

**CHAPTER 37. AGENT CERTIFICATES OF
QUALIFICATION AND BROKER LICENSES**

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Authority

The provisions of this Chapter 37 issued under sections 604(d)(2) and 631 of The Insurance Company Law of 1921 (40 P. S. §§ 234(d)(2) and 271), unless otherwise noted.

Source

The provisions of this Chapter 37 adopted December 23, 1994, effective December 24, 1994, 24 Pa.B. 6525, unless otherwise noted.

Cross References

This chapter cited in 31 Pa. Code § 39.1 (relating to definitions); and 31 Pa. Code § 39.11 (relating to penalties for failure to comply with continuing education requirements).

DEFINITIONS AND PURPOSE**§ 37.1. Definitions.**

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

Act—The Insurance Department Act of 1921 (40 P. S. §§ 1—297.4).

Active officer—An officer of a corporation who holds either a current certificate as an agent or a license as a broker. If the corporation's insurance authority is limited to only restricted lines, as listed in § 37.39 (relating to lines of authority), an employe who holds a certificate as an agent is considered to be an active officer for purposes of licensing the corporation.

Active partner—A partner of a partnership who holds a current certificate as an agent or a license as a broker. If the partnership's authority is limited to only restricted lines, as listed in § 37.39, an employe who holds a certificate as an agent is considered to be an active partner for purposes of licensing the partnership.

Agent—

(i) *Inclusions.* Means one or more of the following:

(A) A person authorized in writing by an entity to do one of the following:

(I) Solicit risks and collect premiums and to issue or countersign policies in its behalf.

(II) Solicit risks and collect premiums in its behalf.

(B) A person, not a licensed insurance broker, who, whether or not for compensation does one of the following:

(I) Solicits insurance on behalf of an entity.

(II) Transmits for a person other than himself an application for a policy of insurance to or from the entity.

(III) Offers or assumes to act in the negotiation of this insurance.

(IV) Aids in transacting the insurance business of an entity by negotiating for or placing risks or delivering policies or collecting premiums for the entity.

(ii) *Exclusions.* The term does not include:

(A) Nonresident salaried employes of foreign reciprocal exchanges which do not maintain offices in this Commonwealth and do not pay commissions to these employes.

(B) Officers or salaried employes of an insurance entity authorized to transact business in this Commonwealth who do not solicit, negotiate or place risks.

(C) Employes of agents or agencies who exclusively provide clerical support.

(D) Title insurance agents. See § 37.13 (relating to title agents).

Appointment—A written agreement between an agent and an entity under which the agent may solicit, negotiate, make or procure insurance policies, for compensation, which are issued by the appointing entity.

Broker—A person, partnership or corporation, not an officer nor appointed as an agent of an entity, who, for compensation, acts or aids in obtaining insurance for a person other than oneself.

CIC—Certified Insurance Counselor.

CLU—Chartered Life Underwriter.

CPCU—Chartered Property and Casualty Underwriter.

Certificate—A Certificate of Qualification issued by the Department attesting that a person has met the standards to act as an agent set forth under section 603 of the act (40 P. S. § 233) and this chapter.

Clerical support—Includes activities such as: discussing insurance matters in general, so long as no recommendation is made with respect to specific coverages, products or rates; receiving requests for coverage for transmittal to a certified agent; assisting with the completion of applications on the agency premises; passing on to the certified agent insurance inquiries of a particular nature; receiving payments delivered to the agency premises for coverage and issuing receipts on behalf of the agent or agency; arranging or making meeting appointments for a certified agent; collecting expiration date information from clients or potential clients.

Commissioner—The Insurance Commissioner of the Commonwealth.

Department—The Insurance Department of the Commonwealth.

Entity—A person doing the business of insurance, including one or more of the following:

(i) The issuance or delivery of contracts or certificates of insurance to persons residing in this Commonwealth.

(ii) The solicitation of applications for contracts or other negotiations preliminary to the execution of the contracts.

(iii) The collection of premiums, membership fees, assessments or other consideration for the contracts.

(iv) The transaction of matters subsequent to execution of the contracts arising out of them, whether or not the person has obtained a Certificate of Authority, license or certificate.

License—A document issued by the Department authorizing the named recipient to do business as an insurance broker in this Commonwealth.

Nonresident—A person whose business address and legal residence is outside this Commonwealth.

Part-time agent or broker—An agent or broker who does not maintain an insurance office open during regular daily business hours.

Person—An individual, corporation, association, partnership, reciprocal exchange, inter-insurer, Lloyds insurer, fraternal benefit society, beneficial association and any other legal entities engaged in the business of insurance,

including agents, brokers and adjusters. The term also includes health care plans as defined in 40 Pa.C.S. Chapters 61, 63, 65 and 67 and the Health Maintenance Organization Act (40 P. S. §§ 1551—1568). For purposes of this chapter, health care plans, fraternal benefit societies and beneficial societies will be deemed to be engaged in the business of insurance.

Qualifying active officer—One active officer (an individual) of a corporation, who holds a current certificate or license for the line of authority for which the corporation is applying, and is designated for appointments relative to that line of authority.

Qualifying active partner—One active partner (an individual) of a partnership, who holds a current certificate or license for the line of authority for which the partnership is applying, and is designated for all appointments relative to that line of authority.

Resident—A person whose business address or legal residence is located in this Commonwealth.

Title agent—An individual, firm, association, corporation, cooperative or joint stock company located in this Commonwealth which is authorized in writing by a title insurance company to solicit risks and collect premiums, and to issue or countersign policies on its behalf or to solicit risks and collect premiums on its behalf. If the title agent is other than an individual, the certification and licensing requirements under § 37.37 (relating to corporation or partnership certificate/license) apply.

Transition date—The date of the Department's initial issuance of certificates.

Cross References

This section cited in 31 Pa. Code § 37.12 (relating to employe and officer activities requiring a certificate or license); and 31 Pa. Code § 37.17 (relating to collection of premiums requires certificate or license).

§ 37.2. Purpose.

The purpose of this chapter is to implement sections 601—639 of the act (40 P. S. §§ 231—279), by setting forth requirements and standards for the operation of a single licensing system for insurance agents and brokers in this Commonwealth.

CONVERSION

§ 37.5. Conversion applications.

Agents licensed prior to the transition date who desire to convert their existing licenses to a certificate shall submit a completed conversion application on a form provided by the Department. Payment of a \$6.50 conversion fee, under section 604(d)(1) of the act (40 P. S. § 234(d)(1)), shall accompany submission of the conversion application. Agents who fail to submit a completed conversion appli-

cation within 3 months from the date of their receipt of the application, including payment of the conversion fee, will have their licenses terminated by the Department. An agent subject to termination will be prohibited from reapplying for a certificate until after the transition date.

Cross References

This section cited in 31 Pa. Code § 37.6 (relating to single license applications).

§ 37.6. Single license applications.

(a) Agents who have complied with § 37.5 (relating to conversion applications) and have existing licenses shall receive, complete and submit a single license application on a form approved by the Department to convert their existing licenses to a certificate. Mailing the single license application to the last known address shall satisfy the Department's obligation to provide a single license application.

(b) A single license application that does not include the proper fee or is not returned to the Department within 30 days of the date of mailing by the Department may be rejected. Agents whose single license applications are rejected will have their existing licenses terminated and may reapply for a certificate after the transition date.

GENERAL PROVISIONS

§ 37.11. General activities requiring a certificate or license.

(a) A person doing business as an agent in this Commonwealth shall obtain a certificate according to this chapter.

(b) A person doing business as a broker in this Commonwealth shall obtain a license according to this chapter.

§ 37.12. Employe and officer activities requiring a certificate or license.

(a) Officers or salaried employes of insurance entities shall obtain certificates and appropriate appointments if they solicit, negotiate or place risks, or perform other activities of an agent included in the definition of "agent" in § 37.1 (relating to definitions).

(b) Individuals employed and used by agents or brokers to solicit, negotiate and place risks, or perform other activities of an agent included in the definition of "agent" in § 37.1, shall obtain certificates and appropriate appointments.

(c) Individuals employed and used by agents or brokers to perform an act of a broker, as set forth in the definition of "broker" in § 37.1, shall obtain licenses.

§ 37.13. Title agents.

Title agents are defined under section 724 of The Insurance Company Law of 1921 (40 P. S. § 910-24) and are subject to the certification requirements of sec-

tion 603 of the act (40 P. S. § 233) under section 726 of The Insurance Company Law of 1921 (40 P. S. § 910-26).

Cross References

This section cited in 31 Pa. Code § 37.1 (relating to definitions).

§ 37.14. Reciprocity.

The retaliatory law contained in section 212 of the act (40 P. S. § 50) applies to burdens or prohibitions enforced against residents of this Commonwealth, which are in excess of those burdens and prohibitions imposed by the Commonwealth itself.

§ 37.15. Part-time agents and brokers.

Part-time agents and brokers, upon application for a certificate or license, shall inform the Department of the arrangements made for handling accounts to ensure adequate service to consumers.

§ 37.16. Service in armed forces or employment with Department.

(a) A broker who has a license at the time the broker enters the United States Armed Forces or becomes an employe of the Department shall be eligible to apply for a renewal of the license within 1 year from the date of discharge or date of employment termination.

(b) An agent who has a certificate at the time the agent enters the United States Armed Forces or becomes an employe of the Department shall be eligible to apply for renewal of the certificate within 1 year from date of discharge or date of employment termination.

(c) Individuals desiring to conserve the business of agents and brokers entering the United States Armed Forces shall be subject to the conditions in § 37.19 (relating to special approval by the Commissioner).

(d) If an agent or a broker who is serving in the United States Armed Forces authorizes another agent or broker to do business in the name of the agent or broker, the certificate or license of the absentee shall be kept in force. If business is not transacted in the agent's or broker's name, the absent agent or broker shall have the option of keeping the certificate or license in force.

(e) If it becomes necessary for an application or a renewal form to be filed on behalf of an insurance agent or broker in the United States Armed Forces who cannot be reached for the purpose of executing the application or renewal form, the Department will consider the application or renewal form on the proper form executed in the name of the absentee agent or broker by the agent or broker's attorney-in-fact, if the reason the application or renewal form is so executed is set forth in a statement attached to the application or renewal form together with a certified copy of the power of attorney.

§ 37.17. Collection of premiums requires certificate or license.

A person who is responsible for the collection and forwarding of premiums for insurance policies shall be deemed to be performing as an agent and shall be required to obtain a certificate and appointment from the insurance entity on whose behalf collection is being performed, or hold a license as a broker. This section does not apply to employes of agents or agencies who exclusively provide clerical support as described in the definition of agent in § 37.1 (relating to definitions).

§ 37.18. Individuals who only receive commissions.

Individuals not currently under suspension or revocation who previously were licensed or appointed by an entity and who no longer perform the activities of an agent for that entity shall be entitled to receive commissions on renewal of business placed with the entity without maintaining an appointment. Commissions may be received by the individual's estate in accordance with the individual's contract with the entity.

§ 37.19. Special approval by the Commissioner.

(a) The Commissioner may approve individuals to perform certain duties of an agent or broker upon proper written notification to the Department. The written notification shall include an endorsement by each entity affected. The Commissioner may approve only the following individuals:

- (1) The executor or administrator of the estate of a deceased person who, at the time of death, was an agent or broker.
- (2) The surviving next of kin of a deceased agent or broker, if no administrator of the estate has been appointed and no executor has qualified under the probated will.
- (3) The surviving member of a firm or association, at the time of the death of its certified or licensed member. If the firm or association has surviving active officers or active partners who hold the same lines of authority as the deceased, approval will not be granted.
- (4) The legal guardian of a person declared incompetent by a court of competent jurisdiction, if the incompetent person, at the time the person was declared incompetent, was an agent or broker.
- (5) The person holding the power of attorney to act for an agent or broker who is absent due to serving in the Armed Forces of the United States.

(b) Individuals approved by the Commissioner shall be authorized to renew the business of the deceased, legally incompetent, or absent agent or broker, or of the firm or association whose business is being continued thereunder, for policies expiring during the period in which the individual is approved, and to perform other acts as an insurance agent or as an insurance broker as are incidental to the continuance of the insurance business of the deceased, legally incompetent, or

absent agent or broker, or the firm or association, for policies in force at the time of the agent's or broker's death, adjudication of incompetence or absence. An approved individual will not be authorized to solicit, negotiate or procure new insurance.

(c) Approval may be granted for a term not exceeding 1 year from the date of the death or declaration of incompetence of the agent or broker or for the period the agent or broker is absent due to serving in the Armed Forces.

(d) The approved individual may only transact business with the entity that has provided an endorsement and which the deceased, legally incompetent, or absent agent, or firm or association, was appointed to represent at the time of death, adjudication of incompetency or absence.

Cross References

This section cited in 31 Pa. Code § 37.16 (relating to service in armed forces or employment with Department).

EXAMINATIONS

§ 37.21. Examination requirement.

(a) Applicants for certificates or licenses shall be required to successfully complete an examination concerning the powers for which the certificate or license is sought, except as provided for in §§ 37.22—37.24 (relating to waiver of examination for resident agents; waiver of examination for resident brokers; and examination requirements for nonresident applicants).

(b) Examinations will be given separately for certificates and licenses and will be given in the following categories: life, accident and health, property, casualty, credit life accident and health. Examinations will be given for title agent, surplus lines agent, public adjuster, public adjuster solicitor and other categories designated by the Commissioner.

§ 37.22. Waiver of examination for resident agents.

A resident agent who applies for a certificate may be exempt from taking the written examination in one or more of the following circumstances:

- (1) Applicants for a certificate who, within 2 years from the date of termination of their last certificate, apply for a certificate for the same line of authority for which they were previously licensed or certified.
- (2) Applicants for a certificate with life authority who have received the degree of CLU.
- (3) Applicants for a certificate with property or casualty authority who have received the degree of CPCU.
- (4) Applicants for a certificate with an accident and health authority who have received either the degree of CLU or CPCU.

(5) Applicants for a certificate with either a life, accident and health, or property and casualty authority who have received the designation of CIC from the Society of Certified Insurance Counselors.

(6) Applicants for a certificate granting restricted authority to resident company employees for countersignature only as provided for in § 37.39(a)(1)(ii)(C) (relating to lines of authority) and other home office or branch office underwriters of entities who, in representing their principal, may perform one or more of the acts of an agent, as described in section 601 of the act (40 P. S. § 231). These applicants for certificates shall be appointed by their entities only upon a minimum of 5 years experience with the appointing entity. The authority in the appointment and certificate shall be subject to a specific prohibition against the solicitation of insurance by the agents for their personal account. The agents shall qualify by examination when they seek an appointment and certificate permitting personal solicitation.

(7) Applicants for certificates whose appointments will be limited to domestic mutual fire insurance entities writing only coverage other than insurance upon automobiles as authorized by section 202(b)(1)—(3) of the Insurance Company Law of 1921 (40 P. S. § 382(b)(1)—(3)).

(8) Applicants for a certificate with the restricted fraternal authority.

Cross References

This section cited in 31 Pa. Code § 37.21 (relating to examination requirement); and 31 Pa. Code § 37.31 (relating to general application requirements).

§ 37.23. Waiver of examination for resident brokers.

A resident broker who applies for a license may be exempt from taking the written examination in one or more of the following circumstances:

(1) Applicants for a license with the property and casualty authority who have acquired the designation of CPCU, CIC or other professional designation approved by the Commissioner.

(2) Applicants for a license with the life, accident and health authority who have acquired the designation of CLU, CIC or other professional designation approved by the Commissioner and whose applications are accompanied by evidence of their designation.

Cross References

This section cited in 31 Pa. Code § 37.21 (relating to examination requirement); and 31 Pa. Code § 37.31 (relating to general application requirements).

§ 37.24. Examination requirements for nonresident applicants.

(a) A nonresident applicant for either a certificate or license shall submit with the application a letter or a document from the insurance department of the jurisdiction where the applicant holds a license, confirming current certification or licensure for the same line of insurance for which application is being made in

this Commonwealth, qualification by written examination or by a professional designation approved by the Commissioner, or that certification or licensure was prior to the requirement of a written examination. The certificates or licenses shall be subject to reciprocal agreements between the Department and the insurance department of the confirming jurisdiction.

(b) A nonresident applicant for either a certificate or license will be required to pass the examination for the same line of insurance for which application is being made in this Commonwealth if unable to provide the letter or document from the insurance department described in subsection (a).

Cross References

This section cited in 31 Pa. Code § 37.21 (relating to examination requirement); and 31 Pa. Code § 37.31 (relating to general application requirements).

§ 37.25. Qualifications for examination.

(a) A person who has attained the age of 18 years, who can read and write in the English language and who maintains a business or legal address in this Commonwealth, may sit for an agent examination upon payment of the applicable fee and submission of an application form.

(b) No specific amount of education or experience will be required to qualify to take an agent examination.

(c) A person who maintains a business or legal address in this Commonwealth and who is certified and appointed as an agent with both property and casualty lines of authority shall qualify to take the broker's examination for the property and casualty line of authority.

(d) A person who maintains a business or legal address in this Commonwealth and who is certified and appointed as an agent with both life and accident and health lines of authority shall qualify to take the broker's examination for the life, accident and health line of authority.

§ 37.26. Administration of examination.

(a) The Commissioner may delegate to a competent person or corporation, by contract, the authority for giving and scoring the examinations. The Commissioner may not delegate this authority to an entity which does not guarantee that the following standards will be met:

- (1) Examinations shall be offered at regular intervals at least 12 times each year.
- (2) Testing shall be conducted throughout this Commonwealth.
- (3) Test security shall be strictly maintained, and a set of security rules shall be developed by the testing facility, which shall be approved by the Commissioner.
- (4) Bias or favoritism towards an applicant will not be permitted by the testing facility.

- (5) A comprehensive brochure describing fees, the nature of examination questions and giving sample questions shall be prepared by the testing facility and distributed to an applicant at the time of registration for examination or upon request at any time.
- (b) Individuals seeking a certificate or license shall apply for examination directly to the testing facility.

Cross References

This section cited in 31 Pa. Code § 37.71 (relating to examination fees).

§ 37.27. Scope of examination.

- (a) Examinations will be designed to test the adequacy of an applicant's knowledge of general principles of insurance and insurance laws and of particular areas of insurance practice as are pertinent to the powers for which application is intended. To the extent that Pennsylvania insurance laws are at variance with the insurance laws of the majority of the states, Pennsylvania law will control.
- (b) In all examinations, objective questions will be used, made up of one or more parts, and some questions will be based on the following statutory provisions and subjects:
- (1) Article VI of the act (40 P. S. §§ 231—308).
 - (2) Sections 345—351, 353, 354, 414, 501, 610 and 805 of the Insurance Company Law of 1921 (40 P. S. §§ 470—476, 477a, 477b, 518, 631, 730 and 915).
 - (3) Section 1 of the act of June 22, 1931 (P. L. 622, No. 211) (40 P. S. § 483).
 - (4) Section 1 of the act of May 3, 1915 (P. L. 217, No. 122) (72 P. S. § 6201).
 - (5) Title 18 of the *Pennsylvania Consolidated Statutes*, section 7308 (relating to unlawful advertising of insurance business).
 - (6) The act of December 20, 1983 (P. L. 260, No. 72) (63 P. S. §§ 1601—1608).
 - (7) Sections 1 and 2 of the act of July 6, 1917 (P. L. 723, No. 262) (72 P. S. §§ 2265 and 2266).
 - (8) The act of July 22, 1974 (P. L. 589, No. 205) (40 P. S. §§ 1171.1—1171.15).
 - (9) Article XV of the Insurance Company Law of 1921 (40 P. S. § 991.1501—991.1516).
 - (10) The Liability Risk Retention Act of 1986 (15 U.S.C.A. §§ 3901—3906).
- (c) Some questions will be asked to determine an applicant's knowledge of the nature of a contract, the principal-agent relationship, significant information

about partnerships and corporations, promissory notes, fictitious names, assignments and related subjects which an applicant should know in order to conduct business properly.

(d) Examinations will cover the field of insurance within which the applicant is seeking the authority to do business.

(e) Examinations will include not only the field for which the certificate is requested, if the application is restricted, but also the entire classification of insurance.

CERTIFICATES AND LICENSES

§ 37.31. General application requirements.

(a) Applicants for a certificate or a license shall follow the procedures at §§ 37.33 and 37.34 (relating to agent application procedures; and broker application procedures).

(b) The Department may issue, upon receiving notice of intent to appoint by an insurance entity authorized by law to transact business within this Commonwealth, a certificate to a person, partnership or corporation that meets the appropriate requirements of this chapter.

(c) The applicant will be required to take a written examination unless the requirement is waived under §§ 37.22—37.24 (relating to waiver of examination for resident agents; waiver of examination for resident brokers; and examination requirements for nonresident applicants).

(d) Individuals who have passed the examination or its equivalent may apply to the Department for a certificate or license. The application shall have attached thereto a certification from the testing facility that the individual passed the examination for the powers for which application is being made. The certification from the testing facility will not be required if the testing facility reports test scores directly to the Department.

(e) Test scores and results are valid for 1 year from the date of the examination. Applications received with older test results will be rejected.

(f) A certificate or license will not be granted to a partnership or corporation, unless by provisions of its partnership agreement or charter, it is authorized to engage in the business of insurance or real estate, and individual certificates or licenses are also obtained for each qualifying active partner or qualifying active officer in accordance with § 37.37 (relating to corporation or partnership certificate/license).

§ 37.32. Completion of application and renewal forms.

Agents and brokers shall complete application and renewal forms accurately. Applications and renewal forms submitted to the Department will be examined and, if not complete and accurate, will be returned for correction with written notice of the reason for the return of the applications or forms.

§ 37.33. Agent application procedures.

(a) The applicant shall complete the application for an initial certificate and the initial appointing entity shall endorse the applicant as provided in section 603(a)(4) of the act (40 P. S. § 233(a)(4)), certifying its intent to appoint the applicant.

(b) The agent application shall be subscribed and sworn to before a notary public. Applications executed more than 3 months prior to the date of filing with the Department will not be accepted. The entity endorsing the applicant will be held responsible for its endorsement of statements contained in the application.

(c) The making of a false statement in an application may constitute a ground for certificate denial or revocation.

(d) Initial certificates will be valid as of the date issued by the Department until the expiration date stated on the certificate.

(e) Employes of partnerships and corporations who apply for a certificate shall apply individually.

(f) To be certified, a partnership or corporation shall have at least one qualifying active partner or one qualifying active officer as listed in § 37.37 (relating to corporation or partnership certificate/license). The worthiness of a partnership or corporation to be certified is determined by the worthiness of the qualifying active partners or qualifying active officers.

(g) A person who solicits, negotiates or places risks, regardless of employment or official connection with a partnership or corporation, and acts in the name of the partnership or corporation or individually, shall be certified individually.

(h) The procedures in this section apply to new agents or existing agents applying for additional lines of authority. To receive a certificate with additional lines of authority, an existing agent shall surrender the previous certificate when submitting the application form.

(i) Before a certificate is granted, the applicant shall first answer and submit, in writing and under oath, interrogatories on forms and supplements prepared by the Department. The answers shall be endorsed by the entity interested and be to the effect that the applicant is of good business reputation and is worthy to conduct the business of insurance.

(j) When the Commissioner is satisfied that the applicant is worthy of an agent certificate, the applicant has passed the appropriate agent examination or qualified for a waiver, and has received from an entity notice of intent to appoint the applicant, the Commissioner will issue a certificate stating that the agent has complied with the law and has been authorized by the Department to transact business within this Commonwealth, and that the agent has been appointed by the entity in accordance with subsection (i).

Cross References

This section cited in 31 Pa. Code § 37.31 (relating to general application requirements).

§ 37.34. Broker application procedures.

(a) An individual broker, qualifying active partner of a partnership or qualifying active officer of a corporation shall apply using the appropriate application form.

(b) The broker application shall be subscribed and sworn to before a notary public. Applications executed more than 3 months prior to the date of filing with the Department will not be accepted.

(c) The broker will be held responsible for the statements contained in the application. The making of a false statement in an application may constitute a ground for license denial or revocation.

(d) Initial licenses will be valid as of the date issued by the Department until the expiration date stated on the license.

(e) Partnerships or corporations shall apply using the appropriate application form. The form shall be signed in the name of the partnership or corporation by each of its qualifying active partners or qualifying active officers, include a listing of partners or officers, and be accompanied by the appropriate application form for each qualifying active partner or qualifying active officer.

(f) Employes of partnerships and corporations who apply for a license shall apply individually.

(g) Qualifying active partners or qualifying active officers shall complete the appropriate application form.

(h) To be licensed, a partnership or corporation shall have at least one qualifying active partner or one qualifying active officer as described in § 37.37 (relating to corporation or partnership certificate/license). The worthiness of a partnership or corporation to be licensed is determined by the worthiness of the qualifying active partners or qualifying active officers.

(i) Anyone who solicits, negotiates or places risks, regardless of employment or official connection with a partnership or corporation, and acts in the name of the partnership or corporation or individually, shall be licensed individually.

(j) When the Commissioner is satisfied that the applicant is worthy of a broker license and the applicant has passed the appropriate broker examination or qualified for a waiver, the Commissioner will issue a license stating that the broker has complied with the law and has been authorized by the Department to transact business within this Commonwealth.

Cross References

This section cited in 31 Pa. Code § 37.31 (relating to general application requirements).

§ 37.35. Renewal of agent certificate.

(a) Approximately 150 days prior to certificate expiration, a notice of continuing education status will be mailed to the agent. The agent will be required to satisfy the continuing education requirement 60 days prior to certificate expiration to be eligible for renewal of the certificate. If the agent does not satisfy the

continuing education requirement, the agent will be so notified. If the continuing education requirement is met, the agent will be sent a renewal form approximately 60 days prior to certificate expiration. Mailing to the last known address of the agent will satisfy the Department's obligation to provide the appropriate forms and notices.

(b) The Department will renew a certificate in cases where an agent does not have an appointment, if the agent is in compliance with the applicable continuing education requirements.

(c) Renewal of an agent certificate is obtainable only upon submission of a completed renewal form by the certificate holder, except when the holder has designated a single entity to apply for renewal of the certificate, and payment of the proper fee.

(d) Agent certificates shall be renewed biennially based on the agent's month and year of birth. The certificate for an agent born in an even numbered year will expire at the end of the agent's birth month in even numbered years. The certificate for an agent born in an odd numbered year will expire at the end of the agent's birth month in odd numbered years.

(e) Corporation and partnership certificates will expire biennially based on the date of incorporation of the corporation or the date of formation of the partnership. Corporations shall provide a list of officers—active, qualifying active or otherwise—with the renewal form. Partnerships shall provide a list of partners—active, qualifying active or otherwise—with the renewal form.

(f) Failure to complete and submit the renewal form and fee by the expiration date will be deemed voluntary termination by the agent. Renewal forms received by the Department after expiration will be denied.

(g) Failure to document compliance with continuing education requirements will be deemed voluntary termination by the agent.

Cross References

This section cited in 31 Pa. Code § 39.11 (relating to penalties for failure to comply with continuing education requirements).

§ 37.36. Renewal of broker license.

(a) Approximately 150 days prior to license expiration, a notice of continuing education status will be mailed to the broker. The broker will be required to satisfy the continuing education requirement 60 days prior to license expiration to be eligible for renewal of the license. If the broker does not satisfy the continuing education requirement, the broker will be so notified. If the continuing education requirement is met, the broker will be sent a renewal form approximately 60 days prior to license expiration. Mailing to the last known address of the broker will satisfy the Department's obligation to provide the appropriate forms and notices.

(b) Broker licenses shall be renewed biennially based on the broker's month and year of birth. The license for a broker born in an even numbered year will expire at the end of the broker's birth month in even numbered years. The license for a broker born in an odd numbered year will expire at the end of the broker's birth month in odd numbered years.

(c) Corporation and partnership licenses will expire biennially based on the date of incorporation of the corporation or the date of formation of the partnership. Corporations shall provide a list of officers (active, qualifying active or otherwise) with the renewal form. Partnerships shall provide a list of partners (active, qualifying active or otherwise) with the renewal form.

(d) Renewal of a broker's license is obtainable only upon submission of a completed renewal form by the license holder and payment of the proper fee.

(e) Failure to complete and submit the renewal form and fee by the expiration date will be deemed voluntary termination by the broker. Renewal forms received by the Department after expiration will be denied.

(f) Failure to document compliance with continuing education requirements will be deemed voluntary termination by the broker.

Cross References

This section cited in 31 Pa. Code § 39.11 (relating to penalties for failure to comply with continuing education requirements).

§ 37.37. Corporation or partnership certificate/license.

(a) A separate certificate or license shall be required for each corporation or partnership which has a separate Federal tax identification number and engages in the business of insurance in this Commonwealth.

(b) A certificate or license for a partnership or corporation will not be issued unless all partners or officers are included on the application and all lines of authority of the partnership or corporation are also reflected on the certificates or licenses of the qualifying active partners or qualifying active officers thereof.

(c) The term "qualifying active" may not be construed to require the partner or officer to obtain a certificate or license reflecting all lines of authority held by the partnership or corporation, as long as a combination of certificates or licenses of the qualifying partners or officers include all the lines of authority held by the partnership or corporation. Partners or officers may not engage, either individually or on behalf of the partnership or corporation, in an act of an agent or broker requiring a line of authority which they do not individually hold.

(d) A person who solicits, negotiates, places risks or performs other activity of an agent for an entity, regardless of employment or official connection with a partnership or corporation, and whether acting in the name of the partnership or corporation or individually, shall be appointed individually with the entity.

(e) When an entity appoints a partnership or corporation, it shall also appoint the qualifying active partners or the partnership or the qualifying active officers of the corporation.

(f) Qualifying active partners or qualifying active officers of a partnership or corporation shall be individuals.

(g) Partnerships and corporations shall designate a qualifying active partner or qualifying active officer for all appointments for each line of authority. If a qualifying active partner or qualifying active officer certificate or license is terminated, the partnership or corporation shall designate a certified or licensed replacement within 10 days for all appointments for each line of authority affected.

Cross References

This section cited in 31 Pa. Code § 37.1 (relating to definitions); 31 Pa. Code § 37.31 (relating to general application requirements); 31 Pa. Code § 37.33 (relating to agent application procedures); and 31 Pa. Code § 37.34 (relating to broker application procedures).

§ 37.38. Certificate or license determines authority.

An agent or broker shall be authorized to conduct business only for the line of authority stated on the certificate or license. Certificates and licenses are not transferable and may not be delegated.

§ 37.39. Lines of authority.

(a) The underwriting powers of the entity establish the line of authority required of the agent or broker. The authority to sell the following classes and kinds of insurance may be granted by the Department and reflected on the certificate or the license:

(1) *Agent lines of authority:*

(i) *General.*

- (A) Life and annuities.
- (B) Variable annuities.
- (C) Accident and health.
- (D) Credit life, accident and health and credit unemployment.
- (E) Property.
- (F) Casualty.
- (G) Title.
- (H) Public adjuster or public adjuster solicitor as set forth in the act of December 20, 1983 (P. L. 260, No. 72) (63 P. S. §§ 1601—1608).

(ii) *Restricted.*

- (A) Domestic mutual fire as set forth in section 603(b)(3) of the act (40 P. S. § 233(b)(3)).
- (B) Fraternal—restricted.
- (C) Resident company employe for countersignature only.

(2) *Broker lines of authority:*

- (i) Life, accident and health.
- (ii) Property and casualty.
- (iii) Surplus lines as set forth in Article XVI of the Insurance Company Law of 1921 (40 P. S. §§ 991.1601—991.1625).

(b) If an agent qualifies for additional lines of authority, this change shall be reflected on the agent's revised certificate before amending the agent's appointments with companies.

Cross References

This section cited in 31 Pa. Code § 37.1 (relating to definitions); 31 Pa. Code § 37.22 (relating to waiver of examination for resident agents); and 31 Pa. Code § 39.8 (relating to credit hours).

§ 37.40. Disclosure of information.

(a) Under section 207 of the act (40 P. S. § 45), the Department will furnish certified copies of records in its office, such as agent certificates and appointment histories or broker licenses, but only when it is not deemed prejudicial to the public interest.

(b) Section 211 of the act (40 P. S. § 49) and section 612-A of The Administrative Code of 1929 (71 P. S. § 240.12A) provide the Department with the authority to charge and collect certain fees. Accordingly, a certified report of the line of authority for an agent or broker and the agent appointments may be provided upon submission of an appropriate request and fee.

(c) The Department reserves the right to determine whether or not the disclosing of information, in each case, is against public policy.

§ 37.41. Name on certificate or license.

(a) Applicants for certificates or licenses and current holders of certificates or licenses shall be required to provide the Department with their full given legal name. The applicant, agent or broker, may request the use of an abbreviation of the full given legal name to be used on all documents issued by the Department. The Department may grant the request if it determines the abbreviation is not misleading or confusing. Nicknames will not be permitted. If the applicant, agent or broker has but one given name, the full name shall be used.

(b) Agents and brokers shall notify the Department within 10 days of a legal change of name. The notice shall be in the form and manner established by the Department.

§ 37.42. Fictitious names.

Certificates and licenses shall accurately reflect the name of the individual agent or broker and indicate if fictitious names in which the agent or broker transacts the business of insurance are on file with the Department. Fictitious

names used by an agent or broker to do insurance business shall be registered with the Department of State and will be provided by the Department upon request.

§ 37.43. Current agent and broker addresses.

Every agent holding a certificate and every broker holding a license issued by the Department shall notify the Department of a change in residence or business address within 15 business days of the change. Notice shall be given in a form and manner established by the Department. Every agent holding a certificate shall also notify, within 15 business days of the change, entities for which the agent holds appointments of a change in residence or business address. Notice of formal hearing sent to the last known address of the agent or broker shall constitute formal legal notice to the agent or broker.

§ 37.44. Changes, sale and dissolution.

(a) Whenever there is a change in the name of an agency, or a change of the personnel affecting the qualifying active partners or qualifying active officers, the agency shall notify the Department within 15 business days so that the correct information is on file with the Department.

(b) In case of a sale or dissolution of an agency, the Department shall be advised immediately of the pertinent facts relating thereto.

§ 37.45. Contractual relationship of brokers and agents.

(a) When a broker solicits insurance, no person or entity other than the soliciting broker may be represented. If an insurance entity authorizes the broker to solicit for it, the entity shall certify the broker's appointment as an agent, as required in § 37.61 (relating to appointments and termination by entity) and that entity may no longer accept business from that person as a broker.

(b) When a broker is authorized by the client to secure insurance, the broker shall be considered the legal agent of the client.

(c) When an entity gives a policy, either new or renewal, to a broker for delivery to the insured, the broker shall be considered an agent of the entity for delivery of that one policy and, since collection of the premium is implied, payment to the broker shall be payment to the entity.

(d) A certificate shall permit the agent to secure appointments from other insurance entities. An agent shall have authority to represent only the entities for which the agent has been appointed. An agent may not place business with an entity or an agent of an entity for which the agent does not have an appointment unless the agent is also licensed as a broker.

§ 37.46. Standards for denial of certificate/license.

The Department may deny an application for a certificate or license upon finding after a hearing or upon failure of the applicant to appear at the hearing that one or more of the following has occurred:

(1) The applicant has not reached the age of 18 years.

(2) The applicant for a certificate or license is a lending institution, public utility, bank holding company, saving and loan holding company, or a subsidiary or affiliate of the foregoing, or officer or employe thereof, as provided in section 641(b) of the act (40 P. S. § 281(b)).

(3) The applicant for a partnership or corporate certificate or license is a qualifying active partner or qualifying active officer of the partnership or corporation who is not eligible for an individual certificate or license.

(4) The applicant has provided incorrect, misleading or incomplete answers to interrogatories on forms incident to the application for a certificate or license.

(5) The applicant has been denied a certificate or license or has had an existing certificate or license revoked, suspended or not renewed when requested in another state, territory or possession of the United States, or in the District of Columbia, or the Canadian provinces.

(6) The applicant has violated any section of the Commonwealth insurance laws for which violation the Commissioner has the authority to revoke, suspend or refuse to renew a certificate or license in force.

(7) The applicant does not possess the professional competence and general fitness required to engage in the business of insurance. Determination will be made after thorough examination of the pertinent information and documents available to the Department which pertain to the honesty, reliability, efficiency, educational training and business experience and reputation of the applicant. The Department will also consider the applicant's participation in initial or ongoing training programs offered by the entities represented.

(i) A showing that, within 5 years prior to applying for a certificate or license, an applicant has pleaded guilty, entered a plea of nolo contendere or has been found guilty of a felony in a court of competent jurisdiction, or has pleaded guilty, entered a plea of nolo contendere, or been found guilty of criminal conduct which relates to the applicant's suitability to engage in the business of insurance, shall be evidence of lack of fitness for a certificate or license.

(A) Examples of criminal violations which the Department may consider related to the applicant's suitability to engage in the business of insurance are unlawful advertising of insurance business, unlawful coercion in contracting insurance, furnishing free insurance as an inducement for purchases, unlawful collection practices, embezzlement, obtaining money under false pretenses, conspiracy to defraud, bribery or corrupt

influence, perjury or false swearing, unlicensed activity or a criminal offense involving moral turpitude or harm to another.

(B) Examples of violations or incidents which the Department will not consider related to the applicant's suitability to engage in the business of insurance are all summary offenses, records of arrest if there is no conviction of a crime based on the arrest, convictions which have been annulled or expunged or convictions for which the applicant has received a pardon from the Governor.

(ii) An applicant's probation, parole or incarceration in a penal institution may be considered by the Department when determining whether the applicant is worthy of a certificate or license. Applications from those who have been incarcerated in a penal institution for more than 1 year in a sentenced status may be denied by the Department until 1 year following release from the institution has expired, and applicants placed on probation or parole may be denied by the Department until the probation or parole has been terminated.

(8) The applicant's certificate or license was terminated for failure to comply with continuing education requirements under Chapter 39 (relating to continuing education for insurance agents and brokers).

(9) The applicant has unpaid and overdue amounts owing to the Department or its delegates for services provided or documents issued by the Department.

Cross References

This section cited in 31 Pa. Code § 37.47 (relating to revocation, suspension, nonrenewal of certificates and licenses); 31 Pa. Code § 37.48 (relating to reporting requirements); 31 Pa. Code § 37.62 (relating to certification of appointments by entities); and 31 Pa. Code § 39.9 (relating to instructors).

§ 37.47. Revocation, suspension, nonrenewal of certificates and licenses.

(a) The Department may revoke, suspend or refuse to renew a certificate or license upon finding, after a hearing, that an agent or a broker has engaged in conduct which would disqualify him from initial issuance of a certificate or a license. This conduct includes the indicated bases for initial denial of a certificate or license provided in § 37.46 (relating to standards for denial of certificate/license).

(b) Hearings regarding certificates and licenses held under section 639 of the act (40 P. S. § 279) and this chapter will be held in accordance with 1 Pa. Code Part II (relating to general rules of administrative practice and procedure).

§ 37.48. Reporting requirements.

An agent or broker who has been denied a certificate or license or has had an existing certificate or license revoked, suspended or nonrenewed under § 37.46(5) (relating to standards for denial of certificate/license); or who has

pleaded guilty or nolo contendere or has been found guilty of criminal conduct as set forth in § 37.46(7)(i), shall report this fact to the Department in writing within 10 business days after the occurrence of the event. An insurance entity having knowledge of the occurrence of the event concerning its agents or concerning brokers with whom it deals shall similarly make this fact known to the Department in writing within 10 business days after learning of the event.

§ 37.49. Revocation, suspension, nonrenewal of certificates and licenses in nonresident agent or broker's state of domicile.

A nonresident agent or broker whose Pennsylvania certificate or license was issued based on a valid certificate or license from the agent or broker's state or Canadian province of domicile may be subject to suspension, revocation or nonrenewal in this Commonwealth if the agent or broker's certificate or license is suspended, revoked or nonrenewed in the agent or broker's state or province of domicile.

RESPONSIBILITIES OF INSURANCE ENTITIES

§ 37.61. Appointments and termination by entity.

(a) A certificate does not permit a person to act as an agent. To complete the certificate process to act as an agent, a person shall secure a written appointment from each sponsoring entity.

(1) An insurance entity shall make appointments of agents in writing to the agent.

(2) If an entity enters into a contract with the agent, the effective date of the appointment shall be the same as the effective date of the contract.

(3) An insurance entity's appointment form shall contain at least the following:

(i) The effective date of the appointment.

(ii) The lines of authority conferred.

(iii) The name and address of the appointee, and any fictitious name currently used by appointee.

(iv) The appointee's certificate number.

(v) The names and certificate numbers of qualifying active partners, if the appointee is a partnership, or qualifying active officers, if the appointee is a corporation.

(vi) The appointee's Social Security number or tax identification number.

(vii) A list of companies and insurer numbers, if fleet appointment.

(4) Appointment activity by an entity for existing certificate holders shall be reported to the Department on a monthly basis. The report shall be in a format approved by the Department. The report shall be filed within 30 days of the end of the month being reported.

(5) Appointment records, including a demonstration of the reasonable inquiry conducted by the entity as required in § 37.62(b)(1) (relating to certification of appointments by entities), shall be made available for Department inspection upon demand. Both the entity and appointee shall maintain records of the appointment during the appointment period and for 5 years following expiration or termination of the appointment. The records may be maintained on a regional basis if the entity designates a single contact person for each reporting region.

(b) An entity may terminate an agent's appointment.

(1) Terminations shall be in writing and sent to the agent prior to notification of termination to the Department.

(2) If an entity has entered into a contract with the agent, the termination date of the appointment shall be the same as the termination date of the contract.

(3) The termination notice to the agent shall contain at least the following:

(i) The name of the entity for which the agent is being terminated.

(ii) The effective date of termination.

(iii) The lines of authority terminated.

(iv) The name and address of terminated appointee, including fictitious names used by appointee.

(v) The certificate number of the terminated appointee.

(vi) The Social Security number or tax identification number of the terminated appointee.

(vii) The names of qualifying active partners or qualifying active officers, if the terminated appointee is a partnership or corporation.

(4) Termination activity by an entity shall be reported to the Department on a monthly basis. The report shall be in a format approved by the Department. The report shall be filed within 30 days of the end of the month being reported.

(5) Termination initiated by an appointee shall be confirmed by an entity in its termination form and reported to the Department as required by this section.

(6) An entity shall maintain termination records for 5 years after termination is effective.

(7) When a termination of an appointee is for cause, the entity shall document its reasons for termination to the attention of Chief, Bureau of Enforcement, Insurance Department, Harrisburg, Pennsylvania 17120.

(8) If an appointment has been terminated on the records of the Department, it may not be revived. The company shall issue a new appointment with a new effective date in the standard appointment format.

(9) An entity shall file a termination of an appointment when the agent ceases performing the activities of an agent for the entity.

(c) Appointment and termination records required under this section may be maintained in the form of electronic paperless filing systems in accordance with guidelines for record retention developed and distributed by the Department.

Cross References

This section cited in 31 Pa. Code § 37.45 (relating to contractual relationship of brokers and agents); and 31 Pa. Code § 39.6 (relating to sponsors).

§ 37.62. Certification of appointments by entities.

(a) Entities authorized by law to transact business within this Commonwealth shall, upon request by the Department, certify in a reasonable period of time to the Department the names of agents appointed by them to solicit insurance in this Commonwealth, as required by section 605(c) of the act (40 P. S. § 235(c)).

(b) The following inquiries and certifications are required:

(1) Entities shall, prior to appointing or reappointing an agent, make reasonable inquiry to:

(i) Determine whether the agent could be disqualified from obtaining a new or renewal certificate under § 37.46(2), (3), (5) or (7) (relating to standards for denial of certificate/license).

(ii) Verify employment history, references, current residence, and, depending upon information gleaned from the inquiry, determine whether the facts and circumstances mandate additional investigation or verification of an agent's background and responses.

(2) Each entity, when requesting renewals of agent appointments, shall:

(i) Certify to the Department the names of the agents appointed by the entities to solicit insurance in this Commonwealth.

(ii) Certify with regard to agents appointed by the entity in this Commonwealth that the entity has no knowledge of information or conduct, as cited in paragraph (1) falling within the purview of § 37.46(2), (3), (5) or (7).

(iii) Pay renewal fees. See § 37.72 (relating to certificate, license and appointment fees).

Cross References

This section cited in 31 Pa. Code § 37.61 (relating to appointments and termination by entity).

FEES

§ 37.71. Examination fees.

(a) Among the factors considered by the Department in establishing and updating the fee for examinations are:

(1) The cost of developing and maintaining exams.

(2) The cost of administering exams.

- (3) The frequency of exams offered.
 - (4) The number of different types of exams offered.
 - (5) The volume of exams taken.
 - (6) The number of testing facilities.
- (b) If the Commissioner delegates the authority for giving and scoring the examinations under § 37.26 (relating to administration of examination), fees shall be set by acceptance of the contract.
- (1) The contract shall provide for the examinee to make payment of the examination fee directly to the testing facility. The name and address of the facility awarded the testing contract, the examinations and other services offered, if any, and the fees charged therefore will be published in a notice in the *Pennsylvania Bulletin* and shall be contained in the registration materials provided by the testing facility.
 - (2) Registration fees are not refundable except according to the terms of the testing facility.

§ 37.72. Certificate, license and appointment fees.

- (a) The new and renewal fee for a certificate is \$36. Other license fees are set forth in section 612-A of The Administrative Code of 1929 (71 P. S. § 240.12A).
- (1) Payment of the appropriate fee shall be a requirement for obtaining and renewing a certificate or license.
 - (2) Fees are established for a complete 24-month renewal period. Fees will be prorated for an initial certificate or license period if less than 24 months. Credit will not be allowed for termination prior to the expiration date.
- (b) The new and renewal fee for an appointment is \$18.
- (1) Appointment fees will be assessed monthly based on the appointment activity reported by entities to the Department.
 - (2) Fees are established for the reporting of new appointments by entities to the Department. Appointments shall be subject to a renewal fee every 2 years based on the month and year of initial reporting. As of the transition date, entities will be assessed a prorated fee for the license converted to appointments.
- (c) Certificate and appointment fees established under this section will maintain the approximate level of Department revenue from those fees as of the transition date. Fees set forth in this section represent amounts anticipated to generate an approximate aggregate amount of \$10 million to \$12 million in licensing revenue annually. The number of licenses in force at the transition date is a basis for estimating the number of certificates, licenses and appointments to be initially issued under this chapter.
- (d) Other factors considered in establishing the fee for each certificate and appointment are:
- (1) Department licensing revenue at time of the transition.

- (2) The number of anticipated initial certificates to be issued.
- (3) The number of anticipated initial licenses to be issued.
- (4) The number of anticipated initial appointments to be recorded.
- (e) Certificate and appointment fees will be updated as necessary in order to generate an approximate aggregate amount of \$10 to \$12 million annually in licensing revenue. The purpose of updating fees will be to compensate for variances between the anticipated volume of certificates, licenses and appointments to be issued in a given year and the actual number of certificates, licenses and appointments recorded during that year.
- (f) Among the factors to be considered in updating fees for a certificate and appointment are:
 - (1) The actual license revenue generated in the preceding periods compared to the anticipated amounts for those periods.
 - (2) The number of certificates in force.
 - (3) The number of licenses in force.
 - (4) The number of appointments in force.
- (g) The amount of the certificate fee shall be approximately twice the appointment fee.
- (h) Updated certificate and appointment fees will be established by regulation.

Cross References

This section cited in 31 Pa. Code § 37.62 (relating to certification of appointments by entities).

MISCELLANEOUS

§ 37.81. Premium accounts.

- (a) Insurance agents and brokers who have the express written consent of their entities to mingle premium moneys with their own funds may do so if the following exist:
 - (1) Moneys held in a fiduciary capacity are reasonably ascertainable from the books of account and records of the agents or brokers.
 - (2) Amounts due entities are equal to or less than the combined accounts receivable and current bank balances.
- (b) An agent or broker who does not have the express consent of his entities to mingle premium moneys with his personal funds shall hold the premium moneys separate from other funds in accordance with the following:
 - (1) An agent or broker who does not make immediate remittance to his entities may not deposit premiums in office operating accounts but shall keep the moneys in a separate bank account from which disbursement may not be made other than for the payment of premiums to the entities, the return of premiums to the insured or the transfer of commissions or the withdrawal of voluntary deposits.

(2) Voluntary deposits in the premium account in excess of premiums collected and unpaid to entities may be made for the purpose of maintaining a minimum balance, to guarantee the adequacy of the account or for the purpose of the payment of premiums to the entities in advance of their collection. These deposits may not be withdrawn except to the extent that the remaining balance is equal to the total of net premiums collected and unpaid to entities.

(3) The deposit of a premium collection in a separate bank account may not be construed as a mingling by the agent or the broker of the net premium and of the commission portion of the premium. The commission portion of the premiums may be withdrawn from the separate bank account at the discretion of the agent or broker.

(4) The maintenance in a separate bank account of at least the net balance of premiums collected and unpaid to the entities by agents operating under the "account current system" shall be construed as compliance with this section and section 633.1 of the act (40 P. S. § 273.1), if the funds so held are readily ascertainable from the books of account and records of agents.

(5) Agents and brokers who make immediate remittance of collections to their entities need not maintain separate bank accounts for these collections. To constitute immediate remittance, payment to entities shall be in the same form as the collection was received from the insured.

(6) When both an operating and a premium account are maintained by agents and brokers under this section for purposes of segregating premiums collected, the premium account balance shall include funds sufficient to pay premiums collected and any amount delinquent or in dispute with the entity represented. Upon reconciliation of delinquent or disputed accounts, excess moneys remaining in the premium bank account may be withdrawn as if they had been voluntary deposits.

(7) An agent may deposit premiums collected from insureds in an interest bearing account when the agent is not required to make an immediate remittance to the entity of premium moneys, if the following are met:

- (i) The moneys are not placed in an account upon which a penalty may be levied against the principal for early withdrawal.
- (ii) The moneys are placed in an account insured by the United States Government or instruments secured by the United States government.

§ 37.82. Agent and broker indebtedness.

(a) The Department will not act as a collection agency, but will take action at its discretion in regard to specific violations of the insurance laws or in regard to the indebtedness of an agent or broker if the cause of the indebtedness reflects on the trustworthiness of the agent or broker.

(b) The Department will investigate and take appropriate action regarding premiums collected by the agent and not remitted to the entity, only after the entity has exhausted reasonable legal remedies to effect the collection of the unremitted premium.

§ 37.83. Merger of entities.

When insurance entities merge, consolidate or reincorporate so that the agents of one or more of the entities are to be appointed as a whole for the new entity or the surviving entity, the appointments shall be recorded under the same conditions as the renewal of appointments, and an applicable fee will be charged. Additional lines of authority will not be granted to these agents by means of the transaction.

§ 37.84. Power of attorney.

(a) An agent's certificate and appointments may not be transferred by power of attorney.

(b) A broker's license may not be transferred by power of attorney.

(c) A person writing bonds under authority of a power of attorney or acting in another manner in the capacity of agent in conjunction with the activity shall first obtain a certificate from the Department and be appointed as agent on behalf of the entity. Violations of this requirement will result in formal action by the Department.

(d) A person may not countersign policies by power of attorney unless the recipient of power of attorney has a certificate from the Department and is appointed as agent for the entity whose policies the person holding the power of attorney will be countersigning.

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