

200 Licensing

202 Responsibility for Delaware Insurance Licenses [Formerly Regulation 36]

1.0 Reference

- 1.1 All references otherwise stated refer to passages of Title 18, Delaware Insurance Code (18 **Del.C.**).
 - 1.1.1 18 **Del.C.** §§314, 317 grant the Commissioner the authority to make, after hearing, reasonable rules and regulations pertaining to the conduct of insurance transactions in this State and provide for penalties for violations of such rules and regulations.
 - 1.1.2 18 **Del.C.** §1713 prohibits individuals from acting as Delaware brokers, agents, adjusters, appraisers, surplus lines brokers or consultants unless properly licensed.
 - 1.1.3 18 **Del.C.** §1730 prohibits payment by insurers and receipt by individuals commissions or other valuable considerations unless there is in effect a valid license (renewal commissions exempt if agent was licensed at the time of the sale).
 - 1.1.4 Delaware Insurance Bulletin No. 76-10 describes the procedures to be followed in appointing agents.
 - 1.1.5 Delaware Insurance Bulletin No. 77-9 describes the procedures for licensing.
 - 1.1.6 Delaware Insurance Circular Letter No. 81-2 describes the licensing requirements for adjusters and appraisers.
 - 1.1.7 Delaware Insurance Bulletin No. 74-15 describes the requirement for agents' licenses for agency employees.

2.0 Authority

- 2.1 In accordance with section 1.1.1 above, the Insurance Commissioner of the State of Delaware does hereby make and promulgate the following rules and procedures applicable to the direct responsibility of insurers, independent adjusting firms and agencies for the proper licensing of agents, limited and fraternal representatives, interim agents, and those affiliated brokers, surplus lines brokers, adjusters or apprentice adjusters, appraisers or apprentice appraisers, whom they employ or contract for the purpose of Delaware insurance business.

3.0 Requirement

- 3.1 Each insurer shall be responsible for ensuring that all employee associates and affiliates who undertake to transact insurance business in Delaware on behalf of the insurer are duly and properly licensed as required by section 1.1.2 above.
- 3.2 Each insurer shall cause each application for insurance written in Delaware by its agents, limited and fraternal representatives or brokers to be examined on receipt to ensure that the producer is correctly licensed in Delaware for the kinds of insurance involved and shall immediately reject all such applications submitted by unlicensed individuals.
- 3.3 Each property and casualty application covering a Delaware risk shall be subject to the same restrictions without regard to the location at which the application was written. (Exception: Ocean Marine Insurance)
- 3.4 Applications rejected on the basis of this regulation shall be accompanied with a notice to the producer and local management explaining the license requirements.
- 3.5 Each insurer who employs or contracts for the services of individuals or claims firms who will function as adjusters or motor vehicle physical damage appraisers handling Delaware claims either within or without this State shall, before the individuals engage in claims work ascertain that the individuals so employed or contracted are correctly licensed in Delaware as adjusters, apprentice adjusters, appraisers or apprentice appraisers in accordance with section 1.1.6 above.

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- 3.6 Each insurer who contracts for the services or otherwise employs a surplus lines broker or consultant regarding Delaware risks or insurance business transactions shall ensure, prior to the initiation of such service, that the surplus lines broker or consultant is properly licensed for that line of insurance transaction.
- 3.7 Each insurance agency, independent adjuster, appraisal firm, surplus lines agency or consulting firm who employs or otherwise contracts for the services of individuals who will function in the capacity of agents, brokers, limited or fraternal representatives, surplus lines brokers, adjusters or appraisers for business written in Delaware for Delaware risks or related to Delaware claims, shall have the same obligations regarding their employees or affiliates as are imposed above on insurers.

4.0 Penalties

- 4.1 Failure to comply with the requirements set forth in this regulation will subject the violators, whether insurers, agencies, independent adjuster or appraisal firms, surplus lines agencies or consulting firms, after hearing, to the penalties as described by 18 **Del.C.** §106 and 18 **Del.C.** §1733 as appropriate.

5.0 Effective Date

- 5.1 This regulation shall become effective on April 15, 1982.