§ 2112. Certificate of appointment of an insurance producer to act as an agent and notice of termination of an insurance producer. (a) Every insurer, fraternal benefit society or health maintenance organization doing business in this state shall file a certificate of appointment in such form as the superintendent may prescribe in order to appoint insurance agents or, in the case of a title insurance corporation, title insurance agents, to represent such insurer, fraternal benefit society or health maintenance organization.

(b) To appoint a producer, the appointing insurer shall file, in a format approved by the superintendent, a notice of appointment within fifteen days from the date the agency contract is executed or the first insurance application is submitted.

(c) Certificates of appointment shall be valid until (1) terminated by the appointing insurer or title insurance agent after a termination in accordance with the provisions of the agency contract; (2) the license is suspended or revoked by the superintendent; or (3) the license expires and is not renewed.

(d) Every insurer, fraternal benefit society or health maintenance organization or insurance producer or the authorized representative of the insurer, fraternal benefit society, health maintenance organization or insurance producer doing business in this state shall, upon termination of the certificate of appointment as set forth in subsection (a) of this section of any insurance agent, or title insurance agent licensed in this state, or upon termination for cause for activities as set forth in subsection (a) of section two thousand one hundred ten of this article, of the certificate of appointment, of employment, of a contract or other insurance business relationship with any insurance producer, file with the superintendent within thirty days a statement, in such form as the superintendent may prescribe, of the facts relative to such termination for cause. The insurer, fraternal benefit society, health maintenance organization, insurance producer or the authorized representative of the insurer, fraternal benefit society, health maintenance organization or insurance producer shall provide, within fifteen days after notification has been sent to the superintendent, a copy of the statement filed with the superintendent to the insurance producer at his, or her or its last known address by certified mail, return receipt requested, postage prepaid or by overnight delivery using

a nationally recognized carrier. Every statement made pursuant to this subsection shall be deemed a privileged communication.

(e) The insurer, fraternal benefit society, health maintenance organization, insurance producer or the authorized representative of the insurer, fraternal benefit society, health maintenance organization or insurance producer shall promptly notify the superintendent in a format acceptable to the superintendent if, upon further review or investigation, the insurer, fraternal benefit society, health maintenance organization or insurance producer or the authorized representative of the insurer, fraternal benefit society, health maintenance organization or insurance producer discovers additional information that would have been reportable to the superintendent had the insurer then known of its existence. Every statement made pursuant to this subsection shall be deemed a privileged communication.

(f)(1) Within fifteen days after making the notification required by subsection (e) of this section the insurer, fraternal benefit society, health maintenance organization or insurance producer or the authorized representative of the insurer, fraternal benefit society, health maintenance organization or insurance producer shall mail a copy of the notification to the insurance producer at his, her or its last known address by certified mail, return receipt requested, postage prepaid or by overnight delivery using a nationally recognized carrier.

(2) Within thirty days after the insurance producer has received the original or additional notification, the insurance producer may file written comments concerning the substance of the notification with the superintendent. The insurance producer shall, by the same means, simultaneously send a copy of the comments to the reporting insurer, fraternal benefit society, health maintenance organization or insurance producer or the authorized representative of the insurer, fraternal benefit society, health maintenance organization or insurance producer and the comments shall become a part of the superintendent's file and accompany every copy of a report distributed or disclosed for any reason about the insurance producer as permitted by section one hundred ten of this chapter.

(g)(1) In the absence of fraud, bad faith or gross negligence, an insurer, fraternal benefit society or health maintenance organization, or the authorized representative of the insurer, fraternal benefit

society or health maintenance organization, an insurance producer, the superintendent, or an organization of which the superintendent is a member and that compiles the information and makes it available to other insurance superintendents or commissioners or regulatory or law enforcement agencies shall not be subject to civil liability, and a civil cause of action of any nature shall not arise against these entities or their respective agents or employees as a result of any statement or information required by or provided pursuant to this section or any information relating to any statement that may be requested in writing by the superintendent, from an insurer, fraternal benefit society or health maintenance organization or the authorized representative of the insurer, or insurance producer, or a statement by a terminating insurer, fraternal benefit society or health maintenance organization or the authorized representative of the insurer, fraternal benefit society or health maintenance organization, or insurance producer to an insurer, fraternal benefit society or health maintenance organization or the authorized representative of the insurer, fraternal benefit society or health maintenance organization, or insurance producer, limited solely and exclusively to whether a termination for cause was reported to the superintendent, provided that the propriety of any termination for cause is certified in writing by an officer or authorized representative of the insurer, fraternal benefit society or health maintenance organization or the authorized representative of the insurer, fraternal benefit society or health maintenance organization or insurance producer terminating the relationship.

(2) In any action brought against a person that may have immunity under paragraph one of this subsection for making any statement required by this section or providing any information relating to any statement that may be requested by the superintendent, the party bringing the action shall plead specifically in any allegation that paragraph one of this subsection does not apply because the person making the statement or providing the information did so fraudulently, in bad faith or through gross negligence.

(3) Paragraphs one and two of this subsection shall not abrogate or modify any existing statutory or common law privileges or immunities.

(h) (1) Any documents, materials or other information in the control or possession of the superintendent that is furnished by an insurer,

fraternal benefit society or health maintenance organization, the authorized representative of the insurer, fraternal benefit society or health maintenance organization, or insurance producer, or an employee or agent thereof acting on behalf of the insurer, fraternal benefit society or health maintenance organization, authorized representative of the insurer, fraternal benefit society or health maintenance organization or insurance producer relating to the termination of an insurance producer pursuant to this section or obtained by the superintendent in an investigation pursuant to this section shall be confidential by law and privileged, shall not be subject to freedom of information requests, shall not be subject to subpoena, and shall not be subject to discovery or admissible in evidence in any private civil action. However, the superintendent is authorized to use the documents, materials or other information in furtherance of any regulatory or legal action brought as a part of the superintendent's duties. Further, this paragraph shall not apply to any documents, materials or other information in the control or possession of any person or entity other than the superintendent or the department, regardless of whether or not such documents, materials or other information are identical or similar to documents, materials or other information in the superintendent's control or possession to which the confidentiality restrictions of this paragraph apply.

(2) Neither the superintendent nor any person who received documents, materials or other information while acting under the authority of the superintendent shall be permitted or required to testify in any private civil action concerning any confidential documents, materials, or information subject to the provisions of paragraph one of this subsection.

(3) Nothing in this article shall prohibit the superintendent from releasing final, adjudicated actions including for cause terminations that are open to public inspection pursuant to article six of the public officers law to a data base or other clearinghouse service maintained by the National Association of Insurance Commissioners, its affiliates or subsidiaries.

(i) An insurer, fraternal benefit society or health maintenance organization, authorized representative of an insurer, fraternal benefit society or health maintenance organization or an insurance producer that

fails to report as required under the provisions of this section or that is found to have reported fraudulently, in bad faith or through gross negligence by a court of competent jurisdiction may, after notice and hearing, have its license or certificate of authority suspended or revoked and may be fined in accordance with the provisions of this chapter, provided, however, that an insurer may be fined up to five thousand dollars. In the case of a domestic insurer, the provisions of article seventy-four of this chapter shall all also apply.