

Chapter 744

1987 REPLACEMENT PART

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INSURANCE

AGENTS GENERALLY**744.005 Agent 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 §525]

744 010 [Repealed by 1967 c 359 §704]

744.012 Applicability of Insurance Code to title insurance agents. The Legislative Assembly finds that it is in the interest of the insurance-buying public that title insurance agents be subject to the Insurance Code. It is declared to be the intent of the Legislative Assembly that the Insurance Code shall apply to title insurance agents only to the extent necessary for the regulation of title insurance ratemaking and unfair trade practices [1979 c 501 §1]

Note 744 012 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 744 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

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 §526]

744.017 Filing compensation agreements for agents; filings not public records.

The director 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 192.505 [1971 c 231 §8]

744 020 [Repealed by 1967 c 359 §704]

744.025 Exemptions from licensing requirements. ORS 744 005 and 744 015 shall not apply to the following

(1) Employees 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 employees of insurers who solicit, negotiate or effect insurance only through licensed resident agents

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

(4) Salaried employees of the holder of a master group insurance policy or salaried employees of a 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, when 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) Salaried employees of title insurance agents or insurers, except for the individual or individuals designated as exercising the powers conferred by a title insurance agent's license

(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 the agent's or representative's 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 the person's time to the solicitation or procurement of insurance policies for such society

(9) The lawful transaction of home protection insurance by a person who is a real estate licensee as defined by ORS 696 010 (12)(a) to (e), and whose transaction of this insurance is subject to a written contract, to which the insurer is a party, governing the person's activities in the transaction

(10) Salaried employees of a banking institution or a national bank as defined in ORS 706 005, a savings association or a federal association as defined in ORS 722 004, a state credit union as defined in ORS 723 006 or a federal credit union, who, in the regular course of business with the customers of the banking institution, national bank, savings association, federal association or federal or state credit union, present the customers with written information about savings account annuities issued by an authorized insurer. Any person who purchases such an annuity may rescind the transaction within 10 days after the issuance of the contract. For purposes of this subsection, savings account annuities are annuities purchased with the proceeds of a savings account, certificate or share in a banking institution, national bank, savings association, federal association or federal or state credit union [1967 c 359 §527, 1971 c 385 §6 1979 c 501 §3 1979 c 829 §9a 1981 c 247 §18 1983 c 464 §1, 1985 c 762 §188]

744 030 [Amended by 1965 c 610 §12 repealed by 1967 c 359 §704]

744.035 Brokerage. (1) Except as provided in this section, an agent shall place insurance only in an insurer as to which the agent holds a subsisting appointment as agent pursuant to ORS 744 155

(2) Unless the privilege is denied or otherwise limited by the director pursuant to subsection (3) of this section an agent holding a subsisting general lines, life, health or life and health insurance license referred to in ORS 744 115 may place insurance that is otherwise authorized by the license in an insurer as to which the agent 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 director 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 the director determines the denial or limitation would be in the best interest of the insurance-buying public [1967 c 359 §528, 1985 c 697 §18]

744 040 [Repealed by 1967 c 359 §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 director. Nothing in the Insurance Code shall be construed to limit or prohibit the licensing under ORS 744 005 to 744 215 of a banking institution, as defined in ORS 706 005, a corporation owned in whole or part by a banking institution under ORS 708 430, 716 588 or 716 594, or a corporation owned in whole or part by a bank holding company, as defined in ORS 715 010, as an agent to transact one or more of the classes of insurance described in ORS 744 115 (1)(a) to (L) and (n). Except as provided in ORS 744 055, every applicant for issuance of an agent's license shall satisfy the following requirements

(1) The applicant shall establish a residence or place of transacting insurance business in this state prior to filing an application

(2) The applicant must 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. The record of a conviction for an offense described in this subsection shall be conclusive evidence, except in the case of an applicant having special merit as determined by the director

(3) The applicant must have the requisite learning and ability, as shown by the written examination required of the applicant for issuance of the license and by any other requirements as the director may establish [1967 c 359 §529, 1983 c 76 §2 1987 c 916 §8]

744 050 [Repealed by 1953 c 93 §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 ORS 744 045 (1) and 744 135 (3), 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, the nonresident agent or insurance

broker 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. A nonresident agent or insurance broker from a jurisdiction that requires countersigning of a policy sold in that jurisdiction by an Oregon resident agent or broker shall have any policy sold to an Oregon resident countersigned by an Oregon agent or broker.

(4) The director 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 director in writing an appointment of the director to be the attorney of the nonresident person 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 the person which is served upon the director 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 the agent 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 §530, 1971 c 231 §27, 1987 c 222 §1]

744 060 [Repealed by 1953 c 93 §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 director in writing on forms prescribed and furnished by the director. The application shall include the following information:

(a) The applicant's name, business address, residence address, present occupation, occupation for the last 12 months, the 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 the applicant 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 of any class 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. The 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.

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

(2) The applicant shall make sworn statements and answers as required by the director to interrogatories included in the 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. If the applicant is a corporation, the application also shall state 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 §531, 1969 c 336 §14, 1973 c 89 §1, 1983 c 76 §3]

744 070 [Amended by 1967 c 359 §480, renumbered 743 603]

744.075 Examination. (1) Unless exempted by ORS 744 085, each applicant for an agent's license, prior to issuance of the license, shall take and pass to the director's satisfaction a written examination thoroughly testing the applicant's knowledge of the class or classes of insurance or subclasses of any class proposed to be transacted by the applicant, and of the legal responsibilities of 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 director 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 the license for two months next following the date of the second examination

(5) An applicant who fails to pass three examinations for a particular agent's license shall not be permitted to take another examination for the license for four months next following the date of the third examination [1967 c 359 §532 1983 c 76 §4]

744 080 [Repealed by 1967 c 359 §704]

744.085 Exemption from examination.

An examination for issuance of a license as agent shall not be required of any of the following applicants

(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 the Armed Forces

(2) Any applicant who held a valid resident agent's license within the preceding two years and who applies for reissuance of the license, if both of the following requirements are met

(a) The license was not suspended or revoked by the director

(b) The director must be satisfied, by examination or otherwise, that the 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 transportation ticket agents, only

(a) Travel ticket health insurance policies, or

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

(4) Any applicant for a general lines insurance license upon whom the American Institute of Property and Liability Underwriters, Inc has conferred the Chartered Property and Casualty Underwriter (C P C U) designation, or any applicant for a life and health insurance license upon whom the American College of Life Underwriters has conferred the Chartered Life Underwriter (C L U) designation, if the director is satisfied, by examination or otherwise, that the applicant is knowledgeable in the particulars of the applicable provisions of the Insurance Code

(5) Any applicant for a legal services insurance license, unless the director determines that examinations are necessary for the protection of the insurance-buying public and establishes a rule to that effect

(6) Any applicant for a credit life insurance license, credit health insurance license, livestock insurance license, mortgage insurance license or motor vehicle physical damage insurance license, or for any combination of such licenses permitted by the Insurance Code

(7) Any applicant for a title insurance license

(8) Any applicant for a lender's property insurance license

(9) Any applicant who holds a valid license issued by another state, if the state requires an examination for the license that is comparable to the examination administered in this state and if the state exempts from the examination requirement any applicant who holds a valid license issued by this state for which an examination is required However, the director may require the applicant to be examined on the Insurance Code and rules adopted under the Insurance Code [1967 c 359 §533, 1971 c 231 §28 1977 c 174 §1, 1977 c 820 §1, 1979 c 501 §4, 1981 c 817 §1, 1983 c 76 §5]

744 090 [Amended by 1967 c 359 §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 §534]

744 100 [Repealed by 1967 c 359 §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 director finds that the applicant has the qualifications required or provided for in ORS 744 045, the director shall issue the license to the applicant. Otherwise, the director shall refuse to issue the license and shall promptly notify the applicant and the appointing insurer of such refusal, stating the grounds therefor. The director shall not issue a license if the director 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 director 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 §535 1971 c 231 §29]

744 110 [Repealed by 1967 c 359 §704]

744.115 Kinds of agent licenses. (1)

The director 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 735 400 to 735 495 and 735 990

(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,

(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,

(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,

(L) Legal services insurance license, for services provided by a legal services contractor as defined in ORS 750 300, or for insurance against the costs of attorney services and related costs and fees as authorized under an insurer's certificate of authority to transact casualty insurance. The license shall be issued only to a person who holds at least one of the agent's licenses of the kinds set forth in paragraphs (b) and (d) of this subsection,

(m) Title insurance license, for title insurance, and

(n) Lender's property insurance license, for property insurance on the personal property of a debtor to secure the repayment of the amount borrowed from a lender

(2) The director 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 the director to be necessary for the protection of the insurance-buying public [1967 c 359 §536, 1971 c 231 §30, 1973 c 515 §3, 1977 c 174 §2, 1979 c 501 §5, 1981 c 817 §2, 1987 c 774 §138, 1987 c 916 §9]

744 120 [Repealed by 1967 c 359 §704]

744 125 [1959 c 367 §1, 1967 c 359 §501, renumbered 743 666]

744 130 [Amended by 1955 c 226 §1, 1967 c 359 §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 director shall be notified promptly on standard forms prescribed and furnished by the director of all changes in personnel required to be named or designated pursuant to ORS 744 065

(3) The director 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 §537 1973 c 89 §2]

744 140 [Repealed by 1967 c 359 §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 the licensee therefor in accordance with ORS 744 155 [1967 c 359 §538]

744 150 [Repealed by 1967 c 359 §704]

744.155 Appointment of agents. (1) Each insurer appointing an agent in this state shall file in writing with the director 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 director 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 director

(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 director 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 §539, 1971 c 231 §31, 1975 c 769 §5]

744 160 [Repealed by 1967 c 359 §704]

744.165 Insurance agent as agent of insurer; exception for group policies. (1) Except as provided in a group contract of insurance under subsection (2) of this section, any person who solicits or procures an application for insurance shall in all matters relating to the application for insurance and the policy issued in consequence of the application 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

(2) A group contract of insurance and the individual certificate issued pursuant to the group contract may contain provisions stating whether the group policyholder acts as the agent of the individual insured or whether the group policyholder acts as the agent of the insurer [Formerly 739 520, 1971 c 231 §32, 1983 c 265 §1]

744 170 [Repealed by 1967 c 359 §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 director, and to the

agent where reasonably possible. The director may require of the insurer reasonable proof that the insurer has given such notice to the agent [1967 c 359 §541, 1975 c 769 §6]

744.180 [Repealed by 1967 c 359 §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 a license. The address of such place shall appear upon the license, and the licensee shall promptly notify the director 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 a license. All such records as to any particular transactions shall be kept available and open to the inspection of the director at any business time and, with respect to insurance placed, for three years following the expiration thereof [1967 c 359 §542]

744.190 [Repealed by 1967 c 359 §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 director may issue a temporary license to such person, enabling the person 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 director in the discretion of the director 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 §543]

744.200 [Repealed by 1967 c 359 §704]

744.205 Continuation of licenses; continuing education requirements. (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 the license.

(3) As a condition to or in connection with the continuation of any agent license the director may require the licensee to file information with the director 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 director may require an agent, as a condition for continuation of the license of the agent, to fulfill any or all of the requirements then applicable to the original issuance of the license.

(5) The director by rule may establish requirements for continuing education for resident agents as a condition for continuation of their licenses. The hours of education so required shall not exceed 45 hours annually during the first five years an individual is licensed, 24 hours annually during the next five years an individual is licensed, and 12 hours annually for individuals licensed for more than 10 years or for individuals who have received the designation C P C U, C L U, or comparable degree recognized by the director. Continuing education shall not be required for:

(a) Any person to whom a license is issued without examination pursuant to ORS 744.085 (3), (6), (7) or (8), or

(b) Any retired person, if the person is 65 years of age or more, has 15 years' experience as a licensed agent and requests exemption from the requirement [1967 c 359 §544, 1977 c 820 §2, 1979 c 501 §6, 1981 c 817 §3, 1983 c 76 §6]

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 the agent and placed at airports, railroad stations, bus stations and similar places where transportation tickets are sold, if the director 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 director for use, the director 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 director shall also revoke the license for any machine as to which the director 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 director reasonably may require. [1967 c. 359 §545]

744.225 Trust account for premium funds, commingling; penalty; exceptions.

(1) All premium funds received by an agent or solicitor acting in a fiduciary capacity shall be accounted for and maintained in a trust account separate from all other business and personal funds

(2) Except as provided in subsection (3) of this section, an agent or solicitor shall not commingle or otherwise combine premiums with any other moneys

(3) An agent or solicitor may commingle with premium funds in the trust account required by subsection (1) of this section any additional funds the agent or solicitor deems prudent for the purpose of advancing premiums, establishing reserves for the paying of return premiums, or for any contingencies that may arise in the course of receiving and transmitting premium or return premium funds

(4) Violation of this section shall be grounds for the director to take appropriate action pursuant to ORS 744.255

(5) Each violation of this section is a misdemeanor

(6) This section does not apply to any state-chartered bank, banking institution, national bank, savings bank or stock savings bank as defined in ORS 706.005, savings association as defined in ORS 722.004, credit union as defined in ORS 723.006 and federally-chartered credit union or any entity licensed under ORS chapter 725 or 726. [1987 c. 569 §2]

Note 744.225 was added to and made a part of ORS chapter 744 but was not added to any smaller series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

DENIAL AND TERMINATION OF LICENSES GENERALLY

744.255 License suspension, revocation or refusal to continue. (1) The director may suspend for not more than 12 months, or may revoke or refuse to continue, any license issued under ORS 744.105, 744.505 or 744.615 if the director finds that as to the licensee any one or more of the following grounds exist

(a) The conduct of the licensee is a ground for which an application for a license may be denied

(b) The licensee has obtained or attempted 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 director

(d) Misappropriation or conversion to the licensee's own use, or illegal withholding, of money or property belonging to policyholders, insurers, beneficiaries or others, and received by the licensee 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. The record of a conviction for an offense described in this paragraph shall be conclusive evidence

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

(g) Use of a fraudulent or dishonest practice by the licensee in the conduct of business under the license, or demonstration therein that the licensee 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 §546, 1969 c. 336 §15, 1983 c. 76 §7, 1985 c. 697 §15, 1987 c. 774 §141]

744.260 Condition of probation on license; revocation during probationary

period; right to hearing. (1) At the time of original issuance of an agent's, adjuster's, surplus line or insurance consultant's license, if grounds exist for the refusal of the license, the director may place a condition of probation for a period not to exceed two years on the license

(2) If grounds exist for the suspension or revocation of an agent's, adjuster's, surplus line or insurance consultant's license, the director after a hearing may instead place a condition of probation for a period not to exceed two years upon the license

(3) During a probationary period under this section, the director may revoke a license by giving notice of revocation to the licensee

(4) If the director 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 §9, 1983 c 76 §8, 1985 c 697 §16]

744.265 Return of agent's, adjuster's or surplus line license. (1) All licenses issued and delivered to the agent, adjuster or surplus line licensee shall be at all times 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 immediately shall deliver it to the director either by personal delivery or by mail

(2) The director 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 §547, 1983 c 76 §9]

744 305 [Formerly 750 010, repealed by 1987 c 774 §154]

744 310 [Repealed by 1967 c 359 §704]

744 315 [Formerly 750 020, 1981 c 455 §1, repealed by 1987 c 774 §154]

744 320 [Amended by 1959 c 369 §5 repealed by 1967 c 359 §704]

744 325 [1967 c 359 §550, repealed by 1987 c 774 §154]

744 330 [Repealed by 1967 c 359 §704]

744 335 [1967 c 359 §551, 1981 c 455 §2, repealed by 1987 c 774 §154]

744 340 [Repealed by 1967 c 359 §704]

744 345 [Formerly 750 040, repealed by 1987 c 774 §154]

744 350 [Repealed by 1967 c 359 §704]

744 355 [Formerly 750 050 repealed by 1987 c 774 §154]

744 360 [Repealed by 1967 c 359 §704]

744 365 [1967 c 359 §554 repealed by 1987 c 774 §154]

744 370 [Repealed by 1967 c 359 §704]

744 375 [Formerly 750 060, repealed by 1987 c 774 §154]

744.380 [Repealed by 1967 c 359 §704]

744 385 [Formerly 750 100 repealed by 1987 c 774 §154]

744 390 [Repealed by 1967 c 359 §704]

744 395 [Repealed by 1967 c 359 §704]

744 396 [Formerly 750 080, repealed by 1987 c 774 §154]

744 400 [Repealed by 1967 c 359 §704]

744 405 [Formerly 750 090, 1979 c 870 §7, repealed by 1987 c 774 §154]

744 410 [Amended by 1963 c 463 §1, repealed by 1967 c 359 §704]

744 420 [Amended by 1953 c 322 §2, 1963 c 463 §2, repealed by 1967 c 359 §704]

744 430 [Amended by 1955 c 226 §2, 1963 c 463 §3, 1967 c 359 §503, renumbered 743 672]

744 440 [Amended by 1967 c 359 §504, renumbered 743 675]

744 450 [Amended by 1967 c 359 §505, renumbered 743 678]

744 460 [Amended by 1967 c 359 §506, renumbered 743 681]

744 470 [Repealed by 1967 c 359 §704]

744 480 [Repealed by 1967 c 359 §704]

744 490 [Repealed by 1967 c 359 §704]

744 500 [Repealed by 1967 c 359 §704]

ADJUSTERS

744.505 Adjuster 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 obtain a license from the director A license authorizes an adjuster to adjust losses for or against authorized insurers or insurers with which policies were placed under a surplus line insurance license as provided in ORS 735 400 to 735 495 and 735 990 The fee for the license is provided in ORS 731 804

(2) A separate license shall be obtained 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 director and paying the license fee as provided in ORS 731 804 prior to entering upon adjustment of the loss [Formerly 736 485, 1983 c 76 §10, 1987 c 774 §139]

744.510 [Repealed by 1967 c 359 §704]

744.515 Exemptions from adjuster 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 the agent, employe or officer represents, without obtaining an adjuster's license

(2) A person may make one adjustment before obtaining an adjuster's license if the person applies for the license within two days after entering upon the 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 under ORS 744 555 without obtaining an adjuster's license

(4) Any average adjuster or adjuster of maritime losses may adjust maritime losses without obtaining an adjuster's license

(5) A person may perform or provide repair or replacement service under home protection insurance without obtaining an adjuster's license [1967 c 359 §560 1971 c 231 §33 1981 c 247 §19 1983 c 76 §11]

744 520 [Repealed by 1967 c 359 §704]

744.525 Adjuster qualifications. The director may not license an individual as an adjuster unless the individual has furnished evidence satisfactory to the director that the individual meets all of the following qualifications

(1) The individual must be at least 18 years of age

(2) The individual must be a bona fide resident of this state, or is a resident of a state that allows residents of this state to act as adjusters in that state

(3) The individual must have had experience, education, or special training with reference to handling of loss claims under insurance policies of sufficient duration and extent to make the individual competent to fulfill the responsibilities of an adjuster

(4) The individual must have passed successfully any examination required by ORS 744 535

(5) The individual must 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 a conviction for an offense described in this subsection, the record of the conviction shall be conclusive evidence, except in the case of an applicant having special merit as determined by the director [1967 c 359 §561 1971 c 231 §34, 1973 c 827 §81, 1983 c 76 §12]

744 530 [1957 c 247 §1 repealed by 1967 c 359 §704]

744.535 Adjuster licensing examination; fee. (1) Each applicant for a license as an adjuster shall take and pass an examination given by the director as a test of the qualifications, competence and knowledge of the applicant, 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 director 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 knowledge of the duties and responsibilities of an adjuster under the laws of this state

(3) The director shall give examinations at such times and places within the state as the director deems necessary to reasonably serve the best interests of all concerned, provided that the director 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 §562]

744 540 [1957 c 247 §2 repealed by 1967 c 359 §704]

744 545 Continuation of adjuster license. An adjuster's license issued under ORS 744 505 (1) 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 §563, 1983 c 76 §13]

744 550 [1957 c 247 §3, repealed by 1967 c 359 §704]

744.555 Temporary adjuster 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 director 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 director in the discretion of the director 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 director a written application

therefor in the form prescribed by the director. 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 director 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 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 §4, repealed by 1967 c 359 §704]

744 565 [1957 c 247 §5, repealed by 1967 c 359 §704]

744 566 [1967 c 359 §565 repealed by 1969 c 336 §21]

744 570 [1957 c 247 §6, repealed by 1967 c 359 §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 §7, repealed by 1967 c 359 §704]

744 590 [1957 c 247 §8, repealed by 1967 c 359 §704]

744 600 [1957 c 247 §9, repealed by 1967 c 359 §704]

CONSULTANTS

744.605 Insurance consultant's license required. A person may not act as an insurance consultant unless the person has obtained a valid insurance consultant's license under ORS 744 615. For purposes of this section, a person acts as an insurance consultant:

(1) If the person purports to provide or offers to provide the services described in subsection (2) of this section by using, in conjunction with the person's name, the title or designation of insurance consultant, adviser or counselor, or financial and insurance planner, consultant, adviser or counselor, or any similar title or designation, or

(2) If the person, in exchange for any form of compensation, does, attempts to do or offers to do any of the following:

- (a) Acts as a consultant regarding insurance
- (b) Gives advice regarding insurance

- (c) Renders an opinion regarding insurance
- (d) In any other manner provides information about insurance. [1985 c 697 §2]

744.609 Exemptions. The prohibition in ORS 744 605 does not apply to the following persons:

(1) Any attorney-at-law rendering services in the performance of duties of an attorney-at-law

(2) Any certified public accountant or public accountant rendering services in the performance of the duties of a certified public accountant or public accountant, as authorized by law

(3) Any authorized insurer or any licensed agent

(4) Any person who, while conducting an educational seminar, performs any of the activities described in ORS 744 605 (2)

(5) Any bank, national bank, state or federally chartered mutual savings bank, state or federally chartered savings and loan association, state or federally chartered credit union or consumer finance licensee under ORS chapter 725

(6) Any resident of another state who is licensed or registered under a regulatory program of the other state that is similar to ORS 744 605 to 744 665, as determined by the director. [1985 c 697 §3]

744 610 [1957 c 247 §10, repealed by 1967 c 359 §704]

744.615 Issuance of insurance consultant's license. (1) The director shall issue an insurance consultant's license to a person who

(a) Meets the qualifications under ORS 744 619

(b) Submits an application under ORS 744 625,

(c) Takes and passes the examination under ORS 744 629, and

(d) Satisfies the bond and insurance requirements under ORS 744 635

(2) The director shall not issue an insurance consultant's license to any person who does not satisfy each of the qualifications listed in subsection (1) of this section. The director promptly shall notify each person to whom the director refuses to issue a license and shall state in the notice the grounds for the refusal.

(3) An applicant may demand a hearing on a refusal to issue a license. The applicant must make the demand not later than the 60th day after the date of the notice of the refusal. [1985 c 697 §4]

744.619 Qualifications for insurance consultant's license. A person applying for an insurance consultant's license

(1) Must be at least 18 years of age
 (2) Must have had at least five years' experience in the insurance business or have equivalent educational qualifications as prescribed by the director

(3) Must be

(a) A resident of this state, or
 (b) A resident of an adjoining state and regularly employed in this state or carrying on a business in this state

(4) Must not have violated any criminal law that the director determines to have a bearing on the ability of the person to act as an insurance consultant in a manner consistent with the protection and welfare of the public

(5) Must satisfy any other requirements established by the director [1985 c 697 §5]

744 620 [1957 c 247 §11, repealed by 1967 c 359 §704]

744.625 Application for insurance consultant's license. (1) An applicant for an insurance consultant's license shall apply to the director in writing on forms prescribed and furnished by the director. The application shall include the following information

(a) The applicant's age, business address in this state, residence address, present occupation, occupation for the last five years, the portion of time to be devoted to the insurance business, previous insurance experience, including applicable education, 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 the applicant 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 of the applicant to act in any 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 regarding which the person will act as an insurance consultant, in accordance with the categories under ORS 744 115

(e) Whether the applicant is licensed as an agent under ORS 744 105 or as an adjuster under ORS 744 505

(f) Any other information that the director may require

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

(3) The director may require evidence satisfactory to the commissioner as to any information required in the application

(4) Each application shall be accompanied by the applicable license and examination fees. The examination fee shall not be returned

(5) The director may not require an applicant to be licensed as an agent or adjuster or have a written appointment by an insurer authorized to do business in Oregon [1985 c 697 §6, 1987 c 774 §142]

744.629 Examination. (1) Each applicant for an insurance consultant's license shall pass a written examination given by the director

(2) The director shall prescribe the examination, which shall be of sufficient scope to test each applicant's qualifications, competence and knowledge regarding the classes of insurance that may be dealt with under the license requested

(3) The director shall give examinations at such times and places within the state as the director decides to be necessary [1985 c 697 §7]

744 630 [1957 c 247 §12, repealed by 1967 c 359 §704]

744.635 Bond and insurance. Before receiving an insurance consultant's license

(1) An applicant shall execute and deliver to the director a bond in the penal sum of \$5,000 that is in the form and issued by a surety or sureties approved by the director

(2) An applicant shall file with the director a current certificate of errors and omissions insurance with limits of not less than \$1 million per occurrence from an insurer authorized to do business in this state [1985 c 697 §8]

744.639 Contents of insurance consultant's license. An insurance consultant's license shall state the name and address of the insurance consultant, the address of the insurance consultant's place of business, the date of issue, the date of expiration and the conditions, if any, of the license [1985 c 697 §9]

744 640 [1957 c 247 §13, repealed by 1967 c 359 §704]

744.645 Place of business. (1) An insurance consultant shall maintain in this state a place of business at which the insurance consultant principally conducts transactions under the license. An insurance consultant shall notify the director promptly of any change of the place of business of the insurance consultant

(2) The place of business of an insurance consultant must be accessible to the public. An insurance consultant may maintain the place of business at the residence of the insurance consultant

(3) An insurance consultant shall keep at the place of business the usual and customary records pertaining to transactions under the license. All records as to any particular transactions shall be kept available and open to the inspection of the director at any business time and for three years following the conclusion of the particular transaction [1985 c 697 §10]

744.650 Disclosure by insurance consultants. (1) An insurance consultant shall furnish to each client and prospective client a written disclosure statement containing such information as the director requires by rule. The director shall require that at least the following information be included in a disclosure statement

- (a) The applicable occupational and educational background of the insurance consultant
- (b) The area or areas of insurance in which the insurance consultant has particular expertise
- (c) The fee schedule and any other expenses that the insurance consultant charges, and whether fees may be negotiated
- (d) The name of any person that the insurance consultant represents
- (e) Whether the insurance consultant will receive any commission or obtain any other compensation for services provided the client in addition to fees and other expenses paid by the client

(2) An insurance consultant shall disclose to each client information required by the director by rule in the course of providing insurance consultant services to the client and before the insurance consultant makes any final insurance recommendation to the client. The director shall

require an insurance consultant to disclose at least the following information

- (a) Other business activities of the insurance consultant relating to financial planning
- (b) The method of investment analysis and comparison used
- (c) Assumptions contributing to insurance recommendations for the client

(3) The director may design the form of disclosure statement to be used under subsection (1) of this section [1985 c 697 §11]

744.655 Rebates prohibited. An insurance consultant may not give or receive or offer to give or receive a rebate of all or a part of any fee or other expenses charged for services, any commission that the insurance consultant may receive or any earnings, profit, dividends or other benefit accruing to the insurance consultant from the services provided by the insurance consultant. This section does not prohibit an insurance consultant from receiving commissions or other compensation for services from any person other than a client or prospective client [1985 c 697 §12]

744.660 Continuation of insurance consultant's license. An insurance consultant's license shall continue in force unless the director revokes, suspends or refuses to continue the license [1985 c 697 §13]

744.665 Continuing education. The director by rule may establish requirements for continuing education that each insurance consultant must satisfy as a condition for continuation of the license [1985 c 697 §14]

744 990 [Repealed by 1967 c 359 §704]

INSURANCE
