

LEGISLATURE OF NEBRASKA
ONE HUNDRED FIFTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 1012

Introduced by Harr, 8.

Read first time January 16, 2018

Committee: Banking, Commerce and Insurance

1 A BILL FOR AN ACT relating to the Insurance Producers Licensing Act; to
2 amend section 44-4053, Reissue Revised Statutes of Nebraska, and
3 sections 44-3903, 44-3910, 44-4047, 44-4052, and 44-4054, Revised
4 Statutes Cumulative Supplement, 2016; to provide procedures and
5 requirements for a limited license for self-service storage facility
6 operators to act as insurance producers as prescribed; to define
7 terms; to harmonize provisions; and to repeal the original sections.
8 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 44-3903, Revised Statutes Cumulative Supplement,
2 2016, is amended to read:

3 44-3903 Sections 44-3901 to 44-3908 shall not apply to the following
4 persons:

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

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

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

11 (4) Licensees who sell or consult only in the area of self-service
12 storage facility insurance pursuant to section 7 of this act; and

13 (5) (4) Licensees holding such limited or restricted licenses as the
14 director may exempt.

15 Sec. 2. Section 44-3910, Revised Statutes Cumulative Supplement,
16 2016, is amended to read:

17 44-3910 The prelicensing education requirements of section 44-3909
18 shall not apply to an individual who, at the time of application for an
19 insurance producer license:

20 (1) Is applying for qualification for the life insurance line of
21 authority and has the certified employee benefit specialist designation,
22 the chartered financial consultant designation, the certified insurance
23 counselor designation, the certified financial planner designation, the
24 chartered life underwriter designation, the fellow life management
25 institute designation, or the Life Underwriter Training Council fellow
26 designation;

27 (2) Is applying for qualification for the accident and health or
28 sickness insurance line of authority and has the registered health
29 underwriter designation, the certified employee benefit specialist
30 designation, the registered employee benefit consultant designation, or
31 the health insurance associate designation;

1 (3) Is applying for qualification for the property insurance,
2 casualty insurance, or personal lines property and casualty insurance
3 line of authority and has the accredited advisor in insurance
4 designation, the associate in risk management designation, the certified
5 insurance counselor designation, or the chartered property and casualty
6 underwriter designation;

7 (4) Is applying for a limited lines travel insurance producer
8 license pursuant to section 44-4068;

9 (5) Is applying for a limited license for self-service storage
10 facility insurance pursuant to section 7 of this act;

11 ~~(6)~~ (5) Has a college degree with a concentration in insurance from
12 an accredited educational institution;

13 ~~(7)~~ (6) Is an individual described in section 44-4056 or 44-4058; or

14 ~~(8)~~ (7) Is a person who the director may exempt pursuant to a rule
15 or regulation adopted and promulgated pursuant to the Administrative
16 Procedure Act.

17 Sec. 3. Section 44-4047, Revised Statutes Cumulative Supplement,
18 2016, is amended to read:

19 44-4047 Sections 44-4047 to 44-4068 and section 7 of this act shall
20 be known and may be cited as the Insurance Producers Licensing Act.

21 Sec. 4. Section 44-4052, Revised Statutes Cumulative Supplement,
22 2016, is amended to read:

23 44-4052 (1) A resident individual applying for an insurance producer
24 license shall pass a written examination unless exempt pursuant to
25 section 44-4056 or 44-4068 or section 7 of this act. The examination
26 shall test the knowledge of the individual concerning the lines of
27 authority for which application is made, the duties and responsibilities
28 of an insurance producer, and the insurance laws, rules, and regulations
29 of this state. Examinations required by this section shall be developed
30 and conducted under rules and regulations adopted and promulgated by the
31 director.

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

4 (3) Each individual applying for an examination shall remit a
5 nonrefundable fee as prescribed by the director as set forth in section
6 44-4064.

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

11 Sec. 5. Section 44-4053, Reissue Revised Statutes of Nebraska, is
12 amended to read:

13 44-4053 (1) A person applying for a resident insurance producer
14 license shall make application to the director on the uniform application
15 and declare under penalty of denial, suspension, or revocation of the
16 license that the statements made in the application are true, correct,
17 and complete to the best of the individual's knowledge and belief. Before
18 approving the application, the director shall find that the individual:

19 (a) Is at least eighteen years of age. Notwithstanding the
20 provisions of section 43-2101, if any person is issued a license pursuant
21 to the Insurance Producers Licensing Act, his or her minority ends;

22 (b) Has not committed any act that is a ground for denial,
23 suspension, or revocation set forth in section 44-4059;

24 (c) Has completed a prelicensing course of study for the lines of
25 authority for which the person has applied, as required by sections
26 44-3909 to 44-3913;

27 (d) Has paid the fees set forth in section 44-4064; and

28 (e) Has successfully passed the examinations for the lines of
29 authority for which the person has applied.

30 (2) A business entity acting as an insurance producer is required to
31 obtain an insurance producer license. Application shall be made using the

1 uniform business entity application. Before approving the application,
2 the director shall find that:

3 (a) The business entity has paid the fees set forth in section
4 44-4064; and

5 (b) The business entity has designated a licensed producer
6 responsible for the business entity's compliance with the insurance laws,
7 rules, and regulations of this state.

8 (3) The director may require any documents reasonably necessary to
9 verify the information contained in an application.

10 (4) Each insurer that sells, solicits, or negotiates any form of
11 limited line credit insurance shall provide to each individual whose
12 duties will include selling, soliciting, or negotiating limited line
13 credit insurance a program of instruction that may be approved by the
14 director.

15 (5) This section does not apply to applicants or limited licensees
16 under section 7 of this act.

17 Sec. 6. Section 44-4054, Revised Statutes Cumulative Supplement,
18 2016, is amended to read:

19 44-4054 (1) Unless denied licensure pursuant to section 44-4059, a
20 person who has met the requirements of sections 44-4052 and 44-4053 shall
21 be issued an insurance producer license. An insurance producer may
22 receive qualification for a license in one or more of the following lines
23 of authority:

24 (a) Life insurance coverage on human lives, including benefits of
25 endowment and annuities, and may include benefits in the event of death
26 or dismemberment by accident and benefits for disability income;

27 (b) Accident and health or sickness, insurance coverage for
28 sickness, bodily injury, or accidental death and may include benefits for
29 disability income;

30 (c) Property insurance coverage for the direct or consequential loss
31 or damage to property of every kind;

1 (d) Casualty insurance coverage against legal liability, including
2 that for death, injury, or disability or damage to real or personal
3 property;

4 (e) Variable life and variable annuity products, insurance coverage
5 provided under variable life insurance contracts, and variable annuities;

6 (f) Limited line credit insurance;

7 (g) Limited line pre-need funeral insurance;

8 (h) Personal lines property and casualty insurance coverage sold to
9 individuals and families for primarily noncommercial purposes; and

10 (i) Any other line of insurance permitted under Nebraska laws,
11 rules, or regulations.

12 (2) An insurance producer license shall remain in effect unless
13 revoked or suspended if the fee set forth in section 44-4064 is paid and
14 education requirements for resident individual producers are met by the
15 due date.

16 (3) All business entity licenses issued under the Insurance
17 Producers Licensing Act shall expire on April 30 of each year, and all
18 producers licenses shall expire on the last day of the month of the
19 producer's birthday in the first year after issuance in which his or her
20 age is divisible by two. Such producer licenses may be renewed within the
21 ninety-day period before their expiration dates. Business entity and
22 producer licenses also may be renewed within the thirty-day period after
23 their expiration dates upon payment of a late renewal fee as established
24 by the director pursuant to section 44-4064 in addition to the applicable
25 fee otherwise required for renewal of business entity and producer
26 licenses as established by the director pursuant to such section. All
27 business entity and producer licenses renewed within the thirty-day
28 period after their expiration dates pursuant to this subsection shall be
29 deemed to have been renewed before their expiration dates.

30 (4) The director may establish procedures for renewal of licenses by
31 rule and regulation adopted and promulgated pursuant to the

1 Administrative Procedure Act.

2 (5) An individual insurance producer who allows his or her license
3 to lapse may, within twelve months from the due date of the renewal fee,
4 reinstate the same license without the necessity of passing a written
5 examination. Producer licenses reinstated pursuant to this subsection
6 shall be issued only after payment of a reinstatement fee as established
7 by the director pursuant to section 44-4064 in addition to the applicable
8 fee otherwise required for renewal of producer licenses as established by
9 the director pursuant to such section.

10 (6) The director may grant a licensed insurance producer who is
11 unable to comply with license renewal procedures due to military service
12 or some other extenuating circumstance, including, but not limited to, a
13 long-term medical disability, a waiver of those procedures. The director
14 may grant a producer a waiver of any examination requirement or any other
15 fine, fee, or sanction imposed for failure to comply with renewal
16 procedures.

17 (7) The license shall contain the licensee's name, address, and
18 personal identification number, the date of issuance, the lines of
19 authority, the expiration date, and any other information the director
20 deems necessary.

21 (8) Licensees shall inform the director by any means acceptable to
22 the director of a change of legal name or address within thirty days
23 after the change. Any person failing to provide such notification shall
24 be subject to a fine by the director of not more than five hundred
25 dollars per violation, suspension of the person's license until the
26 change of address is reported to the director, or both.

27 (9) The director may contract with nongovernmental entities,
28 including the National Association of Insurance Commissioners or any
29 affiliates or subsidiaries that the National Association of Insurance
30 Commissioners oversees, to perform any ministerial functions, including
31 the collection of fees, related to producer licensing that the director

1 may deem appropriate.

2 (10) This section does not apply to limited licensees under section
3 7 of this act.

4 Sec. 7. (1) The director may issue to the operator of a self-
5 service storage facility that has complied with this section a limited
6 license to act as an insurance producer with reference to the kinds of
7 insurance specified in this section for any insurer authorized to write
8 such kinds of insurance in this state.

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

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

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

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

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

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

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

1 date of the issuance of the limited license.

2 (4) A limited licensee shall provide to the director an updated list
3 of all self-service storage facilities and of all employees of the
4 limited licensee who may act on behalf and under the supervision of the
5 limited licensee. Such list shall be provided to the director annually.

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

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

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

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

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

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

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

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

29 (i) Summarize the material terms of the insurance offered by the
30 limited licensee to occupants, including the identity of the insurer;

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

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

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

6 (i) That the insurance offered by the limited licensee to occupants
7 may provide a duplication of coverage already provided by an occupant's
8 homeowner's insurance policy or by another source of coverage;

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

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

15 (c) Evidence of coverage is issued when the rental agreement is
16 established or modified; and

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

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

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

26 (a) Each trainee shall receive basic instruction about the kinds of
27 insurance specified in this section offered for purchase by occupants;
28 and

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

1 from the limited licensee the insurance specified in this section.

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

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

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

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

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

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

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

24 (13) A limited licensee is exempt from the continuing education
25 requirements in sections 44-3901 to 44-3908, the prelicensing education
26 requirements in sections 44-3909 to 44-3913, the examination requirements
27 in section 44-4052, and the requirements of sections 44-4053 and 44-4054.

28 (14) For purposes of this section:

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

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

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

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

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

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

20 Sec. 8. Original section 44-4053, Reissue Revised Statutes of
21 Nebraska, and sections 44-3903, 44-3910, 44-4047, 44-4052, and 44-4054,
22 Revised Statutes Cumulative Supplement, 2016, are repealed.