

200 Licensing

201 Insurance Certificate of Authority (Agency) [Formerly Regulation 16]

1.0 References

- 1.1 18 **Del.C.** §§1702-1709 , describes the type of insurance Certificate of Authority (license) which may be issued by this department to "individuals, partnerships, or corporations." 18 **Del.C.** §1713 defines the Delaware Insurance Certificate of Authority and stipulates that certificates may be issued to "an individual, corporation, firm, or partnership." 18 **Del.C.** §1713(b) describes the requirement for a Delaware Insurance License before commissions may be paid and stipulates that assignments of commissions may be made only to "...a licensed partnership, firm, association, or corporation....."

2.0 Requirement

- 2.1 A Delaware Insurance Certificate of Authority (license) is required of any firm, corporation, partnership, association, or other business entity which conducts insurance transactions in the State of Delaware or which places insurance coverage on real or personal property located in this State provided one or more of the following conditions exist:
 - 2.1.1 If commissions, including override commissions or assignments, are paid to the firm or agency;
 - 2.1.2 If the firm or agency is the producer of record;
 - 2.1.3 If policies or related papers issued to the insured contain instructions to contact the firm or agency for insurance service;
 - 2.1.4 If insurance business is transacted or solicited under a trade name. (See definition; 18 **Del.C.** §103)

3.0 Exceptions

- 3.1 Agents who work for and place all business through a single insurance company or group may advertise and trade as the "agency" of that insurer without an agency Certificate of Authority provided:
 - 3.1.1 Each individual holds a personal Certificate of Authority as an agent.
 - 3.1.2 All business is placed through the sponsoring insurance company.
- 3.2 Insurers may use unlicensed adjuster firm in the event of a catastrophic loss (18 **Del.C.** §1708).
- 3.3 Agencies which previously held a Delaware Insurance Certificate of Authority may be paid commissions or other considerations on business transactions which occurred prior to the expiration or termination of a Certificate of Authority.
- 3.4 Corporations or firms which enroll employees in group life and/or group health plans where no commission or other consideration is paid are not required to obtain a Certificate of Authority.

4.0 Agency Certificate of Authority (Agency License)

- 4.1 A Delaware Certificate of Authority issued to a sole proprietor, partnership, association, corporation or other business entity shall be referred to as an agency license irrespective of the type of insurance transaction authorized under said license.
- 4.2 An agency license shall give full authority for the type insurance license defined and described by the appropriate sections of the Delaware Insurance Code, except that all insurance transactions completed in the name of the agency shall be accomplished by an individual registered with this department as to that agency and who has qualified in the same manner as required for an individual license.

5.0 Prohibitions

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- 5.1 Effective May 7, 1975, no agency or organization not excepted in section 3.0 above, shall act as, or hold itself out to be an insurance agent, broker, surplus lines broker, limited representative, consultant, adjuster or motor vehicle damage appraiser, unless such agency or organization has been issued an Insurance Certificate of Authority by this department.
- 5.2 No agency or organization, unless excepted by section 3.0 above, shall make application for, procure, negotiate, arrange for settlement, or place for others insurance policies for any line or type insurance for which the agency or organization is not then licensed by this department.
- 5.3 No agency or organization may permit any person to conduct insurance transactions on its behalf unless such person is qualified for an appropriate insurance Certificate of Authority and is registered with the Insurance Department under that agent's license.
- 5.4 Unless an agency license is in effect, no insurer may pay, and no agency may accept, commissions, finder's fee, broker's fee, or other valuable consideration which proceeds from, or which may be attributed to an insurance transaction.

6.0 Penalties

In accordance with 18 **Del.C.** §1743, violations of this regulation may subject the individual licensee (agent/agency and/or insurer) to withdrawal of license or such other punitive action which the Commissioner deems to be appropriate.

7.0 Concurrent Licenses

Qualified individuals may concurrently hold an insurance Certificate of Authority for any line of insurance as an individual and as a registered member of one or more agencies. Such dual licensing is required only when the licensee transacts some portion of his insurance business through an agency and the remainder of his business as an individual (e.g., where the agency is not involved).

8.0 Procedure for Obtaining an Agency License

- 8.1 For a firm: A partner, officer, principal or the sole proprietor shall complete an application for agency license on forms provided by the Commissioner which shall include, but not be limited to, the following information:
 - 8.1.1 Name and address of the business
 - 8.1.2 Agency's Federal Employers' Identification Number (Federal Tax Number)
 - 8.1.3 Type of insurance authority requested (type and line of insurance)
 - 8.1.4 Type business organization (partnership, corporation, sole proprietorship, association)
 - 8.1.5 Provide a certificate of good standing from the Office of Registration (resident State Corporation Department for corporations, county court clerk or prothonotary for partnerships and sole proprietorships).
- 8.2 For registered members: Submit an application for individual insurance license completed by each of the individuals who will represent the agency.
- 8.3 Fees: Provide fees for each individual to be licensed as listed 18 **Del.C.** §701 for each type of license. Non-resident fees are reciprocal and are set at those rates which the applicant's state of residence would charge a Delawarean for a similar license.