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JULIANNE M. BOWLER
COMMISSIONER OF INSURANCE

Bulletin 2003-08

To: Interested Parties
Fr: Julianne M. Bowler, Commissioner
Re: Informational Bulletin on Insurance Producer Licensing
Dt: June 13, 2003

The purpose of this Bulletin is to provide new and updated information relative to the Producer Licensing Act and other related licensing issues pursuant to M.G.L. Chapter 175, §§ 162H to 162X. This bulletin supercedes all contrary information contained in Bulletin 2002-08 *Renewal of Individual Broker Licenses, Continuing Education Requirements for Agent and Brokers, Licensing of Corporations and Licensing of Surplus Lines Brokers.*

The Division of Insurance ("Division") website contains specific information relative to the licensing requirements of Insurance Producers and their appointments by insurers. (www.state.ma.us/doi).

Introduction

On May 3, 2002, Chapter 106 of the Acts of 2002, an *Act Relative to the Licensing of Insurance Producers* ("Chapter 106") was signed into law, with an effective date of January 1, 2003. Chapter 106 was enacted in response to the provisions set forth in Title III(C), Section 321 of the Gramm-Leach-Bliley Act ("GLBA"), a federal law enacted in 1999. The GLBA requires a majority of states, no later than November 12, 2002 (three years after the date of the enactment of GLBA), to enact: (1) uniform laws and regulations governing the licensure of individuals and entities to sell, solicit and/or negotiate the purchase of insurance within the State; or (2) reciprocity laws and regulations governing the licensure of nonresident individuals and entities authorized to sell, solicit or negotiate the purchase of insurance within those States

Chapter 106 is based on a model law drafted by the National Association of Insurance Commissioners. This model was produced in an effort to preserve the authority of the states to license insurance producers, while complying with the requirements of GLBA. Chapter 106 amends all existing statutes that relate to the licensing of insurance producers. It simplifies and organizes the statutory language to improve efficiency, permit the use of new technology, and reduce costs associated with issuing and renewing insurance licenses.

Pursuant to c. 106, the following licensing rules and standards are in effect.

Process for Transitioning Current Licensees to Producers

Agents: Individuals and business entities that hold only agent appointments in Massachusetts, and no MA broker licenses will need to obtain a Producer License before July 1, 2003 in order to retain their current appointments with insurance companies. The Division of Insurance mailed Transitional Producer Applications to these licensees in early April. After processing the applications, the Division will mail paper Transitional Producer Licenses to the licensees. The Transitional Producer License will allow the licensee to retain current appointments and obtain new ones. If an agent does not submit a Transitional Producer License application in a timely way, his/her appointments will be canceled effective June 30, 2003. Also, no new appointments can be processed until the application and fees are received and processed. Transitional Producer Licenses will be issued for 1-year, 2-year and 3-year terms.

Brokers: Individuals and business entities that hold an active broker license will NOT be issued a Transitional Producer License. Instead, broker licenses will remain in effect and will be regarded as "Producer" Licenses until their next regularly scheduled renewal date. Brokers will receive their actual paper Producer License after the processing of their broker license renewal, between May 2003 and May 2006. The Division will issue a Renewal Notice to renewing brokers thirty to forty-five days before the renewal date to remind them of their renewal. An active broker is eligible to obtain new appointments with companies.

Producer Licensing Requirements

Resident Individual

(1) At least 18 years of age;
(2) Not committed any act that is a ground for denial, suspension or revocation set forth in section MGL c. 175, §162R;
(3) Paid the appropriate fees;
(4) Successfully passed the examinations for the lines of authority for which the person has applied (not required for Travel & Baggage, Limited Line);
(5) Submitted: a Resident Individual Uniform Producer Application; "DBA" Certificate if applicable; documentation relative to background questions if applicable; original test score report for any new line of authority, and documentation relative to exempt status if applicable.

Non-Resident Individual

(1) Currently licensed as a resident and in good standing in his or her home state;
(2) Not committed any act that is a ground for denial, suspension or revocation set forth in section MGL c. 175, §162R;
(3) Paid the appropriate fees;
(4) Submitted: a Non Resident Individual Uniform Producer Application; "DBA" Certificate if applicable; documentation relative to background questions if applicable; and documentation relative to exempt status if applicable. The Division shall utilize the NAIC Producer Database (PDB) to verify licensure status of non-resident applicants. If licensing status is not verifiable through the PDB, a Letter of Certification (within 90 days of issuance) from the resident state shall be required.

Resident Business Entity

(1) Paid the appropriate fees;
(2) Requested and received name approval, by submitting to the Division, Articles of Organization with requested Business Entity name which includes word "insurance";
(3) Submitted: a Resident Business Entity Producer Application; Certified Copy of Articles of Organization; documentation relative to background questions if applicable; a "List of Members" who are covered by the license and have the authority to solicit business on behalf of and in the name of the business entity;
(4) Designated a licensed producer responsible for the business entity's compliance with the insurance laws, rules and regulations of the commonwealth.

Non-Resident Business Entity

(1) Currently licensed and in good standing in home state;
(2) Paid the appropriate fees;
(3) Requested and received name approval, by submitting to the Division, an unexecuted foreign corporation certificate with the home state Articles of Organization and a home state Certificate of Existence. Entity name must include the word," insurance";
(4) Submitted: a Non Resident Business Entity Producer Application; documentation relative to background questions if applicable; a "List of Members" who are covered by the license and have authority to solicit business on behalf of and in the name of the business entity; a "DBA" Certificate, if applicable;
(5) Designated a licensed producer responsible for the business entity's compliance with the insurance laws, rules and regulations of the commonwealth;
(6) Enclosed a written statement signed under the pains and penalties of perjury that affirms that the business entity has made the required filings with the Secretary of the Commonwealth of Massachusetts.

Pre-Licensing Requirement

Effective March 17, 2003, pursuant to M.G.L. Chapter 175, §162L, pre-licensing coursework is no longer required of individuals seeking licensure as Insurance Producers. However, the Division recommends that applicants complete a course of study prior to taking an insurance examination.

License Applications

The Division is now accepting the following application forms from new and renewing applicants:

- The Massachusetts Uniform Application for Resident Individual Insurance Producer
- The Massachusetts Uniform Application for Resident Business Entity Insurance Producer
- The Uniform Application for Non-Resident Individual Insurance Producer
- The Uniform Application for Non-Resident Business Entity Insurance Producer

The Division is no longer accepting the Agent License Application Form, the Broker License Application Form or the Corporate Agent/Broker License Application Form.

Lines of Authority

Massachusetts is now issuing licenses with the following lines of authority:

- Life
- Variable Life/Variable Annuity products
- Accident & Health or Sickness
- Property
- Casualty
- Personal Lines
- Credit, limited line
- Other: Travel and Baggage, limited line

The Division will transition the lines of current licensees in the following manner. If licensed in:

- Life; then during the Transitional Producer Licensing process, licensees will receive the Life line of authority. In addition, they are eligible to be licensed for Variable Life/Variable Annuities line of authority. However, they must provide an NASD Individual Central Registration Depository (CRD) number on the license application in order to be approved for the Variable Life/Variable Annuities line of authority.

- Accident and Health; then during the Transitional Producer Licensing process, licensees will receive the Accident and Health or Sickness line of authority.

- Property and Casualty; then during the Transitional Producer Licensing process, licensees will receive a Property line of authority, a Casualty line of authority and a Personal Lines line of authority.

- Travel and Baggage: then during the Transitional Producer Licensing process, licensees will receive the Travel & Baggage, limited line of authority.

Trade Name Approval/DBA

Individual and Business Entity applicants must notify the Division of any name under which he/she is doing business (DBA). Applicants who include a DBA or trade name on the Producer Application must attach a copy of the Business Certificate from the city or town in which the DBA is operating. To meet approval, the DBA cannot be in use by another entity and it must include the word "insurance" in its name.

Examination

Resident applicants must pass a licensing examination for the particular line of authority (not required for the Travel & Baggage, Limited Line). Applicants must include the ORIGINAL test service score report with the application. Examinations are currently administered by the independent testing service, Promissor, Inc., although in several months, Experior Assessments shall assume the testing contract for Massachusetts. Applicants have one (1) year from the date they pass the Massachusetts licensing exam to apply for the line of authority. After one (1) year the state exam must be repeated.

Non-residents are not required to take a licensing examination in Massachusetts. Non-residents must be licensed in their home state for the particular lines they are applying for in Massachusetts. The Division shall utilize the NAIC Producer Database (PDB) to verify licensure status of non-resident applicants. If licensing status is not verifiable through PDB, a Letter of Certification (within 90 days of issuance) from resident state will be required.

Term of License

The Individual Producer License is for a term of three (3) years. However, since a Producer License now renews on the licensee's date of birth, the actual term of the very first Producer License may be for a period of less than 3-years. No licenses are issued for a period beyond three years. At the Producer's next renewal, he/she will receive a Producer License with a full three-year term.

The Business Entity Producer license is for a term of one (1) year from the date of issuance.

License Renewal, Cancellation for Non Renewal and Reinstatement of License
Licensees will receive a Notice of Renewal 30 to 45 days prior to the license renewal date. Individual Producer Licenses will renew on the licensee's date of birth. Business Entity Producer Licenses will renew one year from the original date of licensure.

A Producer License will cancel automatically if not renewed by the License Renewal Date. This will cause all appointments associated with the Producer License to also cancel. Insurance companies may view all its terminated producers on the OPRA website (On-Line Producer Appointment).

A producer who allows his/her license to lapse may, within 12 months from the due date of the renewal fee, reinstate the same license without the necessity of passing a written examination, but a penalty in the amount of double the unpaid renewal fee is required. **However, the producer's appointments will not be reinstated automatically. Insurance companies may re-appoint a reinstated producer by using OPRA and paying the appropriate fees.**

Producer License Fees

Individual Producer License/Renewal: (Life, Accident/Health/Sickness and Variable Lines): Effective July 1, 2003, the fee is $225.00. The fee is $200.00 until June 30, 2003; however, producers with a renewal date in July 2003 shall pay $200.00.

Individual Producer License/Renewal (Property, Casualty, Personal lines, or Credit lines of authority): Effective July 1, 2003, the fee is $300.00. This fee includes the statutorily required lead paint surcharge*. The fee is $275.00 until June 30, 2003; however producers with a renewal date in July 2003 shall pay $275.00.

Business Entity Producer License: Effective July 1, 2002, the fee will be $75.00 per trustee, officer, member and partner covered by the license and authorized to solicit on behalf of the business entity (so-called "members"). The fee is $66.66 per member until June 30, 2003; however, business entities with a renewal date in July 2003 shall pay $66.66 per member.

Reinstatement Producer License Fee: Double the standard license fee (see above)

Transitional Producer License (Life, Accident/Health/Sickness and Variable Lines):
1-Year Transitional Producer License: $66.66
2-Year Transitional Producer License: $133.32
3-Year Transitional Producer License: $200.00

Transitional Producer License (Property, Casualty, Personal lines, or Credit lines of authority)*:
1-Year Transitional Producer License and Lead Paint Surcharge: $66.66 + $25.00 = $91.66
2-Year Transitional Producer License and Lead Paint Surcharge: $133.32 +$50.00 = $183.32
3-Year Transitional Producer License and Lead Paint Surcharge: $200.00 + $75.00 = $275.00

***Lead Paint Surcharge**
Producers who have a property or casualty line of authority upon renewal or who newly apply for one of these lines, are required to pay a lead paint surcharge in addition to the license fee. Effective July 1, 2002, the amended law requires the Division to apply a surcharge of $25.00 for each year of the license.

The funds generated from this surcharge are used by the Department of Public Health for the production and dissemination of educational materials pertaining to lead paint poisoning prevention and treatment issues and for the training of lead paint inspectors and homeowners.

Fee Exemptions
Certain applicants are exempt from paying licensing and lead paint surcharge fees. Applicants who are either 1) a Massachusetts resident and a veteran; 2) blind; or 3) the widow/widower of a licensee, are exempt from paying these fees.

Exempt applicants must submit the following documentation to the Division:
- Veteran: Submit a copy of the DD-214 discharge papers, if not previously submitted to the Division.
- Blind: Submit appropriate documentation verifying legal blindness, if not previously submitted.
- Widow/er of Licensee: Submit the name and social security number of deceased spouse.

Electronic Producer Appointments via the Web

The Division is now requiring insurance companies to appoint producers electronically using the new Online Producer Appointment website, known as OPRA. By using OPRA, insurance companies can submit the following actions online to the Division: request producer appointments; terminate existing appointments; add new lines of authority to existing appointments; view a list of existing appointments and view various other lists, including a list of recently terminated appointments. Instructions for registering for OPRA and using OPRA are on the DOI's website at www.state.ma.us/doi.

Paper Appointments and the Uniform Appointment Form

The Division is no longer accepting Agent License Applications from insurance companies for the appointment process. Instead, insurers are required to use the OPRA website for new appointments, terminating appointments and adding new lines of authority to existing appointments. **The DOI will accept the Uniform Appointment Form only from insurance companies who wish to appoint a Producer across companies within the same group.** This form will be accepted after the completion of the Transitional Producer Licensing process in July 2003.

Appointment Fees[1]

Appointments with Property, Casualty, Personal Lines and Limited Lines of Authority:

New Appointments or Adding a Property or Casualty Line to an Appointment:

- Fees:
  - Year 3: July 1, 2002 – June 30, 2003: $75 per individual or business entity member
  - Year 1: July 1, 2003 – June 30 2004: $225 per individual or business entity member
  - Year 2: July 1, 2004 – June 30, 2005: $150 per individual or business entity member
  - Year 3: July 1, 2005 – June 30, 2006: $75 per individual or business entity member

Renewals:

- Term: Appointments with a property or casualty line renew at the end of Year 3. However, the Online Renewal System will not be available to insurers until the fall of 2003. The Division will notify insurers when the online system is available.
- Fees: $225 per individual or business entity member

Appointments with Life, Accident/Health/Sickness and Variable Lines of Authority:

New Appointments:

- Term: Appointments are for a term of one year, expiring on June 30th.
- Fee: $50 per individual or business entity member, annually

Renewals:

- Term: Appointments renew annually on July 1st. However, the Online Renewal System will not be available to insurers until the fall of 2003. The Division will notify insurers when the online system is available.
- Fee: $50 per individual or business entity member, annually

Outstanding Agent Appointment Requests

As of May 20, 2003, insurance companies must begin appointing producers using the OPRA website. The Division cannot process any new appointments on behalf of an individual or business entity, until that individual or business entity becomes a licensed Producer.

The Division will process outstanding Agent Applications (those with a post mark of May 30, 2003 or prior) in the following manner. If the agent does not hold a Producer License, the Division will send the applicant a letter and inform him/her that he/she needs to complete a Uniform Producer Application and return it to P.O. Box 370043, as indicated on the application. After processing the Uniform Producer Application, the Division will manually process the appointment on behalf of the company. If one is currently a licensed "Broker" and is not renewing into a Producer at this time, any agent applications that were submitted May 30th or prior on his/her behalf, will be processed manually.

[1] The fees and term of Appointments may change effective July 1, 2003. The Division will issue a notice of any changes and post the information on its website as soon as more specific information becomes available.