incorrect information contained in such record pursuant to regulations and procedures established by the division of criminal justice services. All determinations to grant or deny clearance for licensure pursuant to this section shall be in accordance with subdivision sixteen of section two hundred ninety-six of the executive law and article twenty-three-A of the correction law.~~] When the superintendent denies an application, written notice of such determination shall be given to the prospective applicant who shall be afforded notice and the right to be heard and offer proof in opposition to such determination.

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

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

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

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

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

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

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

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

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

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

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

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

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

the insurance producer does not specify separate licenses for an insurance agent and insurance broker, then:

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

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

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

(b) Membership in the national association shall:

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

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

(2) be the equivalent of a:

(A) nonresident insurance producer license for purpose of authorizing the insurance producer to engage in the activities described in subparagraph (A) of paragraph one of this subsection in this state if the insurance producer pays the licensing fee set by this state; and

(B) nonresident insurance consultant license for purpose of authorizing the insurance consultant to engage in the activities described in subparagraph (B) of paragraph one of this subsection in this state if the insurance producer pays the licensing fee set by this state; and

(3) be the equivalent of a nonresident insurance producer license for the purpose of subjecting an insurance producer to this chapter and regulations promulgated thereunder and be the equivalent of a nonresident insurance consultant license for the purpose of subjecting an insurance consultant to this chapter and regulations promulgated thereunder, concerning refusal to renew, revocation, suspension, or any other enforcement action related to the ability of an insurance producer or insurance consultant to engage in any activity within the scope of authority granted under this subsection and to all state laws, regulations, provisions, and actions preserved under 15 U.S.C. § 6753(e)(5).

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

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

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

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

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

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

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

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

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

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

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

§ 9102. Allocation of premiums. [~~In~~] **(a) Except as provided in subsection (b) of this section, in** determining the amount of direct premiums taxable in this state, all such premiums written, procured, or received in this state shall be deemed written on property or risks located or resident in this state**,** except such premiums properly allocated and reported as taxable premiums of any other state or states.

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

(2) If the allocation schedule does not identify a classification appropriate to the property or risk being insured, an alternative method of equitable allocation shall be used for such coverage. In that circumstance, documented evidence of the underwriting bases and other criteria used by the insurer shall be given significant weight by the superintendent.

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

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

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

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

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

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

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

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

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

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

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

§ 2. Severability clause. If any clause, sentence, subparagraph, paragraph, subsection, section, or part of this act shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, subparagraph, paragraph, subsection, section, or part thereof directly involved in the controversy in which such judgment shall have been rendered. It is hereby declared to be the intent of the legislature that this act would have been enacted even if such invalid provisions had not been included therein.

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