

LEGISLATIVE BILL 1012

Approved by the Governor April 17, 2018

Introduced by Harr, 8.

A BILL FOR AN ACT relating to the Insurance Producers Licensing Act; to amend sections 44-3903, 44-4047, and 44-4052, Revised Statutes Cumulative Supplement, 2016; to provide procedures and requirements for a limited license for self-service storage facility operators to act as insurance producers as prescribed; to define terms; to harmonize provisions; to provide an operative date; and to repeal the original sections.

Be it enacted by the people of the State of Nebraska,

Section 1. Section 44-3903, Revised Statutes Cumulative Supplement, 2016, is amended to read:

44-3903 Sections 44-3901 to 44-3908 shall not apply to the following persons:

(1) Licensees for whom an examination is not required under the laws of this state;

(2) Licensees who sell or consult only in the areas of credit life insurance and credit accident and health insurance;

(3) Licensees who sell or consult only in the area of travel insurance; and

(4) Licensees who sell or consult only in the area of self-service storage facility insurance pursuant to section 4 of this act; and

(5) ~~(4)~~ Licensees holding such limited or restricted licenses as the director may exempt.

Sec. 2. Section 44-4047, Revised Statutes Cumulative Supplement, 2016, is amended to read:

44-4047 Sections 44-4047 to 44-4068 and section 4 of this act shall be known and may be cited as the Insurance Producers Licensing Act.

Sec. 3. Section 44-4052, Revised Statutes Cumulative Supplement, 2016, is amended to read:

44-4052 (1) A resident individual applying for an insurance producer license shall pass a written examination unless exempt pursuant to section 44-4056 or 44-4068 or section 4 of this act. The examination shall test the knowledge of the individual concerning the lines of authority for which application is made, the duties and responsibilities of an insurance producer, and the insurance laws, rules, and regulations of this state. Examinations required by this section shall be developed and conducted under rules and regulations adopted and promulgated by the director.

(2) The director may make arrangements, including contracting with an outside testing service, for administering examinations and collecting the nonrefundable fee set forth in section 44-4064.

(3) Each individual applying for an examination shall remit a nonrefundable fee as prescribed by the director as set forth in section 44-4064.

(4) An individual who fails to appear for the examination as scheduled or fails to pass the examination shall reapply for an examination and remit all required fees and forms before being rescheduled for another examination.

Sec. 4. (1) The director may issue to the operator of a self-service storage facility that has complied with this section a limited license to act as an insurance producer with reference to the kinds of insurance specified in this section for any insurer authorized to write such kinds of insurance in this state.

(2) An applicant for a limited license shall file with the director:

(a) A written application for a limited license, signed by an officer of the applicant, containing such information as the director prescribes;

(b) A list of all self-service storage facilities at which the applicant conducts business in this state;

(c) On request of the director, a list of all employees of the applicant who may act on behalf and under the supervision of the applicant pursuant to this section;

(d) A training program which meets the requirements of subsection (9) of this section; and

(e) A certificate executed by the insurer, stating that the insurer will appoint such applicant to act as the insurance producer in reference to the doing of such kind or kinds of insurance specified in this section if the limited license applied for is issued by the director. Such certificate shall be signed by an officer or managing agent of such insurer.

(3) Before a limited license is issued, the applicant shall pay or cause to be paid to the director an application fee established by the director, not to exceed one hundred dollars. Before a limited license is renewed, the limited licensee shall pay or cause to be paid to the director a renewal fee established by the director, not to exceed one hundred dollars per year. The renewal fee shall be due on the anniversary date of the issuance of the limited license.

(4) A limited licensee shall provide to the director an updated list of

all self-service storage facilities and of all employees of the limited licensee who may act on behalf and under the supervision of the limited licensee. Such list shall be provided to the director quarterly.

(5)(a) If any provision of this section or if one or more of the grounds provided under section 44-4059 is violated by a limited licensee, the director may, after notice and hearing:

(i) Revoke or suspend a limited license issued under this section;

(ii) Impose such other penalties, including suspending the transaction of insurance at specific self-service storage facilities where violations have occurred, as the director deems to be necessary or convenient to carry out the purposes of this section; and

(iii) Order payment of an administrative fine of not more than one thousand dollars per violation.

(b) An order issued pursuant to this subsection may be appealed, and the appeal shall be in accordance with the Administrative Procedure Act.

(6) A limited licensee may act as an insurance producer for an authorized insurer only in connection with insurance providing coverage for the loss of, or damage to, tangible personal property that is contained in storage space or in transit during a rental agreement period, which may be offered on a month-to-month or other periodic basis under an individual policy, or as a group, commercial, or master policy to provide insurance for the self-service storage facility's occupants.

(7) No insurance may be issued pursuant to this section unless:

(a) The limited licensee provides brochures or other written materials to the occupant that:

(i) Summarize the material terms of the insurance offered by the limited licensee to occupants, including the identity of the insurer and any third-party administrator or supervising entity authorized to act on behalf of the insurer;

(ii) Describe the process for filing a claim; and

(iii) Contain information on the price, benefits, exclusions, conditions, or other limitations of such insurance as the director may by rule and regulation prescribe;

(b) The limited licensee makes the following disclosures to the occupant:

(i) That the insurance offered by the limited licensee to occupants may provide a duplication of coverage already provided by an occupant's homeowner's insurance policy or by another source of coverage. This disclosure shall be prominently displayed in the brochure or other written materials provided to the occupant in at least twelve-point bold type;

(ii) That, if purchased, the insurance offered by the limited licensee to occupants is primary over any other coverages applicable to the occupant;

(iii) That the purchase by the occupant of any kind of insurance specified in this section from the limited licensee is not required in order for the occupant to lease space at a self-service storage facility;

(iv) That, if purchased, the insurance offered by the limited licensee to occupants is not an automobile liability policy and would not provide compliance with the Motor Vehicle Safety Responsibility Act; and

(v) That a limited licensee's employee who is not licensed as an insurance producer may not evaluate or interpret the technical terms, benefits, or conditions of the kinds of insurance specified in this section and may not evaluate or provide advice concerning an occupant's existing insurance coverage;

(c) Evidence of coverage is issued at the time the insurance is purchased; and

(d) Costs for insurance are separately itemized in the rental agreement or an invoice issued to the occupant.

(8) Any limited license issued under this section shall also authorize any employee of the limited licensee who is trained pursuant to subsection (9) of this section to act individually on behalf and under the supervision of the limited licensee with respect to the kinds of insurance specified in this section.

(9) Each limited licensee shall conduct a training program which shall meet the following minimum standards:

(a) Each trainee shall be instructed about the kinds of insurance specified in this section offered for purchase by occupants;

(b) Each trainee shall be instructed that an occupant may have an insurance policy that already provides the coverage being offered by the limited licensee pursuant to this section and may not need to purchase from the limited licensee the insurance specified in this section; and

(c) The training program shall be submitted and approved by the director and shall contain, at a minimum, instructions on the types of insurance offered, ethical sales practices, and required disclosures to prospective occupants.

(10) All records pertaining to transactions under any limited license shall be kept available and open to the inspection of the director or his or her representatives at any time with notice and during business hours. Records shall be maintained for three years following the completion of transactions under a limited license.

(11) Notwithstanding any other provision of this section or rule or regulation adopted and promulgated by the director, a limited licensee shall not be required to treat money collected from occupants purchasing insurance as funds received in a fiduciary capacity, except that the charges for coverage shall be itemized and be ancillary to a rental agreement.

(12) No limited licensee subject to this section shall:

(a) Offer or sell any kind of insurance specified in this section except in conjunction with and incidental to a rental agreement;

(b) Advertise, represent, or otherwise hold itself or any of its employees out as authorized insurers or licensed insurance producers;

(c) Pay its employees any additional compensation, fee, or commission dependent on the placement of insurance under the limited license issued pursuant to this section; or

(d) Require the purchase of any kind of insurance specified in this section from the limited licensee as a condition of rental of leased space at a self-service storage facility.

(13) A limited licensee is exempt from the continuing education requirements in sections 44-3901 to 44-3908 and the examination requirements in section 44-4052.

(14) For purposes of this section:

(a) Leased space means the individual storage space at a self-service storage facility which is rented to an occupant pursuant to a rental agreement;

(b) Limited licensee means an operator of a self-service storage facility authorized to sell certain kinds of insurance relating to the use and occupancy of leased space at a self-service storage facility pursuant to this section;

(c) Occupant means a person entitled to the use of leased space at a self-service storage facility under a rental agreement or his or her successors or assigns;

(d) Operator means the owner, operator, lessor, or sublessor of a self-service storage facility or an agent or any other person authorized to manage the facility. Operator does not include a warehouseman if the warehouseman issues a warehouse receipt, bill of lading, or other document of title for the personal property stored;

(e) Personal property means movable property that is not affixed to land and includes: (i) Goods, wares, merchandise, household items, and furnishings; (ii) vehicles, motor vehicles, trailers, and semitrailers; and (iii) watercraft and motorized watercraft; and

(f) Rental agreement means any written agreement or lease that establishes or modifies the terms, conditions, or rules concerning the use and occupancy of leased space at a self-service storage facility.

Sec. 5. This act becomes operative on October 1, 2018.

Sec. 6. Original sections 44-3903, 44-4047, and 44-4052, Revised Statutes Cumulative Supplement, 2016, are repealed.