Chapter 744

1975 REPLACEMENT PART

Agents and Adjusters

AGENTS GENERALLY

744.005 Agent's license required
744.015 Compensating unlicensed agent prohibited
744.017 Filing compensation agreements for agents; filings not public records
744.025 Exemptions to licensing requirements
744.035 Brokerage
744.045 Qualifications for agent's license
744.055 Nonresident agents
744.065 Application for license
744.075 Examination
744.085 Exemption from examination
744.095 Contents of license
744.105 Issuance or refusal of license
744.115 Kinds of agent's licenses
744.135 Licensing of firm or corporate agency
744.145 Number of appointments under one agent's license
744.155 Appointment of agents
744.165 Insurance agent is agent of insurer
744.175 Termination of appointment
744.185 Place of business
744.195 Temporary licenses
744.205 Continuation of licenses
744.215 Insurance vending machines

TERMINATION OF LICENSES GENERALLY

744.255 License suspension, revocation or refusal to continue
744.260 Probation in case of license denials; revocation during probationary period; right to hearing
744.265 Return of agent's, adjuster's or surplus line license

SURPLUS LINE AGENTS

744.305 Surplus line licenses; examination; issuance
744.315 Applicant's bond required
744.325 Continuation of surplus line license
744.335 Eligible surplus line insurers
744.345 Conditions prerequisite to issuance of policy
744.355 Surplus line policy indorsement; agent to be designated attorney in fact for service of process
744.365 Surplus line insurance valid
744.375 Agent's annual statement of business; taxes payable
744.385 Action against delinquent agent for recovery of fine and taxes
744.396 Process, venue and jurisdiction in case of suit against surplus line insurers
744.405 Revocation of surplus line license; conditions precedent to reissuance

ADJUSTERS

744.505 Adjuster's license required
744.515 Exemption from adjuster's licensing requirement
744.525 Adjuster qualifications
744.535 Adjuster's licensing examination; fee
744.545 Continuation of adjuster's license
744.555 Temporary adjuster's permit
744.575 Adjusting claims involving credit life or credit health insurance

CROSS REFERENCES

Definitions and general provisions applicable, 731.004 to 731 194
"Insurance Code" defined, 731 004

744.015

Exclusive agency contracts, 732 220

744.255

Revocation or suspension of license solely because of conviction of criminal offense prohibited, 670 280

744.305 to 744.405

Workmen's compensation insurers, responsibility to process claims, 656 403

AGENTS GENERALLY

744.005 Agent's license required. Except as provided in ORS 744.025, no person, directly or indirectly, shall, or shall attempt to, solicit, sell or transact insurance in this state unless then licensed as an agent under ORS 744.005, 744.015, 744.025 to 744.255 and 744.265 with respect to the class or subclass of insurance involved.
[1967 c.359 s 525]

744.010[Repealed by 1967 c 359 s 704]

744.015 Compensating unlicensed agent prohibited. Except as provided in ORS 744.025, no insurer or agent, with respect to domestic risks, shall give or allow directly or indirectly any consideration or thing of value to any person not licensed as an agent under ORS 744.005, 744.015, 744.025 to 744.255 and 744.265 at the time of the transaction out of which entitlement to such consideration or thing of value arose, for:

(1) Soliciting insurance;

(2) Receiving an application or order to write, renew or procure insurance;

(3) Collecting any insurance premium;

(4) Attempting as middleman to place any insurance; or

(5) Negotiating or effecting insurance.
[1967 c.359 s.526]

744.017 Filing compensation agreements for agents; filings not public records. The commissioner may require the filing by an insurer of any compensation agreements for agents. No such filing shall be deemed a "public record" or a "public writing" as defined in ORS 192.005 to 192.170 and 192.410 to 192.500.
[1971 c 231 s.8]

744.020[Repealed by 1967 c 359 s 704]

744.025 Exemptions to licensing requirements. ORS 744.005 and 744.015 shall not apply as to:

(1) Employes or representatives of insurers or agents, not receiving a commission, who perform administrative, clerical or technical services and who do not solicit insurance;

(2) Salaried employes of insurers who solicit, negotiate or effect insurance only through licensed resident agents;

(3) An attorney in fact of an authorized reciprocal insurer, or to the salaried representatives of such insurer or attorney who received no commissions;

(4) Salaried employes of the holder of a master group insurance contract or salaried employes of the participant in an institutional retirement program, who, in the performance of ministerial duties on behalf of such holder or participant, secure and forward information for the purpose of group life and health insurance or institutional retirement programs or for enrolling individuals under such group coverages or issuing certificates thereunder where no commission is paid for such services and the compensation, if any, paid is reasonably related to the services performed;

(5) The lawful transaction of reinsurance;

(6) The lawful transaction of title insurance;

(7) Any agent or representative of persons exempt from the Insurance Code under ORS 731.032 and 731.036, with respect to the exempted transactions;

(8) Any agent or representative of a fraternal benefit society who devotes, or intends to devote, less than 50 percent of his time to the solicitation and procurement of insurance policies for such society. Any person who in the preceding calendar year has solicited and procured life insurance policies on behalf of any society in an amount of insurance in excess of $50,000 or, in the case of any other class or classes of insurance which the society might write, on the persons of more than 25 individuals and who has received or will receive a commission or other compensation therefor, shall be presumed to be devoting, or intending to devote, 50 percent of his time to the solicitation or procurement of insurance policies for such society; or

(9) Employes of the State Accident Insurance Fund as to their insurance transactions authorized by ORS chapter 656.
[1967 c 359 s.527, 1971 c 385 s 6]

744.030[Amended by 1965 c 610 s 12, repealed by 1967 c.359 s 704]

744.035 Brokerage. (1) Except as provided in this section, an agent shall place insurance only in an insurer as to which he holds a subsisting appointment as agent pursuant to ORS 744.155.

(2) Unless the privilege is denied or otherwise limited by the commissioner pursuant to subsection (3) of this section, an agent holding a subsisting general lines insurance license referred to in ORS 744.115 may place insurance which is otherwise authorized by such license in an insurer as to which he does not hold a subsisting

appointment as agent pursuant to ORS 744.155, provided:

(a) Such placement benefits the insured; and

(b) Such placement is necessary to the agent's transaction of business.

(3) With respect to any agent or a particular class or subclass of insurance, the commissioner may deny or impose additional limitations on the exercise of the privilege of placing insurance in an insurer as to which the agent does not hold a subsisting appointment as agent if he determines such denial or limitation would be in the best interest of the insurance-buying public.
[1967 c 359 s.528]

744.040[Repealed by 1967 c 359 s.704]

744.045 Qualifications for agent's license. Agent's licenses shall be issued only to persons who are trustworthy and competent to transact the business of an insurance agent in such manner as to safeguard the interest of the public and only after satisfactory proof thereof has been presented to the commissioner. Except as provided in ORS 744.055, every applicant for issuance of an agent's license shall:

(1) Have established his residence or place of transacting insurance business in this state prior to filing his application;

(2) Not have been convicted in any jurisdiction of an offense which if committed in this state, constitutes a misdemeanor involving moral turpitude or a felony, or is punishable by death or imprisonment under the laws of the United States, in any of which cases the record of his conviction shall be conclusive evidence, except in the case of an applicant having special merit as determined by the commissioner;

(3) Be a person of good character and business reputation; and

(4) Have the requisite learning and ability, as shown by the written examination required of the applicant for issuance of such license and by such other requirements as the commissioner may establish.
[1967 c 359 s 529]

744.050[Repealed by 1953 c.93 s 2]

744.055 Nonresident agents. (1) This section applies only to persons who neither are residents of this state nor have a place of transacting insurance in this state. As used in the Insurance Code in connection with agents, "nonresident" refers to such a person, and "resident" refers to a person other than a nonresident.

(2) A nonresident person may be licensed as an agent upon compliance with the provisions of ORS 744.005, 744.015, 744.025 to 744.255 and 744.265, other than the provisions of subsection (1) of ORS 744.045 and of subsection (3) of ORS 744.135, provided the state in which such person resides will accord the same privilege to a resident of this state.

(3) A nonresident agent or insurance broker duly licensed by any other state may not enter this state for the purpose of transacting insurance business without obtaining an agent's license. However, he may negotiate any policy of insurance upon domestic risks to the same extent and upon the same terms and upon payment of the same fees as provided by such other state for residents of this state transacting a like business in such other state.

(4) The commissioner may enter into a reciprocal agreement with the appropriate official of any other state waiving any or all of the requirements for issuance of an agent's license to any nonresident applicant who resides in such other state if:

(a) A written examination is required of applicants for an agent's license in such other state;

(b) The appropriate official of such other state certifies that the applicant holds a currently valid license as an agent or insurance broker in such other state and either passed such written examination or was the holder of an agent's or insurance broker's license prior to the time such written examination was first required; and

(c) In such other state, a resident of this state is privileged to procure an agent's or insurance broker's license upon conditions no less favorable than the conditions stated in this subsection.

(5) Every nonresident person, before being licensed as an agent in this state, shall file with the commissioner in writing an appointment of the commissioner to be his attorney upon whom all legal process in any action or proceeding against such person may be served. In such appointment, the person shall agree that any lawful process against him which is served upon the commissioner shall be of the same legal force and validity as if served upon such person, and that the authority shall continue in force so long as any liability remains outstanding in this state.

(6) A nonresident agent's license shall automatically expire when the agent no longer holds a currently valid license as an agent or insurance broker in the state which

certified him as required by subsection (4) of this section.

(7) As used in this section, in the case of a nonresident applicant for an agent's license to transact life and health insurance or either of them, "state" includes a province of Canada except when the reference is to "this state."

[1967 c 359 s 530, 1971 c 231 s 27]

744.060[Repealed by 1953 c 93 s.2]

744.065 Application for license. (1) Except as may be provided pursuant to reciprocal agreements with other states, each application for a license as agent shall be made to the commissioner in writing on forms prescribed and furnished by him, which must show:

(a) The applicant's name, business and residence address, present occupation, occupation for last 12 months, portion of time to be devoted to the insurance business, previous insurance experience and the names of employers during the five years last preceding;

(b) Whether the applicant has ever been convicted of or is under indictment for a crime, whether the applicant has ever had a judgment entered against him for fraud, whether any insurer or agent claims the applicant is indebted to it and the details of any such indebtedness, and whether any license to act as an insurance agent, broker or solicitor or in any other occupational or professional capacity has ever been refused, revoked or suspended in this or any other state;

(c) The applicant's fingerprints;

(d) The class or classes of insurance or subclasses thereof to be transacted under the license in accordance with the categories set forth in ORS 744.115;

(e) A written appointment of the applicant as agent by an authorized insurer to be represented subject to issuance of the license to the applicant. However, such appointment may be made by an insurer without capital stock in the process of organization as a domestic insurer and soliciting qualifying applications for insurance; and

(f) Such other information as the commissioner may require.

(2) The applicant shall make sworn statements and answers as required by the commissioner to interrogatories included in such application.

(3) If the applicant for an agent's license is a firm or corporation, the application shall show, in addition, the names of all members, officers and directors and, if a corporation, the names of all stockholders who own, directly or indirectly, more than 10 percent of any class of any equity security of the corporation, and shall designate each individual who is to exercise the powers to be conferred by the license upon such firm or corporation. Each individual so designated shall furnish information as for an individual license.

(4) All applications shall be accompanied by the applicable license and examination fees as provided in ORS 731.804. The examination fee shall not be returned.

[1967 c.359 s.531, 1969 c.336 s 14, 1973 c.89 s.1]

744.070[Amended by 1967 c 359 s.480; renumbered 743 603]

744.075 Examination. (1) Unless exempted therefrom by ORS 744.085, each applicant for an agent's license, prior to issuance of the license, shall personally take and pass to the commissioner's satisfaction a written examination thoroughly testing the applicant's knowledge of the class or classes of insurance or subclasses thereof so proposed to be transacted by him, and of his legal responsibilities as an agent.

(2) If the applicant is a firm or corporation, the examination shall be taken by each individual who is designated as exercising the powers conferred by the license upon such firm or corporation.

(3) The commissioner shall determine rules of procedure for the conduct of examinations.

(4) An applicant who fails to pass two examinations for a particular agent's license shall not be permitted to take another examination for such license for six months next following the date of taking the second of such examination.

[1967 c 359 s 532]

744.080[Repealed by 1967 c 359 s 704]

744.085 Exemption from examination. No examination for issuance of a license as agent shall be required of:

(1) Any applicant who held a valid resident agent's license when ordered into active duty in the Armed Forces of the United States and who applies for the reissuance of such license within six months after being relieved under honorable conditions from active duty in such forces.

(2) Any applicant who held a valid resident agent's license within the preceding two years, which license was not suspended or revoked by the commissioner and who applies for the reissuance of such license, if the commissioner is satisfied, by examina-

tion or otherwise, that such applicant is knowledgeable in the particulars of the applicable provisions of the Insurance Code.

(3) Transportation ticket agents of common carriers applying for a limited license under ORS 744.115 to solicit and sell, as incidental to their duties as such transportation ticket agents, only:

(a) Travel ticket health insurance policies; or

(b) Insurance of personal effects while being carried as baggage on such common carriers.

(4) Any applicant for a general lines insurance license upon whom has been conferred the Chartered Property and Casualty Underwriter (C.P.C.U.) designation by the American Institute of Property and Liability Underwriters, Inc., or any applicant for a life and health insurance license upon whom has been conferred the Chartered Life Underwriter (C.L.U.) designation by the American College of Life Underwriters, if the commissioner is satisfied, by examination or otherwise, that such applicant is knowledgeable in the particulars of the applicable provisions of the Insurance Code.
[1967 c 359 s 533, 1971 c 231 s 28]

744.090[Amended by 1967 c 359 s 370; renumbered 743 111]

744.095 Contents of license. The license shall state the name and address of the licensee, date of issue, date of expiration, if any, class or classes of insurance or subclasses thereof authorized by the license to be transacted by the licensee, and the conditions, if any, of the license.
[1967 c.359 s 534]

744.100[Repealed by 1967 c 359 s 704]

744.105 Issuance or refusal of license. (1) If after completion of application for a license and the taking and passing of any examination required under ORS 744.005, 744.015, 744.025 to 744.255 and 744.265 by the applicant the commissioner finds that the applicant has the qualifications required or provided for in ORS 744.045, the commissioner shall issue the license to the applicant. Otherwise, the commissioner shall refuse to issue the license and shall promptly notify the applicant and the appointing insurer of such refusal, stating the grounds therefor. The commissioner shall not issue a license if he is satisfied the principal use of such license is to effect insurance on property or against liability of such agent or to evade the prohibitions of ORS 746.015 to 746.065.

(2) In case of refusal to issue a license the commissioner shall not refund to the appointing insurer any appointment fee which has been tendered in connection with the application for the license.

(3) Any demand for a hearing on a refusal to issue a license shall be made within 60 days of the notice of such refusal.
[1967 c 359 s.535, 1971 c 231 s 29]

744.110[Repealed by 1967 c 359 s 704]

744.115 Kinds of agent's licenses. (1) The commissioner shall issue agent's licenses of the following kinds to transact the class or classes of insurance or subclasses thereof set forth for the kind of license:

(a) General lines insurance license, for casualty, property, marine and transportation and surety insurance;

(b) Life and health insurance license, for life and health insurance or a license for either of them;

(c) Surplus line insurance license, for placing insurance with eligible surplus line insurers as provided in ORS 744.305 to 744.405;

(d) Health care service license, for services provided by a health care service contractor as defined in ORS 750.005;

(e) Livestock insurance license, for insurance against loss of, damage to or death of domestic animals;

(f) Mortgage insurance license, for mortgage insurance;

(g) Motor vehicle physical damage insurance license, for insurance against only the loss of or damage to any motor vehicle which is designed primarily for use upon a highway. No person while so licensed shall hold a license as an agent for any other or additional class or subclass of insurance, except a credit life and credit health insurance license, or either of them, as provided in paragraph (j) of this subsection;

(h) Travel ticket health insurance license, for personal accident insurance covering the risks of travel. The license shall be issued only to a full-time salaried employe of a common carrier or a full-time salaried employe or owner of a transportation ticket agency, which person is engaged in the sale of transportation tickets, or to a full-time salaried employe of an agent holding a health insurance license. The license shall authorize sale of such policies only in connection with the sale of transportation tickets. No such policy shall be for a duration of more than 48 hours or for the duration of a specified one-way trip or round trip, as applicable;

(i) Baggage insurance license, for insurance of personal effects in connection with travel. The license shall be issued only to a full-time salaried employe of a common carrier or a full-time salaried employe or owner of a transportation ticket agency, which person is engaged in the sale or handling of transportation of personal effects as baggage of travelers, or to a full-time salaried employe of an agent holding a general lines insurance license. The license shall authorize sale of such insurance on such baggage only in connection with such transportation;

(j) Credit life and credit health insurance license, for credit life and credit health insurance or a license for either of them. No person while so licensed shall hold an agent's license for any other or additional class of life or health insurance; and

(k) Credit insurance license, for insurance against loss or damage from failure of debtors to pay their obligations to the insured, but not to include mortgage insurance. No person so licensed shall hold an agent's license for any other or additional class of insurance.

(2) The commissioner may require indorsements on licenses enumerated in subsection (1) of this section evidencing particular qualifications for the transaction of a class or subclass of insurance as determined by him to be necessary for the protection of the insurance-buying public.
[1967 c 359 s.536, 1971 c 231 s.30, 1973 c 515 s 3]

744.120[Repealed by 1967 c.359 s.704]

744.125[1959 c.367 s 1; 1967 c.359 s 501, renumbered 743 666]

744.130[Amended by 1955 c.226 s 1; 1967 c 359 s.502; renumbered 743.669]

744.135 Licensing of firm or corporate agency. (1) Each individual exercising the powers conferred by an agent's license issued to a firm or corporation shall qualify and otherwise be subject to the Insurance Code as though an individual licensed agent, except that no individual agent's license shall be required.

(2) The commissioner shall be notified promptly on standard forms prescribed and furnished by him of all changes in personnel required to be named or designated pursuant to subsection (3) of ORS 744.065. The commissioner shall collect fees in such amounts as though for an individual agent for each individual designated by the firm or corporation as exercising the powers conferred by its license and with respect to whom fees have not previously been collected for the continuation of appointment of the firm or corporate agent for the current year.

(3) Except for nonresident agent's licenses, no agent's license shall be issued to a firm or corporation that does not have an office in this state managed by an individual who has been designated as exercising the powers conferred by the license. The firm or corporation shall at all times maintain such an individual as the manager of such office.
[1967 c.359 s 537; 1973 c 89 s.2]

744.140[Repealed by 1967 c 359 s.704]

744.145 Number of appointments under one agent's license. A licensee may represent as agent under one license as many insurers as may appoint him therefor in accordance with ORS 744.155.
[1967 c 359 s.538]

744.150[Repealed by 1967 c.359 s.704]

744.155 Appointment of agents. (1) Each insurer appointing an agent in this state shall file in writing with the commissioner notice of the appointment, specifying the name and address of the agent and the class or classes of insurance or subclasses thereof to be transacted by the agent for the insurer, and pay the fee for the appointment as stated in ORS 731.804. One appointment fee shall cover all of the classes of insurance so to be transacted by the agent for the one insurer under the one license authorizing the transaction of such classes.

(2) If the appointment includes any class of insurance, other than surety insurance, which is transacted under a general lines insurance license as provided in ORS 744.115, the insurer shall state thereon, with respect to such class, that the agent so appointed has authority to solicit, negotiate and effect policies of insurance on behalf of the insurer.

(3) A filing of notice of an agent's appointment with the commissioner under this section shall not be construed to be constructive notice to the general public of the scope of the authority of such agent.

(4) Each such appointment shall remain in effect until the agent's license is revoked, has expired or has otherwise terminated, unless written notice of earlier termination of the appointment is filed with the commissioner.

(5) Each insurer shall pay annually the continuation fee set forth in ORS 731.804 for each agent holding an appointment on the annual continuation date assigned the agents of such insurer.

(6) The dates for annual continuation of appointments of agents by various insurers may be staggered throughout the year by the commissioner by notifying each such insurer in writing of the annual continuation date being assigned its agents and by making appropriate adjustment in the annual continuation of appointment fee.
[1967 c 359 s 539, 1971 c.231 s 31, 1975 c.769 s 5]

744.160[Repealed by 1967 c 359 s 704]

744.165 Insurance agent is agent of insurer. Any person who solicits or procures an application for insurance shall in all matters relating to such application for insurance and the policy issued in consequence thereof be regarded as the agent of the insurer issuing the policy and not the agent of the insured. Any provisions in the application and policy to the contrary are invalid and of no effect whatever.
[Formerly 739 520, 1971 c 231 s 32]

744.170[Repealed by 1967 c 359 s 704]

744.175 Termination of appointment. An insurer may terminate an agency appointment at any time, but such termination shall be without prejudice to the contract rights, if any, of the agent so terminated. The insurer shall promptly give written notice of such termination and the date thereof to the commissioner, and to the agent where reasonably possible. The commissioner may require of the insurer reasonable proof that the insurer has given such notice to the agent.
[1967 c 359 s 541; 1975 c 769 s 6]

744.180[Repealed by 1967 c 359 s 704]

744.185 Place of business. (1) Except for nonresident agents, every agent shall have and maintain in this state a place of business accessible to the public, wherein the licensee principally conducts transactions under his license. The address of such place shall appear upon the license, and the licensee shall promptly notify the commissioner of any change thereof. Nothing in this section shall prohibit maintenance of such place of business in the licensee's place of residence in this state.

(2) The agent shall keep at such place of business the usual and customary records pertaining to transaction under his license. All such records as to any particular transactions shall be kept available and open to the inspection of the commissioner at any business time and, with respect to insurance placed, for three years following the expiration thereof.
[1967 c 359 s.542]

744.190[Repealed by 1967 c 359 s.704]

744.195 Temporary licenses. (1) In the event of the death, disability, refusal to act or induction into active duty in the Armed Forces of the United States of an agent holding an appointment from an insurer where no other agent in the agency is authorized to represent such insurer, the insurer may appoint another person, who is otherwise qualified except for passing a written examination and the commissioner may issue a temporary license to such person, enabling him to represent such insurer as agent. The fee for issuance of a temporary agent's license shall be as provided in ORS 731.804.

(2) Each such temporary license shall be for a period of not over 90 days, subject to extension by the commissioner in his discretion for an additional period of not to exceed 90 days, at the end of which period and any extension thereof, the license shall expire.
[1967 c 359 s 543]

744.200[Repealed by 1967 c 359 s 704]

744.205 Continuation of licenses. (1) An agent's license shall continue in force until suspended, revoked or expired.

(2) An agent's license shall automatically expire when the agent no longer holds any appointments as agent for an authorized insurer for any of the classes of insurance transacted under such kind of license.

(3) As a condition to or in connection with the continuation of any agent license the commissioner may require the licensee to file with him information relative to use made of the license during the previous year, and especially showing whether the license has been used principally for the writing of personal or controlled insurance, as defined in ORS 746.065.

(4) The commissioner in his discretion may require an agent, as a condition for continuation of his license, to fulfill any or all of the requirements then applicable to the original issuance of such kind of license.
[1967 c 359 s 544]

744.215 Insurance vending machines. (1) A licensed resident agent authorized to issue policies of personal travel accident insurance may solicit applications for and issue such policies by means of mechanical vending machines supervised by him and placed at airports, railroad stations, bus sta-

tions and similar places where transportation tickets are sold, if the commissioner finds:

(a) That the policy provides reasonable coverage and benefits and is reasonably suited for sale and issuance through vending machines, and that such use of a vending machine in the particular proposed location would be of material convenience to the traveling public;

(b) That the type of vending machine proposed to be used is reasonably suitable and practical for the purpose;

(c) That reasonable means are provided for informing the prospective purchaser of the coverage and restrictions of the policy; and

(d) That reasonable means are provided for refund to the applicant or prospective applicant of money inserted in a defective machine and for which no insurance, or a lesser amount than paid for, is actually received.

(2) As to each machine so approved by the commissioner for use, he shall issue to the agent a vending machine license. The license shall specify the name and address of the insurer and agent, the identification of the policy to be sold, the serial number of the machine and the place where it is to be in operation. The license shall be subject to annual continuation and to suspension, revocation or expiry coincidentally with that of the agent. The commissioner shall also revoke the license for any machine as to which he finds the conditions upon which it was licensed, as set forth in subsection (1) of this section, no longer exist. The license fee shall be as stated in ORS 731.804 for each license year or part thereof for each vending machine. Proof of the existence of a subsisting license shall be displayed on or about each such vending machine in use, in such manner as the commissioner reasonably may require.

[1967 c.359 s 545]

TERMINATION OF LICENSES GENERALLY

744.255 License suspension, revocation or refusal to continue. (1) The commissioner may suspend for not more than 12 months, or may revoke or refuse to continue, any license issued under ORS 744.105, 744.305 or 744.505 if he finds that as to the licensee any one or more of the following causes exist:

(a) The conduct of the licensee has been such that if he were then applying for such license his application should be denied;

(b) Obtaining or attempting to obtain the license through fraud or through wilful misrepresentations or wilful misstatements as to any material matter;

(c) Violation of or noncompliance with any applicable provision of the Insurance Code or any lawful rule or order of the commissioner;

(d) Misappropriation or conversion to his own use, or illegal withholding, of money or property belonging to policyholders, insurers, beneficiaries or others, and received in the conduct of business under the license;

(e) Conviction, by final judgment, in any jurisdiction, of an offense which if committed in this state, constitutes a misdemeanor involving moral turpitude or a felony, or is punishable by death or imprisonment under the laws of the United States, in any of which cases the record of his conviction shall be conclusive evidence;

(f) Material misrepresentation of the terms of any insurance policy or proposed insurance policy; or

(g) Use of a fraudulent or dishonest practice by the licensee in the conduct of his affairs under the license, or demonstration therein that he is incompetent, untrustworthy or a source of injury and loss to the public or others.

(2) The agent's license of a firm or corporation may be suspended, revoked or refused continuance for any of the causes set forth in subsection (1) of this section as exist relating to any individual designated to exercise the powers conferred by the license.

[1967 c 359 s.546, 1969 c 336 s 15]

744.260 Probation in case of license denials; revocation during probationary period; right to hearing. (1) Where grounds exist for the refusal of such license, the commissioner may place a condition of probation for a period not to exceed two years on any agent's, adjuster's or surplus line license at the time of original issuance of such license. Where grounds exist for the suspension or revocation of such license, the commissioner may, after hearing, place a condition of probation for a period not to exceed two years upon any agent's, adjuster's or surplus line license which has been issued without such a condition.

(2) During any such probationary period, the commissioner may revoke such license by giving notice of revocation to the licensee.

(3) If the commissioner places a condition of probation upon a license at the time of original issuance, the applicant shall have the same right to a hearing as if the license had been refused.
[1971 c.231 s 9]

744.265 Return of agent's, adjuster's or surplus line license. (1) All licenses, although issued and delivered to the agent, adjuster or surplus line licensee, shall at all times be the property of this state. Upon any suspension, revocation or expiry of the license the licensee or other person having possession or custody of the license forthwith shall deliver it to the commissioner either by personal delivery or by mail.

(2) The commissioner may accept, in lieu of return of any license lost, stolen or destroyed the affidavits of the licensee and all other persons responsible for or involved in the safekeeping of such license, concerning the facts of such loss, theft or destruction.
[1967 c 359 s 547]

SURPLUS LINE AGENTS

744.305 Surplus line licenses; examination; issuance. (1) The commissioner, upon receipt of an application in proper form, a bond as described in ORS 744.315 and a license fee as provided in ORS 731.804, and upon the first-time applicant's having passed a written examination as prescribed by the commissioner, shall issue a surplus line license to a duly qualified resident agent holding a general line insurance license.

(2) A surplus line license shall permit the licensee to act as agent in this state for any eligible surplus line insurer as defined in ORS 744.335 in transacting insurance on domestic risks as provided in ORS 744.305 to 744.405.
[Formerly 750 010]

744.310[Repealed by 1967 c 359 s 704]

744.315 Applicant's bond required. Before receiving a surplus line license, the applicant for a surplus line license shall execute and deliver to the commissioner a bond in the penal sum of $10,000 in such form and with such sureties as the commissioner approves, conditioned upon full compliance by the applicant with all requirements of ORS 744.305 to 744.405.
[Formerly 750 020]

744.320[Amended by 1959 c 369 s.5; repealed by 1967 c 359 s 704]

744.325 Continuation of surplus line license. A surplus line license shall continue in force until suspended, revoked or discontinued by nonpayment of the annual renewal fee, as provided in ORS 731.804.
[1967 c 359 s.550]

744.330[Repealed by 1967 c 359 s 704]

744.335 Eligible surplus line insurers. (1) A surplus line license shall not permit the licensee to place any insurance with an insurer known to have a combined capital and surplus of less than $500,000, unless there is on file with the commissioner a copy of a trust agreement certified by the trustee evidencing a subsisting trust deposit of not less than $350,000 by such insurer with a bank or trust company in the United States that is held for the protection of the United States policyholders. The commissioner may by rule prescribe the terms under which the foregoing financial requirements may be waived in circumstances where insurance on domestic risks cannot be procured otherwise.

(2) "Eligible surplus line insurer" means any unauthorized foreign or alien insurer, except one that is not eligible as provided in subsection (1) of this section for the placement therewith of insurance pursuant to a surplus line license.
[1967 c 359 s 551]

744.340[Repealed by 1967 c.359 s.704]

744.345 Conditions prerequisite to issuance of policy. (1) When a surplus line licensee transacts any insurance on a domestic risk for an eligible surplus line insurer, he shall in each case execute and file with the commissioner his affidavit in acceptable form to the effect that the insured is unable to procure, in a majority of authorized insurers writing the class of insurance involved, the amount or kind of insurance necessary to protect the interests of the insured described in such affidavit at rates at least as great as the minimum rates for such insurance, if any, promulgated by a licensed rating organization and filed with and approved by the commissioner.

(2) The rates charged by the eligible surplus line insurer for the insurance that is the subject of the affidavit required by subsection (1) of this section, shall be at least as great as the minimum rates referred to in such subsection.
[Formerly 750.040]

744.350[Repealed by 1967 c 359 s.704]

744.355 Surplus line policy indorsement; agent to be designated attorney in fact for service of process. (1) Every policy issued under a surplus line license shall be indorsed "Issued in an unauthorized insurer, under agent's license no. ——." The indorsement shall be properly filled in and signed by the agent.

(2) Before registering and delivering any policy with an eligible surplus line insurer, the agent shall procure from the insurer a power of attorney which empowers him as its attorney in fact to receive and accept on its behalf service of any and all writs, processes and summonses requisite or necessary to give complete jurisdiction of the insurer to any courts of this state or of the United States in this state. The power of attorney shall constitute such attorney the authorized agent of the insurer upon whom lawful service may be made of all writs, processes and summonses in any case, suit or proceeding in any such court. The power of attorney shall be valid so long as the insurer has any liability existing in this state on account of any outstanding policies or unpaid claims pending against it. The agent shall file the power of attorney with the commissioner promptly on its receipt by the agent.
[Formerly 750 050]

744.360[Repealed by 1967 c 359 s.704]

744.365 Surplus line insurance valid. Insurance policies procured under a surplus line license pursuant to ORS 744.305 to 744.405 shall be fully valid and enforceable as to all parties, and shall be given recognition in all matters and respects to the same effect as like policies issued by authorized insurers.
[1967 c 359 s 554]

744.370[Repealed by 1967 c 359 s 704]

744.375 Agent's annual statement of business; taxes payable. Every agent holding a surplus line license shall:

(1) Keep a separate account of the business done under his surplus line license.

(2) On or before April 1 annually, file with the commissioner on forms prescribed by him a statement for the preceding calendar year, showing with respect to each policy issued under his surplus line license:

(a) The name of the insured to whom the policy was issued;

(b) The name and home-office address of the insurer issuing the policy, the amount of the insurance and the gross premiums charged;

(c) The date and term of the policy and the amount of premium returned if the policy was canceled or not taken; and

(d) Any other information required by the commissioner.

(3) Pay the commissioner, on or before April 1 annually, an amount equal to the tax which would be imposed by law on authorized insurers for the premiums shown in the statement required by subsection (2) of this section.
[Formerly 750 060]

744.380[Repealed by 1967 c 359 s 704]

744.385 Action against delinquent agent for recovery of fine and taxes. An agent holding a surplus line license who fails to make and file the annual statement required by ORS 744.375 and to pay the tax as required by such section, shall be liable for a fine of $25 for each day of delinquency. Such tax and fine may be recovered in an action instituted by the commissioner in the name of this state, the Attorney General representing him, in any court of competent jurisdiction. The fine, when so collected, shall be paid to the State Treasurer and placed to the credit of the General Fund.
[Formerly 750 100]

744.390[Repealed by 1967 c 359 s 704]

744.395[Repealed by 1967 c 359 s 704]

744.396 Process, venue and jurisdiction in case of suit against surplus line insurers. (1) An insurer making insurance under the provisions of ORS 744.305 to 744.405 may be sued upon any cause of action, arising under any policy of insurance so issued and delivered by it, in the courts for the county where the agent who registered or delivered such policy resides or transacts business, by the service of summons and complaint made upon such agent for such insurer.

(2) Any such agent served with summons and complaint in any such cause shall forthwith mail the summons and complaint, or a true and complete copy thereof, by registered or certified mail with proper postage affixed and properly addressed, to the insurer being sued.

(3) The insurer shall have 40 days from the date of the service of the summons and complaint upon such agent in which to plead, answer or defend any such cause.

(4) Upon service of summons and complaint upon such agent for such insurer, the court in which the action is begun shall be deemed to have duly acquired jurisdiction in

personam of the defendant insurer so served.
[Formerly 750.080]

744.400[Repealed by 1967 c 359 s 704]

744.405 Revocation of surplus line license; conditions precedent to reissuance. (1) The commissioner shall revoke a surplus line license if the licensee:

(a) Fails to make and file the annual statement and to pay the taxes required by ORS 744.375;

(b) Refuses to allow the commissioner to inspect and examine his records of the business transacted by him under his surplus line license, or fails to keep such records in the manner required by the commissioner;

(c) Neglects to notify immediately the insurer for which he has placed, registered or delivered a policy, of the commencement of any action or proceeding in any court in this state against such insurer; or

(d) Knowingly places insurance under his surplus line license with a financially unsound insurer or with an insurer known not to comply with the financial requirements of ORS 744.335.

(2) No surplus line license shall be issued to such agent within one year from the date of revocation for a violation of any prohibition set forth in paragraphs (a) to (c) of subsection (1) of this section, or within two years for violation of paragraph (d) thereof, or until all taxes and fines under ORS 744.385 are paid and the commissioner is satisfied that full compliance with ORS 744.305 to 744.405 will be had.

(3) The grounds listed in this section for the revocation of a surplus line license shall be in addition to and not in lieu of the power granted to the commissioner with respect to such licenses under ORS 744.255.
[Formerly 750 090]

744.410[Amended by 1963 c 463 s 1, repealed by 1967 c 359 s 704]

744.420[Amended by 1953 c.322 s 2; 1963 c 463 s 2; repealed by 1967 c.359 s 704]

744.430 Amended by 1955 c.226 s 2, 1963 c 463 s 3, 1967 c.359 s 503, renumbered 743 672]

744.440[Amended by 1967 c.359 s 504, renumbered 743 675]

744.450[Amended by 1967 c.359 s 505; renumbered 743.678]

744.460[Amended by 1967 c 359 s.506; renumbered 743.681]

744.470[Repealed by 1967 c 359 s.704]

744.480[Repealed by 1967 c 359 s.704]

744.490[Repealed by 1967 c 359 s.704]

744.500[Repealed by 1967 c.359 s 704]

ADJUSTERS

744.505 Adjuster's license required. (1) Except as provided in ORS 744.515, any person acting in this state as an adjuster of losses claimed under insurance policies, whether acting for the insurer or the insured, shall procure a license from the commissioner permitting him to adjust such losses for or against authorized insurers or insurers with which such policies were placed under a surplus line insurance license as provided in ORS 744.305 to 744.405. The fee for such license is provided in ORS 731.804.

(2) A separate license shall be procured for each loss adjusted under a policy issued by an unauthorized insurer, except as provided in subsection (1) of this section. No such loss shall be adjusted without notifying the commissioner and paying the license fee as provided in ORS 731.804 prior to entering upon adjustment of the loss.
[Formerly 736 485]

744.510[Repealed by 1967 c.359 s 704]

744.515 Exemption from adjuster's licensing requirement. (1) A licensed resident agent or salaried employe or officer of an authorized insurer may adjust and settle losses for the insurer which he represents without procuring an adjuster's license.

(2) A person may make one adjustment during the year prior to obtaining a license if he makes application for the license, within two days after entering upon such adjustment, and in all other respects complies with ORS 744.505 to 744.575.

(3) A person holding a temporary permit under ORS 744.555 may perform acts authorized thereunder without procuring an adjuster's license.

(4) Any average adjuster or adjuster of maritime losses may adjust maritime losses without procuring an adjuster's license.
[1967 c.359 s 560; 1971 c.231 s.33]

744.520[Repealed by 1967 c.359 s 704]

744.525 Adjuster qualifications. The commissioner shall license as an adjuster only an individual who has furnished evidence satisfactory to the commissioner that he is qualified as follows:

(1) Is at least 18 years of age;

(2) Is a bona fide resident of this state, or is a resident of a state which will permit residents of this state to act as adjusters in such other state;

(3) Is a trustworthy person with good reputation;

(4) Has had experience, education, or special training with reference to handling of loss claims under insurance policies of sufficient duration and extent to make him competent to fulfill the responsibilities of an adjuster;

(5) Has successfully passed any examination required by ORS 744.535; and

(6) Has not been convicted in any jurisdiction of an offense which if committed in this state, constitutes a misdemeanor involving moral turpitude or a felony, or is punishable by death or imprisonment under the laws of the United States, in any of which cases the record of his conviction shall be conclusive evidence, except in the case of an applicant having special merit as determined by the commissioner.

[1967 c 359 s.561; 1971 c 231 s.34, 1973 c 827 s.81]

744.530[1957 c 247 s 1, repealed by 1967 c 359 s 704]

744.535 Adjuster's licensing examination; fee. (1) Each applicant for a license as an adjuster shall take and pass an examination given by the commissioner as a test of his qualifications, competence and knowledge, except that this requirement shall not apply to:

(a) An applicant for the renewal of an adjuster's license in force on September 2, 1963, or reissued thereafter; or

(b) An applicant who is licensed as an independent adjuster in another state which licenses adjusters of this state without examination.

(2) Each such examination shall be as the commissioner prescribes and shall be of sufficient scope to test the applicant's knowledge of the classes of insurance which may be dealt with under the license requested and also his knowledge of the duties and responsibilities of an adjuster under the laws of this state.

(3) The commissioner shall give examinations at such times and places within the state as he deems necessary to reasonably serve the best interests of all concerned, provided that the commissioner shall give an examination at least once every six months if applications for licenses are then pending.

(4) The examination fee is as provided in ORS 731.804. The fee shall be paid in advance and shall not be returned to the applicant.

[1967 c.359 s 562]

744.540[1957 c 247 s.2, repealed by 1967 c 359 s.704]

744.545 Continuation of adjuster's license. All adjuster's licenses issued under subsection (1) of ORS 744.505 shall continue in force until suspended or revoked, subject to the payment of the annual continuation fee as provided in ORS 731.804.

[1967 c 359 s 563]

744.550[1957 c 247 s 3, repealed by 1967 c 359 s 704]

744.555 Temporary adjuster's permit. (1) To facilitate the settlement of claims under insurance policies when there is widespread property loss in this state arising out of a catastrophe, the commissioner may issue a temporary permit to any person authorized in another state to adjust losses claimed under insurance policies to act as an adjuster in the catastrophe area for or against an authorized insurer. A temporary permit issued pursuant to this section shall be effective for such time as the commissioner in his discretion deems necessary and shall be in lieu of the license and fee requirements of ORS 744.505 and 744.535.

(2) A temporary permit may be obtained by filing with the commissioner a written application therefor in the form prescribed by the commissioner. The application shall contain the name and address of the applicant, the name of the state in which the applicant is authorized to adjust losses claimed under insurance policies and any other information the commissioner may require.

(3) Such a permit may also be issued in respect to any adjuster who is licensed or permitted to act as such in the state of his domicile and who is sent into this state on behalf of an authorized insurer or insured for the purpose of investigating or making adjustment of a particular loss under policies of insurance.

[Formerly 736 490]

744.560[1957 c 247 s 4, repealed by 1967 c 359 s 704]

744.565[1957 c 247 s 5, repealed by 1967 c 359 s 704]

744.566[1967 c 359 s 565; repealed by 1969 c 336 s 21]

744.570[1957 c.247 s.6, repealed by 1967 c 359 s 704]

744.575 Adjusting claims involving credit life or credit health insurance. No plan or arrangement shall be used with respect to credit life or credit health insurance whereby any person other than the insurer or its designated claim representative shall be authorized to settle or adjust claims. The

creditor shall not be designated as claim representative for the insurer in adjusting claims; provided, that a group policyholder may, by arrangement with the group insurer, draw drafts or checks in payment of claims due to the group policyholder subject to audit and review by the insurer.
[Formerly 741 455]

744.580[1957 c 247 s 7, repealed by 1967 c 359 s 704]

744.590[1957 c 247 s 8, repealed by 1967 c 359 s 704]

744.600[1957 c 247 s 9; repealed by 1967 c 359 s 704]

744.610[1957 c 247 s.10, repealed by 1967 c.359 s 704]

744.620[1957 c.247 s 11, repealed by 1967 c 359 s 704]

744.630[1957 c 247 s 12; repealed by 1967 c.359 s 704]

744.640[1957 c 247 s.13; repealed by 1967 c 359 s 704]

744.990[Repealed by 1967 c 359 s 704]

CERTIFICATE OF LEGISLATIVE COUNSEL

Pursuant to ORS 173 170, I, Thomas G Clifford, Legislative Counsel, do hereby certify that I have compared each section printed in this chapter with the original section in the enrolled bill, and that the sections in this chapter are correct copies of the enrolled sections, with the exception of the changes in form permitted by ORS 173 160 and other changes specifically authorized by law

Done at Salem, Oregon,
October 1, 1975

Thomas G Clifford
Legislative Counsel