§ 2104. Insurance brokers; licensing. (a) (1) The superintendent may issue an insurance broker's license to any individual, firm, association or corporation, hereinafter designated as "licensee," who or which is deemed by him trustworthy and competent to act as a broker in such manner as to safeguard the interests of the insured, and who or which is otherwise qualified as herein required, and who or which has complied with the prerequisites herein prescribed.

(2) The purpose of this section is to protect the public by requiring and maintaining professional standards of conduct on the part of all insurance brokers acting as such within this state.

(b) (1) Such license shall confer upon the licensee authority to act in this state as insurance broker, and upon every natural person named as sub-licensee in such license authority to act in this state as insurance broker in the name of and on behalf of such licensee, with respect to the following lines of authority:

(A) life insurance, variable life and variable annuity products, accident and health insurance and sickness or any other line of authority deemed to be similar by the superintendent, including for this purpose, health maintenance organization contracts and legal services insurance; or

(B) any and every line of authority, except life insurance and variable life and variable annuity products.

(2) A license issued to a corporation may name as sub-licensees only the officers and directors of such corporation, and a license issued to a firm or association may name as sub-licensees only the individual members of such firm or association. Each sub-licensee named in such license must be qualified to obtain a license as an insurance broker, and for each such sub-licensee a fee must be paid at the times and at the rates hereinafter specified.

(3) The license shall contain the licensee's name, address, personal identification number, the date of issuance, the licensee's lines of authority, the expiration date and any other information the superintendent deems necessary.

(c) (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

shall comply with the requirements of subparagraph (A), (B) or (C) following:

(A) He 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 course or courses either were given by a degree conferring college or university which has, when such course is taken by such individual, a curriculum or curricula registered with the state education department, whether such course be 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 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 approved for such purpose by the superintendent.

(B) He 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 shall submit with his application a statement subscribed and affirmed as true under the penalties of perjury by such employer or employers stating facts which show compliance with this requirement.

(C) He 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 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 shall submit with his application a statement subscribed and affirmed as true under the penalties of perjury by such employer or employers stating facts which show compliance with this requirement.

(2) The requirements of subparagraphs (A), (B) and (C) of paragraph one hereof shall not apply to any non-resident insurance broker.

(d) (1) Before any such license shall be issued by the superintendent and before each renewal, there shall be filed in his office a written application therefor by the proposed licensee and by each proposed sub-licensee. Such application shall be in the form or forms and supplements prescribed by the superintendent and contain such information as he or she shall require and for each business entity, the sub-licensee or sub-licensees named in the application shall be designated responsible for the business entity's compliance with the insurance laws, rules and regulations of this state. In connection with any such application the superintendent shall have power to examine under oath any person who has or appears to have relevant information, and to make an examination of the books, records and affairs of any such applicant.

(2) The superintendent may require from every applicant and from every proposed sub-licensee, before issuing any such license or renewal license, a statement subscribed and affirmed by the applicant and proposed sub-licensee as true under the penalties of perjury as to the ownership of any interest in an applicant firm, association or

corporation and as to facts indicating whether any applicant has been by reason of an existing license, if any, or will be by reason of the license applied for, receiving any benefit or advantage in violation of section two thousand three hundred twenty-four of this chapter, and also as to such facts as he may deem pertinent to the requirements of this subsection.

(3) The superintendent may refuse to issue a license or renewal license, as the case may be, to any applicant if he finds that such applicant has been or will be, as aforesaid, receiving any benefit or advantage in violation of section two thousand three hundred twenty-four of this chapter, or if he finds that more than ten percent of the aggregate net commissions, received during the term of the existing license, if any, or to be received during the term of the license applied for, by the applicant, resulted or will result from insurance on the property and risks set forth in subparagraphs (A), (B) and (C) of paragraph one of subsection (i) of section two thousand one hundred three of this article.

(4) Nothing herein shall be deemed to disqualify any applicant by reason of acts done or facts existing at a time when the same did not, under the law then in force, constitute or contribute to constituting such a disqualification.

(e) (1) (A) The superintendent shall, in order to determine the competency of each applicant for an insurance broker's license, other than a renewal license, and of each proposed sub-licensee, to act as insurance broker, require every such person to submit to, and pass to the satisfaction of the superintendent, a personal written examination on the branches of the insurance business relevant to such license. Such examination shall be held at such times and places as the superintendent shall from time to time determine.

(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 Property and Liability

Underwriters, 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.

(2) Every individual applying to take any written examination shall, at the time of applying therefor, pay to the superintendent, or, at the discretion of the superintendent, directly to any organization that is under contract to provide examination services, an examination fee of an amount which is the actual documented administrative cost of conducting said qualifying examination as certified by the superintendent from time to time. An examination fee represents an administrative expense and is not refundable. The superintendent may, whenever in his judgment it appears advisable in order to determine the competency of any applicant for a renewal license, or of any proposed sub-licensee to be named therein, require such person to pass to the satisfaction of the superintendent, a similar written examination.

(3) The superintendent may issue a license to any person seeking to be named as licensee or sub-licensee who:

(A) has since July first, nineteen hundred twenty-eight, passed the examination given by the superintendent for that insurance broker's license and was licensed as such;

(B) within three years from the date of the receipt of his application was a similarly licensed insurance broker;

(C) within ten years from the date of the receipt of his application was, in the case of a license under subparagraph (B) of paragraph one of subsection (b) of this section, a similarly licensed insurance broker and during the period of three years next preceding the receipt of his application was licensed as a property/casualty insurance agent and, in the case of a license under subparagraph (A) of paragraph one of subsection (b) of this section, was a similarly licensed insurance broker and during the period of three years next preceding the receipt of his application was licensed as a life and accident and health insurance agent;

(D) has regularly and continuously acted, in the case of a license under subparagraph (B) of paragraph one of subsection (b) of this

section, as a licensed resident property/casualty and accident and health insurance agent and, in the case of a license under subparagraph (A) of paragraph one of subsection (b) of this section, acted as a licensed life and accident and health insurance agent for a period of at least five years immediately preceding the date of receipt of his application;

(E) is a non-resident insurance broker for similar lines;

(F) served as a member of the armed forces of the United States at any time, and shall (i) have been discharged under conditions other than dishonorable, or (ii) has a qualifying condition, as defined in section one of the veterans' services law, and has received a discharge other than bad conduct or dishonorable from such service, or (iii) is a discharged LGBT veteran, as defined in section one of the veterans' services law, and has received a discharge other than bad conduct or dishonorable from such service, and who within three years prior to his or her entry into the armed forces held a license as insurance broker for similar lines, provided his or her application for such license is filed before one year from the date of final discharge; or

(G) was previously licensed for the same line or lines of authority in another state, provided, however, that the applicant's home state grants non-resident licenses to residents of this state on the same basis. Such individual shall also not be required to complete any prelicensing education. This exemption is only available if the person is currently licensed in that state or if the application is received within ninety days of the date of cancellation of the applicant's previous license and if the prior state issues a certification that, at the time of cancellation, the applicant was in good standing in that state or the state's producer database records, maintained by the National Association of Insurance Commissioners, its affiliates or subsidiaries, indicate that the producer is or was licensed in good standing for the line of authority requested. An individual or entity licensed in another state who moves to this state shall make an application within ninety days of establishing legal residence to become a resident licensee. No prelicensing education or examination shall be required of that person to obtain any line of authority previously held in the prior state except where the superintendent determines otherwise by regulation.

(f) (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 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 or its application or the superintendent should deny his or its application before the license applied for is issued, 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.

(2) No license fee shall be required of any person who served as a member of the armed forces of the United States at any time, and who (A) shall have been discharged, under conditions other than dishonorable, or (B) has a qualifying condition, as defined in section one of the veterans' services law, and has received a discharge other than bad conduct or dishonorable from such service, or (C) is a discharged LGBT veteran, as defined in section one of the veterans' services law, and has received a discharge other than bad conduct or dishonorable from such service, in a current licensing period, for the duration of such period.

(g) (1) Every insurance broker's license issued pursuant to this section to a business entity shall be for a term expiring on the thirtieth day of June of odd-numbered years. On and after January first, two thousand seven, every license issued pursuant to this section to an individual, and every license in effect prior to January first, two thousand seven that was issued pursuant to this section to an individual, who was born in an odd numbered year, shall expire on the individual's birthday in each odd numbered year. On and after January first, two thousand seven, every license issued pursuant to this section to an individual, and every license in effect prior to January first, two thousand seven that was issued pursuant to this section to an individual, who was born in an even numbered year, shall expire on the individual's birthday in each even numbered year. Every such license may be renewed for the ensuing period of twenty-four months upon the filing of an application in conformity with this section. In the case of a license issued to a new applicant, the superintendent may issue a license for a term of more than two years, provided however, such term shall not exceed thirty months. The superintendent may issue such rules

and regulations as the superintendent deems necessary to implement the terms of this subsection including regulations providing that, prior to July first, two thousand twenty-three, the registration fees and continuing education requirements for the renewal of any license issued to a business entity pursuant to this subsection for a period that is more than twenty-four months may be increased in proportion to the length of the period of licensure.

(2) An application for a renewal license shall be filed with the superintendent not less than sixty days prior to the date the license expires or the applicant shall be required to pay, in addition to the fee required in subsection (f) of this section, a further fee for late filing of ten dollars.

(3) If an application for a renewal license shall have been filed with the superintendent before the expiration of such license, the license sought to be renewed shall continue in full force and effect either until the issuance by the superintendent of the renewal license applied for or until five days after the superintendent shall have refused to issue such renewal license and given notice of such refusal to the applicant and to each proposed sub-licensee.

(4) Before refusing to renew any such license, except on the ground of failure to pass a written examination required pursuant to subsection (e) hereof, the superintendent shall notify the applicant of his intention so to do and shall give such applicant a hearing.

(5) (A) The superintendent may in issuing a renewal license dispense with the requirement of a verified application by any individual licensee or sub-licensee who, by reason of being engaged in any military service for the United States, is unable to make personal application for such renewal license, upon the filing of an application on behalf of such individual, in such form as the superintendent shall prescribe, by some person or persons who in his judgment have knowledge of the facts and who make affidavit showing such military service and the inability of such insurance broker to make personal application.

(B) An individual licensee or sub-licensee who is unable to comply with license renewal procedures due to other extenuating circumstances, such as a long-term medical disability, may request a waiver of such procedures, in such form as the superintendent shall prescribe. The licensee or sub-licensee may also request a waiver of any examination

requirement or any other fine or sanction imposed for failure to comply with renewal procedures.

(h) Any corporation, association or firm licensed as an insurance broker under this section may at any time make an application to the superintendent for the issuance of a supplemental license authorizing additional officers or directors of such corporation, or additional members of such firm or association, as the case may be, to act as sub-licensees, and, if the requirements of this section are fully complied with as to each of such proposed sub-licensees, the superintendent may issue to such licensee a supplemental license naming such additional person or persons as sub-licensees.

(i) If an application for a license under this section be rejected, or if such a license be suspended or revoked by the superintendent, he shall forthwith give notice thereof to the applicant, or to the licensee.

(j) The superintendent may issue a replacement for a currently in force license which has been lost or destroyed. Before such replacement license shall be issued, there shall be on file in the office of the superintendent a written application for such replacement license, affirming under penalty of perjury that the original license has been lost or destroyed, together with a fee of fifteen dollars.