§ 1102. Insurer's license required; issuance. (a) No person, firm, association, corporation or joint-stock company shall do an insurance business in this state unless authorized by a license in force pursuant to the provisions of this chapter, or exempted by the provisions of this chapter from such requirement. Any person, firm, association, corporation or joint-stock company which transacts any insurance business in this state while not authorized to do so by a license issued and in force pursuant to this chapter, or exempted by this chapter from the requirement of having such license, shall, in addition to any other penalty provided by law, forfeit to the people of this state the sum of one thousand dollars for the first violation and two thousand five hundred dollars for each subsequent violation.

(b) No corporation organized under any law of this state shall do an insurance business outside this state unless so authorized pursuant to the provisions of this chapter or exempted by the provisions of this chapter from such requirement.

(c) Every insurer organized prior to the first day of October, eighteen hundred ninety-two, as an insurer under any general or special law of this state which was doing an insurance business in this state immediately prior to the first day of January, nineteen hundred forty in compliance with the insurance law then in force and not as an organization exempted therefrom, shall be deemed licensed to do an insurance business in this state, subject to this chapter.

(d) Except as otherwise provided in subsection (h) hereof, the superintendent may issue a license to any insurer to do in this state the kinds of insurance business for which such insurer is qualified under the provisions of this chapter and under its charter. Every such license shall contain the name of the licensee, its home office address, the state or country under whose laws it was organized, the kinds of insurance business, as defined in this chapter, which it is authorized to do in this state, and the term of such license. The superintendent may refuse to issue or renew any such license if in his judgment such refusal will best promote the interests of the people of this state.

(e) (1) Before licensing any such corporation organized under section one thousand two hundred one of this chapter, to do any insurance business, the superintendent shall:

(A) If such corporation be a stock corporation, cause an examination

to be made into its affairs in accordance with the provisions of this chapter; and if it appears from the report upon such examination that the amount of capital and surplus required by law has been paid in and is possessed by the corporation in cash or in investments permitted by this chapter as minimum capital or minimum surplus to policyholder investments under section one thousand four hundred two of this chapter, the superintendent shall file such report in his office and notify the corporation thereof;

(B) If such corporation be a mutual corporation, require proof (by statements of at least three incorporators subscribed and affirmed by such incorporators as true under the penalties of perjury, and by such investigation or examination of the affairs of such corporation as he may deem it expedient to make pursuant to the provisions of this chapter) that:

(i) the corporation has fully complied with the applicable provisions of this chapter,

(ii) it has the required initial surplus in cash or investments as prescribed in this chapter,

(iii) it has the required number and amount of bona fide applications for insurance as prescribed in this chapter,

(iv) the membership list is genuine, and

(v) every member has paid in cash the required premium on the insurance applied for and will take the policies as agreed within sixty days after a license has been issued to such corporation.

If the superintendent finds such proof of the foregoing facts to be sufficient, he shall file it in his office and notify the corporation thereof;

(C) Upon payment of the appropriate fees by such corporation, cause a copy of its declaration and charter, certified by him, to be filed and recorded in the office of the clerk of the county in which such corporation has its principal office.

(2) The superintendent may refuse a license to any such corporation if he finds, after notice and hearing, that any proposed incorporator or director of a stock corporation, or any director of a mutual corporation, has been convicted of any crime involving fraud, dishonesty, or like moral turpitude, or is an untrustworthy person. As a part of such determination, the superintendent is authorized to

fingerprint applicants for licensure. 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.

(3) The corporation, on receiving notice from the superintendent that it has complied with this subsection, shall thereupon deposit with the superintendent such monies or securities as may be required by law.

(4) Upon compliance with this section and any other lawful prerequisites for the issuance of an insurer's license, the superintendent may, pursuant to this section, issue a license to such corporation to do the kind or kinds of business specified in its charter; provided that this subsection shall not apply to co-operative fire insurance companies, fraternal benefit societies, or corporations organized under article forty-three of this chapter.

(f) Except as may be otherwise provided in this chapter, every license to do an insurance business shall be issued to a single licensee, who shall be either an individual or corporation.

(g) (1) No license to do an insurance business, or to act as an insurance agent, agency or broker, shall be granted to any person, firm, association, corporation, or joint-stock company proposing to do business under a name identical with, or so similar to as to be likely to deceive or mislead the public, the name of any insurer then licensed or authorized to do any kind of insurance business within this state, or of any proposed domestic insurance corporation whose name has been approved pursuant to section one thousand two hundred one of this chapter within six months preceding the application for such license, or of any domestic corporation, organized but not yet licensed, which has not forfeited its charter because of non-use; provided, the superintendent may, in his discretion, upon satisfactory proof of an appropriate resolution of any insurance corporation's board of directors, grant a license to do any different kind of insurance business to another person, firm, association, joint-stock company, insurance agent, agency or broker, or insurance corporation, having a similar, but not identical, name. Notwithstanding any other provision of this article, the superintendent may refuse to grant a license to do an

insurance business, or to act as an insurance agent, agency or broker, to any person, firm, association, corporation or joint-stock company proposing to do business under a name which is likely to deceive or mislead the public in this state.

(2) The provisions of this subsection shall not apply to a license renewal for a foreign or alien insurer, or to any corporation formed as part of a plan, approved by the superintendent and by the court, for rehabilitation of a domestic insurance corporation pursuant to article seventy-four of this chapter. A domestic corporation, formed by reincorporation, reorganization or consolidation of other corporations, or upon the sale of the property or franchises of another corporation, or a corporation acquiring or becoming possessed of all of the estate, property, rights, privileges and franchises of any other corporation or corporations by merger, may have a name identical with, or similar to, that of any corporation to whose franchises it has succeeded, if such other corporation was then licensed to do the business of insurance in this state.

(h) No license to transact any kind of insurance business in this state shall be issued or renewed to any foreign or alien insurer or issued or continued in effect to any domestic insurer which is controlled by another state of the United States or by a foreign government or by any political subdivision of either, or which is an agency of any such state, government or subdivision, unless: (1) such insurer was so controlled or constituted, and was authorized to do business in this state, on or prior to January first, nineteen hundred fifty-six; or (2) such insurer is not authorized to transact the kinds of insurance specified in paragraph one, two or three of subsection (a) of section one thousand one hundred thirteen of this article and the superintendent determines that:

(A) such insurer does not receive a subsidy or other competitive advantage, as a result of such control or status, that would enable it to compete unfairly with similarly situated authorized insurers which are not so controlled or constituted;

(B) such insurer is not entitled to claim sovereign immunity as a result of such control or status, or has waived the sovereign immunity;

(C) the use of such insurer would not be detrimental to the interests of the people of this state; and

(D) such insurer otherwise satisfies all applicable requirements for the issuance or renewal of such license.